WILLS & ESTATES

A Guide for What You Need to Know

Sussex County Register of Wills Office
Courthouse Annex
5 East Pine St. ● P.O. Box 743
Georgetown, DE 19947
PH: (302) 855-7875
FX: (302) 853-5871
www.sussexcountyde.gov
willsinfo@sussexcountyde.gov
Monday-Friday: 8:30 a.m.-4:30 p.m.

Sussex County Register of Wills Office

Cynthia Green

Register of Wills
Courthouse Annex
5 East Pine Street
P.O. Box 743
Georgetown, DE 19947
(302) 855-7875
www.sussexcountyde.gov
willsinfo@sussexcountyde.gov

Office Hours
8:30 a.m. - 4:30 p.m.
Monday through Friday
Fax: (302) 853-5871
Appointments have priority

The material in this booklet is presented only as a guide. Laws pertaining to Wills and Estates continue to change. It is recommended that you contact an attorney/accountant for the most recent information on Estate matters.

WILLS AND ESTATES

WHAT IS A WILL? 1
SHOULD I HAVE A WILL? 1
WHAT IS REQUIRED TO MAKE A VALID WILL? 1
FILING THE WILL AFTER DEATH 2
PROVING THE WILL 3
WHAT HAPPENS IF YOU DIE WITHOUT A WILL? 3
SURVIVING SPOUSE PARTNER 3
HEIRS OTHER THAN SURVIVING SPOUSE 4
VALIDITY OF OUT OF STATE WILLS 4
JOINTLY HELD PROPERTY 5
INSURANCE PROCEEDS 5
HOW SHOULD I PREPARE TO MAKE MY WILL? 6
MEMORANDUM OF TANGIBLE PERSONAL PROPERTY 6
CAN I CHANGE MY WILL AFTER ORIGINAL EXECUTION? 7
LETTER OF LAST INSTRUCTION 7
WHAT IS A TRUST? 8
GIFTS 9
OTHER IMPORTANT DOCUMENTS 9

PROBATING AN ESTATE

DOES AN ESTATE HAVE TO BE OPENED? 10
WHEN AN ESTATE NEEDS NOT BE OPENED 10
LOOK FOR A WILL 11
HOW IS AN ESTATE OPENED? 12
PROBATE PROCEDURES 12
DUTIES OF EXECUTOR OR ADMINISTRATOR 14
DISTRIBUTION 15
ESTATE AND INHERITANCE TAXES 16

MORE INFORMATION

FREQUENTLY ASKED QUESTIONS 17
When I become the personal representative of a descendant's estate 17
What is a digital asset? 18
What is a digital account? 18
GENERAL INFORMATION ABOUT DEATH BENEFITS 19
SOURCES OF INFORMATION 19
GLOSSARY 21

WILLS AND ESTATES

WHAT IS A WILL?

A Will is a written set of legally enforceable orders directing the transfer of property to named beneficiaries effective upon the death of the maker.

SHOULD I HAVE A WILL?

You should have a Will because it is an effective way to control what happens to your personal belongings when you die. Without one, in many cases, if there is no Will, the Register of Wills appoints who will be in charge of the estate. Do you want to maintain control by appointing an executor through your Will or do you want to lose control by having the Register of Wills appoint who will be in charge?

Maintain control and make a Will today. Without a Will, the State will decide who receives your property, without any regard as to what you would have preferred. To avoid the State's Intestacy laws of distribution, it would be to your benefit to create a Will to guarantee that your property passes to the people that you select in the manner that you desire.

Wills are also used to protect your minor children by naming possible guardians for them.

Properly drawn Wills make estate planning easier when the goal may be avoiding death taxes.

WHAT IS REQUIRED TO MAKE A VALID WILL?

1. The maker must be at least 18

years of age and of sound and disposing mind and memory;

2. The Will must be in writing. A Will written entirely in the Testator's handwriting (a Holographic Will) is valid in Delaware if the other requirements are met.
3. The Will must be signed by the maker or signed by a person writing the maker's name in his or her presence and at the maker's direction;
4. The Will must be witnessed by two or more credible adult witnesses in whose presence the maker signed the Will. (In Delaware, a beneficiary to the Will may be a witness although in some states this is not allowed.)
5. Notarization of all signatures is optional, but recommended (see p. 3).

