

Utah Legal Services

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Settling an Estate

What do I do when a family member dies?

Upon the death of a spouse or family member, you as the survivor will have a variety of things to do, starting with funeral plans. After that, you will need to do at least some of the tasks below.

Who do I notify if a family member dies?

Notify the Social Security Office and any other payors of retirement and pension benefits.

Notify the Post Office, and arrange to have all bills and income sent to you.

Do I keep the last social security payment sent to the deceased?

To be eligible for a Social Security benefit, a person must be alive for the whole month for which a benefit is paid. The benefit paid on the third of a month is based on survival through the entire prior month, so if the deceased died on the last day of March, the benefit paid on April 3 must be returned to the Social Security Administration. If funds are sent directly to the bank, you should notify the bank and ask them to return them. A “death benefit” (\$255) is payable only to the surviving spouse or minor children. Other retirement or pension benefits may be pro-rated for the part of a month that the deceased lived. Each retirement program has its own rules.

What else do I need to do when a family member dies?

Locate safe deposit boxes, and get legal advice as to whether the person who has access can open the box without legal action. It may be helpful to have witnesses when you open the box, because assets in the box may be part of the estate.

Obtain Certified Death Certificates

- for insurance companies,
- for banks,
- for businesses in which the deceased owned stocks or bonds,
- to terminate joint ownership of real estate, and
- to transfer title to motor vehicles.

Do I need to deal with Probate?

You may want to talk with a lawyer to probate an estate, if probate is needed. An “estate” includes all property owned solely by the decedent at the time of death. Probate is needed when:

- the estate owns real estate (land) of any value, and/or
- the estate owns assets (other than land and not including cars) whose net worth is more than \$100,000.

If an estate must be probated, the court will assign a “Personal Representative”. The personal representative is usually the person named in the decedent’s will.

What does a Personal Representative do?

A Personal Representative is called upon to:

- collect all monies owed to the estate;
- pay taxes and mortgages on any real property owned by the decedent;
- manage the assets, making repairs where needed;
- file estate tax returns;
- submit problems to the Probate Court;
- settle the remainder of the estate in accordance with the will;
- submit a final accounting to the beneficiaries and to the Probate Court.

How does joint property transfer after a person dies?

Property owned jointly with a survivor is owned by the survivor, not by the estate, despite anything that the decedent may have written in a will. Joint ownership of realty is created by Deed with words such as “joint tenant” or “with rights of survivorship”. Without such language, a Deed may establish common ownership between “tenants in common”, and what interest the decedent owned is part of the estate.

How does a joint bank account, or a payable on death account transfer after a person dies?

A bank account owned by the decedent and another person is owned by the survivor, despite anything that the decedent may have written in a will. Similarly a bank account that is payable on death to a person will be paid to that person, despite anything the decedent may have written in a will.

What happens with insurance or contracts when a person dies?

Insurance or other contracts are controlled by the language of the contract. For example, benefits of a life insurance policy will be paid to the beneficiary despite anything that the decedent may have written in a will.

What happens to a person's belongings when they die?

An estate can be transferred without probate if

- it contains no land,
- it is worth less than \$100,000,
- at least 30 days have passed since the death, and
- no application for appointment of personal representative has been filed.

That can be done by using an "Affidavit for Small Estate Matters".

You can obtain information from Utah Legal Services in a separate flyer that describes exactly who are the successors and how to make a claim.

How do I get more help when a family member dies?

If you have more questions call Utah Legal Services at (801) 328-8891 in the Salt Lake area, or toll free in Utah at 1-800-662-4245. Call between 9 a.m. and 2 p.m. Monday through Friday and speak to an intake worker.