

Some Unforeseen Issues Usually Arise for Survivors, Executor

Even if a person who passes away had spent considerable time getting affairs in order in anticipation of death, the concern of the decedent's survivors is frequently one of panic which is accompanied by mourning the loss of a family member.

If you are a survivor, it is normal to feel confused and overwhelmed. Assuming you know you are the Executor of the Will, then the pressure can be much greater.

If you are the named Executor of a Will then you will want to know what to do as soon as possible. Remember though, just because you are named doesn't make it official. The Will must be filed in the appropriate court along with an application containing statutorily required information. Until the Will is successfully admitted to probate, you don't have a validated Will and you are not officially the Executor.

You will sign an oath promising to faithfully discharge your duties which also must be filed in the case, then Letters Testamentary should be ordered. This is proof that you are authorized to act on behalf of the estate.

But let's assume that the decedent just passed away and you received a call informing you that your family member is dead in the house. You may be talking to a police officer on the other end of the call.

Assuming the officer has received clearance to release the body from going to the medical examiner's office for an autopsy, the goal is to find the appropriate family member or agent to direct the body to the appropriate facility, such as a funeral home. Although it can get complicated, the critical objective is to get the body removed from the house.

Once the body has been removed from the place of death to an appropriate facility, if the decedent lived alone, you should secure the house as well as other physical property. This will be a top priority, along with making funeral arrangements.

You should consider changing the locks immediately because you don't know who has keys. Sometimes beneficiaries who are not named executors feel entitled to go into the old family home place and start helping themselves to property. You should remove valuables from the house unless you can adequately safeguard them in the house. Cash, jewelry, guns, precious metals, etc. should be considered as things to be removed.

In most cases, you shouldn't turn off the utilities. You will need those left on to further deal with the property in the house and later to sell it. The mail should be rerouted to another location such as your home or office. You will need to remove pets and plants from the house and relocate them.

The lawn should still be managed. The house needs to be kept up as though people live there so as to reduce the appearance of an invitation to potential burglars.

You will also want to locate paperwork such as a pre-need funeral or cremation contract which has been paid for in advance or is to be paid for based on the assignment of a life insurance policy connected to the contract.

After that, it will be time to see the attorney you choose for an initial probate consultation to determine the best course of action to take.

You may email your questions to education@wrightabshire.com or visit our website at www.wrightabshire.com. Wesley E. Wright and Molly Dear Abshire are attorneys with the firm Wright Abshire, Attorneys, P.C., with offices in Bellaire, the Woodlands, and Carmine. Both Wright and Abshire are Board Certified by the Texas Board of Legal Specialization in Estate Planning and Probate Law and are certified as Elder Law Attorneys by the National Elder Law Foundation. Nothing contained in this publication should be considered as the rendering of legal advice to any person's specific case, but should be considered general information.