

The term “probate” has taken on connotations that suggest something bordering on the sinister and best to be avoided. In fact, probate is a process by which a Will is proven and determined to be valid. Once the process is completed and the Will is determined to be valid, an executor is appointed to carry out the terms of the Will. This process is overseen by the probate court in the county in which the deceased person lived prior to death.

What is probate?

Georgia probate law is based upon English [common law](#). Under English common law, a person has the right to make a Will. This Will directs where their property will go following their death. If a person does not have a Will (or if the Will is determined invalid), the state of Georgia directs those persons entitled to receive the property of the deceased person. These persons are referred to as “heirs at law” under Georgia law. “Heirs at law” are the person’s most closely related to the deceased person as determined by Georgia law. Since a person’s “heirs at law” inherit if there is no Will, the law requires these persons receive notice that a Will has been offered for probate.

Along with this notice, the “heirs at law” are given a period of time in which they may object to the Will. If no objection is received, then the Will is determined to be valid, and the executor named in the Will is appointed by the court to carry out the administration of the Estate. At this point, the Will is “probated.” If objections are received, then the objecting heirs are given an opportunity to present their objections in a court setting. In the great majority of situations, there are no objections and “probate” of the Will proceeds smoothly.

Probate Process in Georgia

The state of Georgia is generally considered a “probate friendly” state. This means that the fees, expenses, and general process are not excessive. For instance, in Fulton County, the fee to probate a Will in Solemn (final) Form is \$164 plus \$2 per page of the Will and any other supporting documents submitted for filing. In some states, the fee is based on the value of the assets of the probate estate. In such states, larger estates will often seek to avoid the probate process.

Probate in Georgia is an orderly process by which a Will is determined to be valid. Once the Will is accepted as valid (“probated”), the executor administers the estate pursuant to the terms of the Will. This is subject to the oversight and authority of the probate court. Many Wills relieve executors from filing reports and inventories with the court. As a result, many executors, once qualified, have no further contact with the probate court until they seek to be discharged. However, the probate court is available to creditors and to beneficiaries of the estate who believe that the executor is not administering the estate properly.

What about charitable giving?

Probate offers an orderly and structured way to settle the deceased’s affairs and distribute assets according to their Will. In Georgia, this is not a process that is overly burdened by fees and bureaucracy. However, individual circumstances need to be considered to determine how best to effect the disposition of their property at death.

Gifts made through your Will are just one way to support your church. Whether through the probate process with a bequest in your Will, a bequest by way of a beneficiary designation, or through a pay on death (POD) or transfer on death (TOD) designation, please consider a legacy gift in your charitable planning. To learn more about legacy giving opportunities, please [contact our Executive Director, Lindsey Hardegree](#).



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