WHERE TO KEEP THE WILL WHILE LIVING?

Delaware does not require that you bring your Will to the Register of Wills office while you are alive or that you store it in any particular place. However, it is a wise idea to keep the original Will in a safe place (i.e. safe deposit box if accessible by others, attorney's office, etc.)

FILING (REGISTERING) THE WILL AFTER DEATH

After the maker dies, it is the legal duty of any person in possession of any document that might be a Will to deliver it to the Register of Wills within ten (10) days after receiving notice of the maker's death.

PROVING THE WILL

After the maker's death, the Register of Wills determines the Will's validity. A Will can be proven valid by its witnesses essentially swearing to its validity or it has a self-proving page attached with the same two credible witnesses' signatures and notarized. If a Will is not proven, it is rejected and has no force or effect.

WHAT HAPPENS IF YOU DIE WITHOUT A WILL?

If you die without a Will or your Will is rejected, your estate is considered to be "intestate". Intestate estates are divided among the decedent's spouse and other heirs according to Delaware's laws as follows:

SURVIVING SPOUSE PARTNER

1. The entire intestate estate goes to the spouse if there are no surviving issue or parent(s) of the decedent (see glossary).

2. If there are no surviving issue but the decedent is survived by a parent(s), the first $50,000 of the personal estate, plus one-half of the balance of the personal estate, plus a life estate in the real estate, goes to the spouse. The balance goes to the parent(s).

3. If there are surviving Issue, all of whom are also the issue of the surviving spouse, the first $50,000 of the personal estate, plus one-half of the balance of the personal estate, plus a life estate in the real estate, goes to the spouse.

4. If there are surviving issue, one or more of whom are not the issue of the surviving spouse, one-half of the personal estate, plus a life estate in the real estate, goes to the spouse.

HEIRS OTHER THAN SURVIVING SPOUSE

The part not passing to the spouse as above, or the entire intestate estate if there is no surviving spouse and no Will, passes:

1. To the issue of the decedent, per stirpes, (see glossary);

2. To the decedent's parent or parents equally if there are no surviving issue;

3. To the decedent's siblings and the issue of each deceased sibling, per stirpes, if there are no surviving issue or parent(s);

4. To the decedent's next of kin and to the issue of a deceased next of kin per stirpes, if there are no surviving issue, parent(s), or siblings.

Any heir must survive the decedent by 120 hours in order to inherit as just stated.

VALIDITY OF OUT OF STATE WILLS

Many states have different requirements for making a valid Will. Delaware recognizes the validity of a Will signed:

1. In a different state if executed in compliance with Delaware law; or

2. In compliance with the law in the place where executed; or

3. In compliance with the law where, at the time of execution or at the time of death, the maker is a legal resident or a national (foreign citizen).

JOINTLY HELD PROPERTY

Many people hold real estate, bank accounts, motor vehicles and other property (stocks, bonds, etc.) in joint names with the right of survivorship. Upon the death of the first joint tenant, the surviving joint tenant (co-owner) receives the property. This will happen regardless of any contrary language in any Will and without the application of the intestate succession law if no Will exists. However, if a catastrophic accident occurs resulting in the death of both joint owners at the same time, the Will or intestate succession laws will determine the disposition of the jointly held property.

INSURANCE PROCEEDS

Life insurance proceeds are not part of an estate if paid to a named beneficiary who survives the insured. There may be times when the proceeds become an estate asset, so it is very important to clearly state on the insurance policy who should get the death benefit.

HOW SHOULD I PREPARE TO MAKE MY WILL?

The Register of Wills office does not draft Wills. Whenever possible, a lawyer should draft your Will to avoid problems, which may either make the Will useless or cause confusion in interpreting its terms. Lawyer fees vary and you should ask about costs during your initial contact with the lawyer's office. If you do not know a lawyer experienced in drafting Wills, please call the Delaware State Bar Association at (302) 658-5279.

