



Estate & Probate  
Legal Group



# 10 Frequently Asked Questions About Illinois Probate



## Frequently Asked Questions About Illinois Probate

When an individual with a will passes away, navigating the [probate process](#) can confuse their surviving loved ones. Compounding the complexity, laws, and procedures vary across jurisdictions, making it essential for Illinois residents to grasp the specifics of their local regulations. Whether you're an executor, a beneficiary, or simply looking to learn more about the Illinois probate process, exploring the following ten FAQs will help to provide the clarity and answers you need.



## 1. What is Probate?

Probate is a legal process through which a deceased person's assets and liabilities are evaluated, organized, and distributed [according to their will](#) or according to the law if they died without a will. This process is supervised by the court to ensure that debts are settled, and assets are transferred to the rightful beneficiaries or heirs of the deceased.

## 2. When Does Probate Occur?

Illinois probate generally begins shortly after the person's passing, but the exact timing can vary. Because surviving loved ones typically focus first on immediate tasks such as notifying friends and relatives, making funeral arrangements, and addressing urgent matters, a few weeks to a few months may pass before probate can begin. Other factors can delay this process, such as the time to locate and review the will and consult with a probate attorney.

### 3. Who is Responsible for Probate?

If the deceased person had a valid will, they often designate an [executor](#). In Illinois, the executor is a person chosen by the deceased to ensure that the instructions in the will are carried out. In cases with no valid will or if the will does not name an executor, the court will appoint an administrator to oversee the probate process. Executors and administrators often work with a probate attorney to navigate the legal requirements.



## 4. What Assets Go Through Probate?

Assets that typically go through Illinois probate were owned by the deceased and did not have joint owners or automatic transfer of ownership. These assets become part of the deceased person's estate and are subject to the probate process. Some assets that typically go through probate include real estate, bank accounts, investment accounts, personal property, business interests, intellectual property, and [unpaid debts](#).





## 5. What Are the Steps of Probate?

In Illinois, the probate process involves the following steps:

### 1 Opening the probate case:

The process begins with the filing of a petition for probate in the appropriate Illinois court.

### 2 Verifying the will

If there is a valid will, the court will determine its authenticity and appoint the executor named in the will.

### 3 Notifying interested parties:

After appointment, the executor is responsible for notifying heirs, beneficiaries, and creditors about the probate proceedings.

4

## **Inventory and appraisal of assets:**

The executor must compile a detailed inventory of the individual's assets and appraise them to determine their market value.



5

## **Paying debts and expenses:**

The executor is responsible for identifying valid creditor claims and paying them from the estate's assets.

6

## Resolving disputes:

If [disputes or challenges](#) arise regarding the will or the distribution of assets, the court may hold hearings to resolve these issues.

7

## Distributing assets

After settling debts and addressing any disputes, the remaining assets are distributed to the beneficiaries or heirs according to the terms of the will.





8

## Final accounting and closing of the estate:

The executor prepares a final accounting of all transactions related to the estate, including receipts, disbursements, and distributions. The estate can be formally closed once the court approves the final accounting and all matters are resolved.



## 6. How Long Does Probate Take?

The duration of the probate process in Illinois can vary widely depending on several factors, including the complexity of the estate, the presence of disputes or contested issues, and the court's docket and schedule. On average, probate in Illinois can take anywhere from several months to over a year to complete.



## 7. How Much Does Probate Cost?

The average cost to settle an estate in Illinois through probate court is \$12,500. A modest estate with no complications may be settled for as little as \$4,000. Still, substantial debts or challenges to the will can [significantly increase costs](#), including court fees, executor compensation, and additional associated expenses.

## 8. Can I Avoid Probate?

In some cases, it may be possible to avoid probate. In Illinois, the formal probate process is unnecessary for estates with assets valued at less than \$100,000.00 and that do not include real estate. If a case meets these requirements, using an [Illinois Small Estate Affidavit](#) allows relatives to opt out of the probate process. For those involved in estate planning, creating a living trust or giving away assets before death can help your relatives avoid probate.

