

DO I NEED A WILL?

A properly drawn will assures you that, upon your death, your probate property will be distributed as you intended. It is important that you review your will periodically with your attorney in order to keep it up to date. A will is also the mechanism for choosing the executor and commonly provides for the nomination of a guardian where there are minor children. A will also can dispense with the requirement of a surety bond, for which an executor or administrator might otherwise have to pay.

Wills should be filed in the probate court as soon as possible after a person's death. The law provides penalties for withholding or destroying a will.





If you do not make a will, your probate property will be distributed according to the Ohio Statute of Descent and Distribution.

MONTGOMERY COUNTY PROBATE COURT
41 North Perry St, 2nd Floor
Dayton, OH 45402

(937)-225-4640
WWW.MCOHIO.ORG/PROBATE



CONTACT US:

-  41 N. Perry Street, Room 104, Dayton, OH 45422
-  937-496-7623
-  Clerkhelppcenter@mcoho.org
-  Monday-Friday 8:30AM to 4:30PM

To view our outreach schedule or find out more information, please visit our website at WWW.COURTHOUSETOYOU.COM.



OUR DIVISIONS:

- CIVIL: 937-225-4512
- CRIMINAL: 937-225-4536
- DOMESTIC RELATIONS: 937-225-4562
- RECORDS: 937-496-7762
- AUTO TITLE: 937-225-4480
- EASTERN MUNICIPAL COURT (HUBER HEIGHTS): 937-496-7231
- WESTERN MUNICIPAL COURT (TROTWOOD): 937-687-9099



CLERK OF COURTS MIKE FOLEY

**BRIDGING THE JUSTICE GAP ONE
CONSTITUENT
AT A TIME.**

PROBATE INFORMATION

MIKE FOLEY

MONTGOMERY COUNTY
CLERK OF COURTS





WHAT DOES PROBATE INVOLVE?

Probating an estate requires that a person be appointed to conduct the administration of the estate. If there is a will, this person is usually named in the will and is called an executor. If there is no will or no person is named in the will, this person is appointed by the probate court and is called an administrator. The executor or administrator may be an individual, a bank or a trust company.

The executor or administrator manages the following tasks:

- caring for the decedent's property;
- receiving payments due to the estate, including interest, dividends and other income;
- collecting debts, claims and notes due to the decedent;
- determining the names, ages, addresses and degree of relationship of all heirs;
- determining the names, ages and addresses of all beneficiaries, if there is a will;
- investigating the validity of all claims against the estate and paying all outstanding obligations;
- planning for all relevant estate and income tax returns when required and making the required payments;
- carrying out the instructions of the probate court pertaining to the estate and distributing the assets of the estate to the heirs.

The probate court judge and support staff supervise the work of the executor or administrator. This work may require the preparation and filing of legal documents, providing of notices, attendance at court hearings, securing of an estate asset appraisal, filing of an asset inventory, completion of final income tax returns and possibly gift and estate tax returns, an accounting of funds, final transfer of all assets to beneficiaries, termination of the probate

proceeding and discharge of the executor or administrator by the probate court. Because of the complexity of these procedures, it is wise to get an attorney's assistance.

WHAT PROPERTY IS NOT INCLUDED IN PROBATE?

Property that is not probate property (called nonprobate property), and therefore is not part of the probate proceeding, includes: property the decedent and another person held as joint tenants with right of survivorship; property held in a trust; accounts that are payable on death (POD) or will transfer on death (TOD) to a named beneficiary; and insurance or retirement benefits that are payable to a named beneficiary. Nonprobate property passes directly to a named beneficiary, survivor or successor in interest, without probate proceedings.

Probate property and nonprobate property maybe subject to federal estate taxes.

**FOR FURTHER
INFORMATION CONTACT
PROBATE COURT:
937-225-4640**



WHAT IS PROBATE?

Probate is a legal proceeding to administer certain kinds of property (called probate property) owned by someone who has died (the decedent), to see that claims, expenses and taxes are properly paid, and to see that the remaining estate is distributed to those entitled to receive it under the terms of the decedent's will or under Ohio law. Probate property consists of all property titled in the decedent's name and not transferable on death. It is distributed according to the terms of the decedent's will or, if the decedent died without a will (intestate), according to Ohio law. A probate proceeding takes place in the probate court of the county in which the decedent lived. If the decedent also owned real estate in another state, additional proceedings may be necessary in that state.