Once you decide to make a Will, you should also do some planning in advance. Prepare a list of the value of your personal property, your money, and your real estate holdings. Locate your deed, account statements, and insurance policies. Make a list of the people to whom you wish to leave this property. Choose your executor(s) based on trustworthiness, willingness and ability to carry out your expressed intentions.

It will save time and money by doing these simple steps before you meet with the lawyer.

MEMORANDUM OF TANGIBLE PERSONAL PROPERTY

In Delaware, if you have personal belongings but are not sure to whom they should go when you draft your Will, you may distribute them by a separate memorandum. This saves the expense of having to redraft your Will or make a Codicil each time you change your mind about certain items of personal property. This document **cannot** include transfers of:

1. Money;
2. Mortgages;
3. Notes;
4. Bonds;
5. Certificates of Title;
6. Securities; or,
7. Property use in trade or business.

Please note that the Will itself must refer to the possible existence of the memorandum before it can have any effect.

CAN I CHANGE MY WILL?

Yes. You may change parts of an existing Will by making a "Codicil." (See glossary.) Whenever you make a Codicil to a Will, it must be executed with the same formalities as the original Will. (See page 1.)

An entire Will can be revoked at any time by:

1. Destroying the original document; or
2. Making a new Will revoking the previous Will; or
3. By written direction signed by the maker and witnessed by at least two witnesses.

Certain events modify the effect of a Will without a person having to make any actual change to the document. A divorce removes a former spouse from any role as executor and removes any right to inherit.

Also, absent contrary language, children not provided for in a Will who were born after the execution of the Will, may claim their intestate share as though the decedent had died without a will.

LETTER OF LAST INSTRUCTION

Many people prepare a Will and then put it in a location unknown to the executor and/or heirs. In order to avoid unnecessary confusion at the time

of your death, it is suggested that you prepare a letter of last instruction to be kept in an easily accessible place to allow your heirs or executor(s) to locate this important document upon your death.

The letter might explain:

1. Where your original Will can be found;
2. The names and addresses of any persons whom you wish to be informed of your death;
3. Where to find documents of title, deed, stocks, bonds, insurance policies, etc.;
4. Where to call or write regarding death benefits paid by your employer;
5. Where your safe deposit box and key can be found;
6. Your instructions for your funeral and burial. A law passed in 2004 gives you more control of funeral and burial arrangements than in the past. Be sure to speak with a licensed funeral director to get a full explanation.

WHAT IS A TRUST?

A trust is a written document that controls the disposition of certain designated property.

It requires that title to the property be transferred to the trust for a period of time, for certain purposes, and eventually distributed to certain beneficiaries.

There are two general types of trusts:

1. An "inter vivos trust" goes into effect during the life of the maker.
2. A "testamentary trust" does not go into effect until the death of the maker. This

trust can be contained in a Will.

Revocable trusts may be amended before or after the making of the Will. By their nature, they are inter vivos. Please seek professional advice to discuss the advantages of having a trust.

GIFTS

Federal and Delaware law do not tax gifts where the gift is below a certain amount to any person in any one taxable year. Gifts of larger amounts require that a gift tax be paid by the person giving the gift. There is also an unlimited "marital gift tax deduction" allowed under both Federal and Delaware law. This allows one spouse to make gifts to the other of unlimited amounts each year without incurring any gift tax.

OTHER IMPORTANT DOCUMENTS

1. Power of Attorney: This allows someone else to act on your behalf, generally concerning financial matters, *while you are living*. This is useful in case you cannot be present or can no longer sign your name on important bank, legal or real estate documents.
2. Advance Health Care Directive/"Medical Power of Attorney"/Living Will: This specifies to what extent you would like to be kept alive if you are terminally ill or become incapacitated. It also appoints your health care agent, who will make health care decisions on your behalf. It is important to specify your wishes in writing so your entire family can be certain when making important decisions about your health care. The

Delaware Attorney General office has created a pamphlet about end of life decisions. A copy of a living Will can be downloaded at www.state.de.us/attgen/.