## 9. What Happens if There is No Will?

When a person passes away without a will, they are said to have died "intestate." In such cases, the distribution of their assets is determined by Illinois state law rather than by the deceased person's explicit wishes. Since there is no executor, the court will appoint an administrator to oversee the probate process. Then, the deceased's assets will be distributed according to Illinois's [intestate succession laws](#). If you die with:

- children but no spouse: children inherit everything
- spouse but no children: spouse inherits everything
- spouse and children: spouse inherits 50%, and children equally share the remaining 50%
- parents but no spouse or children: parents inherit everything
- siblings but no spouse, children, or parents: siblings inherit everything



## 10. What Happens if There Are Disputes During Probate?

Disputes during the Illinois probate process can complicate matters and potentially lead to delays in settling the estate – and increase probate costs. When disputes arise, the following steps are typically taken:

1. The party with a dispute files a petition with the probate court outlining the issue.
2. The court will schedule hearings where evidence and testimony may be presented to support or challenge claims made in the dispute.
3. The court will make a ruling, either upholding the will's validity or ordering a different distribution of assets as necessary.

The Illinois Dead-Man's Act is a rule of evidence that prevents people who are involved in a probate case from testifying about conversations they had with the deceased person. This is to prevent people from making false claims about the deceased person's wishes. However, there are some exceptions to the Dead-Man's Act, and other parties' actions in court can also waive its protections.

In some cases, parties involved in a dispute may mediate or negotiate a settlement to resolve their differences outside of court.

# Do You Need A Probate Attorney?

An experienced Illinois probate attorney can help you navigate the probate process, which can be complex and time-consuming. Here are some of the things an Illinois probate attorney can do for you:

- **Educate you on the probate process:**

An attorney can explain the different steps involved in probate, as well as your rights and responsibilities as an executor or administrator.

- **Appear in court on your behalf:**

If necessary, an attorney can represent you in court, either as the executor or administrator or as an advocate for your interests.

- **Document and facilitate any real estate transfers:**

If the deceased person owned real estate, an attorney can help you with the paperwork and procedures involved in transferring the property to the beneficiaries.

- **Advocate on your behalf in any will contests:**

If someone challenges the validity of the deceased person's will, an attorney can represent you in court and fight to uphold the will.

If you are facing the probate of a loved one's estate, it is important to have an experienced Illinois probate attorney on your side. An attorney can help you understand your rights and responsibilities, protect your interests, and navigate the probate process smoothly and efficiently.



## Reach Out to an Experienced Illinois Probate Attorneys Today

Do you need assistance navigating Illinois probate after the death of a loved one? Engaging the services of a qualified Illinois probate lawyer can ensure a smooth and efficient process.

At the Estate and Probate Legal Group, our experienced probate attorneys have supported countless clients through the complex landscape of estate planning and probate.

With offices located in Oak Brook, Illinois, we proudly serve Cook, DuPage, Kane, Lake and Will counties.

***Reach out to us today by calling 630-864-5835  
for a confidential consultation.***

# Illinois Probate, Trust and Estate Attorneys Guidance. Protection. Peace Of Mind.



## Contact Us

**Steven M. Novak**, Attorney

**Mario A Godoy**, Attorney

Contact Estate & Probate Legal Group

- [www.estateandprobatelegalgroup.com](http://www.estateandprobatelegalgroup.com)
- [contact@estateandprobatelegal.com](mailto:contact@estateandprobatelegal.com)
- 630-864-5835



Schedule A Consultation

## Probate, Trusts and Estates Attorneys

The Estate and Probate Legal Group helps our clients with probate court, wills, trusts and estate plans.

## Disclaimer

This guide is for general informational purposes only and should be used solely as general guidance. The information does not constitute legal advice.

The choice of a lawyer is an important decision and should not be solely based on advertising. The use of this guide does not create a lawyer-client relationship.



Estate & Probate  
Legal Group