

# TENNESSEE PROBATE CHECKLIST FOR THE EXECUTOR OR PERSONAL REPRESENTATIVE

When a loved one passes away, someone (referred to as an Executor or a Personal Representative) must oversee the probate of the estate that is left behind. Typically, an Executor or Personal Representative retains the assistance of an experienced probate attorney to ensure that things go smoothly during the probate of the estate. Nevertheless, if you find yourself overseeing the probate process in the State of Tennessee, it may be helpful to have some idea what to expect:

## Look for a Last Will and Testament

One of the first things that family members or close friends need to do following the death of a loved one is to look for the decedent's Last Will and Testament. It is essential to locate an original copy if one was left behind. Check with close family members or the decedent's estate planning attorney if you are having trouble finding a Will.

## Determine if the Will is Self-Proving / Self-authenticating

If a Will is self-authenticating it means it has an affidavit attached to the Will that was executed at the same time the Will was executed. If the Will is not self-proving, it will need to be proven by other means. A probate attorney can advise you on this.

## Determine Who Will Administer the Estate

If a Will is located, the person named as Executor in the Will has been appointed by the decedent (pending court approval) to administer the estate. If the decedent died intestate (without a Will), someone must petition the court to be appointed to be the Personal Representative.

## Retain the Services of a Probate Attorney

Acting as the Executor/Personal Representative during probate can be physically and emotionally exhausting – particularly in light of the fact that you are likely still grieving the loss of a loved one. Retaining the assistance of an experienced attorney ensures that costly mistakes will not be made and allows you to focus on the grieving process.

## Gather the Necessary Documents to Open Probate

Before you can officially open probate, you will need an *original* copy of the decedent's Will along with a certified copy of the decedent's death certificate. If

the decedent passed away in Tennessee, you can request a copy of the certificate from the [Tennessee Department of Health](#).

## Prepare the Petition to Initiate Probate

Probate must be initiated in the county where the decedent was a resident at the time of death. A petition to open probate must be prepared. Your attorney will prepare the petition for you along with any additional documents needed to get the process started.

## Open the Estate

Probate Estates are normally opened in a court proceeding that requires the proposed Executor/Personal Representative to appear and be approved by the court, and to obtain a court order granting letters of Testamentary/Administration. These documents will be required by financial institutions and other entities to authorize the Executor/Personal Representative to carry out the business of the estate.

## Pay Bond if Required

The court often requires an Executor/Personal Representative to post a bond given that they will be responsible for estate assets. The decedent, however, may have waived payment of the bond in the Will.

## Identify and Secure Assets

All the estate assets should be identified and secured as soon as possible. Securing assets may include things such as locking and securing real property, closing bank accounts, or transferring personal property to a new location.

## Value assets

A date of death value should be determined for all estate assets. Certain estate assets may require valuation. This may require the assistance of professional appraisers. Your probate attorney can help arrange for valuation of assets.

## Create an Inventory

Unless the Will states otherwise, or all beneficiaries agree, an inventory must be submitted to the court within 60 days of being appointed as the Executor/Personal Representative.

## Notify Creditors

Known creditors should be notified individually that the estate is being probated. Unknown creditors are notified via publication in a local newspaper. Creditors have four months from the date notice is published to file a claim against the estate or the claim is forever barred.

## Notify TennCare

The Tennessee Division of TennCare must be notified that the estate has been opened, and given an opportunity to file a claim against the estate if TennCare has paid nursing home or other costs on behalf of the decedent. A TennCare release must be obtained by every estate (regardless of any TennCare involvement with the decedent) and filed with the court before the estate can be closed.

## Review, Approve or Deny, and Pay Claims

The Executor/Personal Representative must review all claims and approve or deny each claim. If a claim is approved, it must be paid using available estate assets. If sufficient liquid assets are not available, assets may need to be sold to satisfy approved claims.

## Defend the Estate Against Any Litigation

If the estate becomes involved in litigation (usually in the form of a Will contest), the Executor/Personal Representative must defend the estate throughout that litigation.

## Prepare, File, and Pay Any Taxes Due

Your probate attorney will gather and prepare all documents necessary to close out the probate of a Tennessee estate, including:

- Receipt/certificate from the Tennessee Department of Revenue.
- Release from the Bureau of TennCare on deceased individuals.
- A sworn statement that actual notice to creditors has been given by the personal representative to all known creditors.
- Proof that all claims filed against the estate have been satisfied and/or released.
- A release from each beneficiary or heir as required.
- Set the closure for hearing and make sure all heirs or beneficiaries have been notified.
- A detailed accounting, unless waived by the will and/or by all the heirs, which is supported by legal vouchers. Or in the alternative, a motion or petition to close or a statement in lieu of settlement.
- An order to close the estate.

## Transfer Remaining Assets to Beneficiaries and/or Heirs

Finally, any assets that remain at the end of the probate process must be transferred to the designated beneficiary pursuant to the terms of the Will and/or to the legal heirs according to the Tennessee intestate succession rules for any intestate assets. Your probate attorney will also prepare any legal documents required for the transfer of assets.

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— Criminal Defense Client

## Contact a Murfreesboro Probate Attorney at Bennett & Michael

If you find yourself faced with the need to probate an estate in Tennessee, consult with an experienced attorney at Bennett & Michael as soon as possible. Contact the team today by calling 615-898-1560 to schedule your free appointment.