3. Emergency Medical Instructions: This should list whether you are taking medications (including dosages) and whether you have any allergies. A convenient place to keep this is on your refrigerator. Emergency medical personnel are trained to look there first for these potentially life-saving instructions. For further information, contact Emergency Medical Services at (302) 395-8184 to obtain a "Vial of Life" kit.

PROBATING AN ESTATE

DOES AN ESTATE HAVE TO BE OPENED?

The presence or absence of a valid Will after death does not determine whether an estate must be opened. An estate must be opened if:

1. The decedent had more than $30,000 in personal property in his/her name alone; or

2. The decedent owned Delaware real estate in his/her name alone (either solely held or as a tenant in common).

WHEN AN ESTATE NEEDS NOT BE OPENED

If a decedent's real estate property is owned Jointly Held with the Right of Survivorship with a

surviving joint tenant or spouse, the surviving joint tenant or spouse may clear title by filing a Combined Affidavit of Jointly Held Real Property with the Register of Wills.

If a decedent does not have solely owned real estate and has less than $30,000 in solely owned personal property (i.e. car, boat, solely held bank account), then certain persons (executor(s), spouse, children, parents, brothers and sisters, grandchildren, grandparents and funeral directors, in that order) may obtain possession of that personal property by executing a "small estate affidavit". This can be obtained from the Register of Wills office.

If there is a Will and the estate qualifies as a "small estate", the person obtaining possession must still comply with the terms of the Will. If there is no Will, the person obtaining possession must distribute the assets, after payment of debts, according to the intestate succession laws of Delaware (see pages 3 and 4).

LOOK FOR A WILL

Decedents may leave a Letter of Last Instruction indicating, among other things, where the Will is stored. If no such document exists, then you will need to locate the Will. Common places a person usually keeps the Will are in a safe deposit box or with important papers in the home. Wills usually have a clause that appoints a Personal Representative/Executor. That named person is given priority to become the Personal Representative/Executor.

HOW IS AN ESTATE OPENED?

When the maker dies, the person possessing the original Will (not a copy) must deliver it, within 10 days of learning of the death, to the Register of Wills in the county where the decedent resided at the time of death.

If the Will is not "self-proved" (see page 2), then two of the witnesses must appear at the Register of Wills office and give information under oath regarding the Will. If one or more of the witnesses died before the decedent, or is unable to appear, a disinterested person must come to the Register of Wills office to personally identify the signature(s) and sign an affidavit.

PROBATE PROCEDURES

If an estate has to be opened, the person in charge must contact the Register of Wills office either by phone or by email to make an appointment *(see inside front cover of brochure for contact information)*. Note that in order to provide maximum efficient services to the public, appointments are required. Walk-in customers without a scheduled appointment to open an estate are discouraged, as our deputies' schedules are set a week or more in advance. If we cannot accommodate you, you will be asked to leave your information for our deputy to call you and schedule an appointment. When an estate is opened, the Register of Wills grants certain powers to the appropriate personal representative (executor or administrator) of the estate. The person(s) who petitions for letters (authority to administer the estate) determines the type of

petition that must be filed. A named executor petitions for Letters Testamentary. If the Will contains no qualified or surviving executor, the person(s) who makes application to administer the estate files a petition for Letters of Administration with the Will Annexed.

If there is no Will, the next of kin of the decedent, in the following order or priority, have the right to petition for Letters of Administration:

1. Spouse;
2. Children;
3. Parents;
4. Brothers and sisters (of the whole and half-blood).

Therefore, the spouse has priority if the spouse is still living. The spouse may, however, renounce (give up) his/her right. If the next of kin are the children, all of the children have an equal right to act. Usually, only one or two people administer an estate. It may be appropriate for the children to decide who among them should act, and the others would then give up their right. They must renounce in writing and file the paper with the Register of Wills.

If there are no next of kin having a priority or none of those persons has applied to administer the estate within 60 days of the date of death, then the Register of Wills may, at their discretion, appoint any interested person to be the administrator.

