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## Probate Basics

### What, Where, When, Who, and How

**What:** Probate is the legal process of settling an estate of a person either by determining the validity of their last will and testament or by following the Kentucky laws of intestacy. For a will to be valid, it either must be “self-proven” or proven as valid in court by at least one of the witnesses. A valid will can also be holographic: written entirely in the handwriting of the decedent, signed, and dated.

**Where:** The probate process in Kentucky is handled by the District Court in the county of the person’s residence or if owning no real estate, in the county where he died. If the decedent owned real estate interests in another state, an ancillary probate will need to be opened in that state in order to transfer the real estate.

**When:** A petition for probate can immediately be filed after a person’s death but no longer than 10 years after the death. A death certificate will be required by financial institutions and government entities to make transactions even after the probate case has been opened, however.

**Who:** Anyone can file a probate petition but usually the initiative is taken by the named Personal Representative in a will or the spouse or a child in an intestate estate. The court will appoint the person listed as the Executor or Personal Representative in a will. If there is no will, the court will appoint whomever it deems best suited and situated to perform the duties of the Personal Representative.

**How:** If you choose not to retain an Attorney to assist you with the probate process, Kentucky has a guide to basic probate procedures and the necessary legal forms available in the court clerk’s office as well as online. Although the clerk’s office can provide you with materials, they are unable to give legal advice.

*These materials are for general informational purposes only. Consult an attorney for legal advice about Probate.*

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