DUTIES OF THE EXECUTOR OR ADMINISTRATOR

After the personal representative is appointed, that person is required to:

1. File a certified copy of the death certificate (normally done when the Will or the petition is filed);
2. Pay the costs of opening the estate at the time of petitioning for letters. These costs are based on the value of the solely held personal property of the decedent and average about $150.00;
3. Publish legal notice of the filing of the petition in a local newspaper, as required by law. This notice notifies creditors of the death, that an estate has been opened, and that claims against the estate must be filed within eight (8) months of the date of death. This service will be arranged through the Register of Wills office;
4. Collect, inquire about, manage and protect all probate assets;
5. File an inventory of the assets within 3 months after the estate is opened, including all jointly held property;
6. Set aside from the assets the spouse's allowance, if requested, and the spouse's elective share, as required by law (see glossary);
7. Pay the valid debts of the decedent;
8. File and pay any Federal and/or State estate taxes within nine months of the date of death;
9. File an accounting with the Register of

Wills within one year of opening the estate. The accounting is a report of the total probate assets received, income earned by the estate, and the debts paid (including funeral expenses and administrative expenses of the estate incurred during the first year). From these figures, the net value of the estate is determined. Subsequent accountings must be filed annually if the estate must remain open;

10. Close the estate with the Register of Wills by appearing at the Register of Wills office to prove payment of debts and expenses with canceled checks or vouchers marked paid. Once the payment of debts and expenses is approved, the personal representative must take an oath that the estate was administered properly and pay to the Register of Wills a closing fee of 1.25% of the "net personal estate" (that is, probate assets minus real estate, unless real estate is directed to be sold, and approved expenses).

DISTRIBUTION

After the personal representative has performed the above duties, he may then make final distribution to the beneficiaries under the Will or to the intestate heirs. The personal representative should be cautious in making any distribution until eight months after decedent's death. Creditors have up to eight months after death to file legally enforceable claims against the estate.

The title to real property given by Will or intestacy passes immediately upon death to the beneficiaries. If the debts, estate expenses and inheritance taxes are properly paid, the title passes without further action by the personal representative. Please note that a new deed will not be recorded, nor is it required to be recorded. The transfer of ownership of real property will be shown through documents filed at the Register of Wills office and forwarded to the County Assessment Office. However, if the decedent's probate assets are insufficient to pay the debts, estate expenses and taxes, then the personal representative must sell the real property to raise sufficient funds to pay them.

ESTATE AND INHERITANCE TAXES

Federal law provides that a surviving spouse receives an Unlimited Marital Deduction whereby qualified property may pass, regardless of amount, without any Federal Estate Tax. Other beneficiaries should be aware that Federal Estate Tax is determined by the year of death and the size of decedent's Federal Gross Estate. (Ex. for year 2011, there is no Federal Estate Tax due if the Federal Gross Estate does not exceed $5,000,000. Tax laws are subject to change. Check with the state and federal tax offices for current exemptions). If the date of death was prior to January 1, 2011 and no estate tax is required, a "No Estate Tax Affidavit" must be filed at the Register of Wills office. It is strongly suggested that you seek professional advice about estate taxation.

The Delaware Inheritance Tax has been eliminated for estates where the decedent died on or after January 1, 1999. If there is an estate where the decedent has died before January 1, 1999, contact the Delaware Division of Revenue at (302) 577-8170 for information

regarding the guidelines for filing the appropriate inheritance tax forms.

FREQUENTLY ASKED QUESTIONS ABOUT ACCESS TO A DECEASED PERSON'S ELECTRONIC ASSETS AND ACCOUNTS

Q: When I become the personal representative of a decedent's estate, will I have access to the decedent's electronic media accounts, such as Facebook, LinkedIn, Snapfish, Shutterfly, Google (gmail), PayPal, and Itunes?

A: Yes. Delaware has enacted the Fiduciary Access to Digital Assets and Digital Accounts Act, which allows "fiduciaries" (which includes personal representatives of estates) to have access to a decedent's digital accounts and assets.

Please note two important distinctions for the term "access" as it relates to a decedent's digital accounts and assets.

First, a fiduciary only has as much access to the decedent's digital accounts and digital assets as the decedent himself/herself would have had if he/she were still alive (for example, if the decedent signed a licensing agreement that imposed certain restrictions on the decedent's access, those same restrictions are binding on the fiduciary).

Second, when a fiduciary is given access to a decedent's digital assets and accounts, such access does not transfer ownership of those assets and accounts to the fiduciary himself/herself, but

merely gives the fiduciary temporary custody of those assets and accounts for the benefit of the intended owners of those assets and accounts whose ownership takes effect upon the death of the decedent (as determined either by the decedent's Will or the intestacy laws).

Q: What is a digital asset?

A: A digital asset includes data, text, emails, documents, audio, video, images, sounds, social media content, social networking content, codes, health care records, health insurance records, computer source codes, computer programs, software, software licenses, databases, or the like, including the usernames and passwords, created, generated, sent, communicated, shared, received, or stored by electronic means on a digital device.

Q: What is a digital account?

A: A digital account includes any electronic system for creating, generating, sending, sharing, communicating, receiving, storing, displaying, or processing information which provides access to any digital asset which currently exists or may exist as technology develops or such comparable items as technology develops, stored on any type of digital device, regardless of the ownership of the digital device upon which the digital asset is stored, including but not in any way limited to, email accounts, social network accounts, social medial accounts, file sharing accounts, health insurance accounts, healthcare accounts, financial management accounts, domain registration accounts, domain name service

accounts, web hosting accounts, tax preparation service accounts, online store accounts and affiliate programs thereto, and other online accounts which currently exist or may exist as technology develops or such comparable items as technology develops.

GENERAL INFORMATION ABOUT DEATH BENEFITS

The Social Security Administration will pay a specific amount as a death benefit for covered individuals who were receiving benefits or are eligible survivors. This benefit is paid to the surviving spouse or to the minor children.

The Veterans Administration will also pay a benefit for a deceased veteran. In addition, the decedent may have purchased funeral insurance, or may have been a member of an organization that provides such related benefits. Although it is not the responsibility of the personal representative to see that these amounts are collected and paid, these matters should be investigated in order to discharge his or her duties effectively.

SOURCES OF INFORMATION

The preceding information provides you with a general overview of the workings of the Delaware estate laws and the functions of the Register of Wills office. The staff of the Register of Wills office will try to answer procedural questions regarding Delaware probate law. The Delaware State Bar Association provides a lawyer referral service called “Help Link.” If you need help finding a

lawyer who practices estate planning or probate law, Help Link can be reached at (302) 478-8850.

Other public and private agencies that might assist you are listed below.

- **COMMUNITY LEGAL AID SOCIETY, INC.**
  (302) 856-0038
  Georgetown Professional Park
  20151 Office Circle
  Georgetown, DE 19947
- **DELAWARE STATE BAR ASSOCIATION**
  (302) 658-5279
  405 N. King Street, Suite 100
  Wilmington, DE 19801
- **DELAWARE VOLUNTEER LEGAL SERVICES LEGAL HELP LINK**
  (For lawyer referral service. Provides free limited legal services.)
  1-800-773-0606
  (302) 478-8680
  P.O. Box 7306
  Wilmington, DE 19803
- **DIVISION OF SERVICES FOR AGING AND ADULTS WITH PHYSICAL DISABILITIES**
  1-800-223-9074
  26351 Patriots Way
  Georgetown, DE 19947
- **FOR DELAWARE CLAIMS INFO: MEDICARE**
  1-800-633-4227
- **FOR LIFE INSURANCE POLICY SEARCH:**
  American Council of Life Insurance Policy Search
  1001 Pennsylvania Ave., NW
  Washington, DC 20004

- **MEDICAID**
  1-800-372-2022
  (302) 255-9500
  DHSS Herman Holloway Campus, Lewis Building

1901 N. DuPont Highway
New Castle, DE 19720

- **SENIOR CITIZENS' LEGAL AID PROGRAM**
  1-800-773-0606
  100 W. 10th Street, Suite 801
  Wilmington, DE 19801
- **SOCIAL SECURITY SURVIVORS BENEFITS**
  Kent County
  1-877-701-2141
  500 W. Loockerman St. Suite 100
  Dover, DE 19904
  Sussex County
  1-866-864-1803
  12001 Old Vine Boulevard
  Suite 101
  Lewes, DE 19958
- **VETERANS ADMINISTRATION**
  (Grave Stone Markers for Unmarked Graves)
  1-800-827-1000
  1601 Kirkwood Highway
  Wilmington, DE 19805
- **VITAL STATISTICS**
  302-856-5495
  544 South Bedford Street
  Georgetown, DE 19947

(Call for instructions concerning obtaining death certificates).

GLOSSARY

- **Administrator/Administratrix** – Person appointed by the Register of Wills or the Court to gather and distribute assets of person who died without leaving a Will.
- **Beneficiary** - A person who receives property or other benefits.
- **Codicil** - A supplement or an addition to a

Will. It may explain, modify, add to, subtract from, qualify, alter, restrain or revoke provisions in a Will. It must be executed with the same formalities as a Will.

- **Decedent** – A deceased person; the person who died.
- **Elective Share** - The surviving spouse's right to take a statutory share of the decedent's estate rather than under a Will or the intestate laws.
- **Estate** - Everything a person owned at the time of the death.
- **Executor/Executrix** - Person appointed by the testator (maker) to carry out the directions and requests in his/her Will.
- **Filing/Registration of Will** – The filing of an original Will at the Register of Wills office *after* an individual's death.
- **Interested Persons** – Includes heirs, devisees, children, spouse, creditors, beneficiaries, and any others having a property right in or claim against the estate of a decedent which may be affected by the particular proceeding.
- **Intestate** - A decedent who left no Will.
- **Intestate Succession** – The laws that stipulate who is to take the decedent's property if the decedent dies without a Will or if the decedent's Will does not dispose of all the property.
- **Issue** - All of a person's lineal descendants of all generations (i.e. children, grandchildren, great-grandchildren, etc.).
- **Letters of Administration** - The order

issued by the Register of Wills empowering a party to gather and distribute the assets of an estate when the decedent died without a Will or did not name an executor in a Will or where the executor dies, renounces (gives up) his appointment or is not qualified.

- **Letters Testamentary** - The order issued by the Register of Wills to the executor named in the Will of the decedent to allow the executor to administer the estate.
- **Life Estate** - A right to use or occupy property for the life of the person named, which ends upon the death of the person named.
- **Next of Kin** - Those persons most closely related to a decedent by blood (i.e. children, parents, brothers and sisters, etc.).
- **Personal Property** - Any property which is not included in the definition of real property; tangible property such as: furniture, books, automobiles, jewelry and clothes; and, intangible property such as: money, stocks, bonds and/or bankaccounts.
- **Per Stirpes** - This phrase refers to the method of dividing a share of an estate where a class or group of beneficiaries takes the share their ancestor would have taken if he/she survived the testator. For example, if person P dies leaving no spouse and is

survived by two children A and B and the two children of his deceased child C (E and F) - then A and B would each receive 1/3 of the estate and E and F would equally share C's 1/3, thereby each receiving 1/6.

- **Probate - 1)** The entire system or process provided by law for transferring the property of a decedent to heirs; and **2)** The act or process of proving a Will to be valid before the Register of Wills.
- **Real Property** - Land and things attached to land; buildings, fences, walls, trees, growing crops, etc.
- **Spouse Allowance** - The surviving spouse's right to request up to $7500 from the personal representative in addition to any other provisions for his/her benefit contained in a Will or by intestate law. A written request sent to the Register of Wills is required.
- **Testator/Testatrix** - Person who makes a Will (the maker).
- **Witness** - A person who is over 18, not incompetent and witnesses the testator's original signature to a Will and who, in the presence of the testator, signs the Will attesting his presence at the time the testator signed, or acknowledged signing, the Will. A person is not disqualified from being a witness because he or she is a beneficiary of the testator.