

## Probate cases use special words

Here are some:

**Beneficiary:** a person who inherits when there is a Will.

**Custodian of the Will:** the person who has the Will at the time of a person's death.

**Decedent:** the person who died.

**Decedent's Estate:** all real or personal property that a person owned at the time of death.

**Executor:** a person named in a Will and appointed by the court to carry out the dead person's wishes.

**Heir:** a person who inherits when there is no Will.

**Intestate succession:** the order of who inherits the property when someone dies without a Will.

**Intestate:** when someone dies without leaving a Will.

**Personal Property:** things like cash, stocks, jewelry, clothing, furniture, or cars.

**Real Property:** buildings and land.

**Testate:** when someone dies leaving a Will.

**Will:** a legal paper that lists a person's wishes about what will happen to his or her property after death.

## Where do I go for my Probate case?

In San Francisco, Probate cases are at:

Civic Center Courthouse  
400 McAllister Street  
(corner of Polk and McAllister)

- To file court forms, go to:  
Room 103
- For Probate information, go to:  
Room 103 and Room 202
- To see documents that have been filed, look at your case online at:  
[www.sftc.org](http://www.sftc.org)
- For self-help books and written information, go to:  
ACCESS Center, Room 208
- To speak to or hire a lawyer, call the San Francisco Bar Assn., Lawyer Referral Service:  
**415-989-1616**

**SAMPLE**  
Not Legal Advice

## What happens to someone's property when they die?



**ACCESS**

San Francisco Superior Court  
400 McAllister Street  
Room 208  
San Francisco, CA  
94102-4514

**415.551.5880**  
[www.sfgov.org/courts](http://www.sfgov.org/courts)

Dealing with the courts and the property of someone who has died is very complicated.

We encourage you to hire a lawyer. You can pay the lawyer's fees from the property in the case.

To find a lawyer, call the San Francisco Bar Association, Lawyer Referral Service:  
**415-989-1616**

## What is "Probate"?

Probate deals with:

- Transferring the property of someone who has died to the heirs or beneficiaries.
- Deciding if a Will is valid.
- Taking care of the financial responsibilities of the person who died.

## What if the person left less than \$100,000?

If the dead person's property is worth less than \$100,000, and you have the legal right to inherit from the dead person, you may not have to go to court to get the property.

To transfer personal property, you must write an *Affidavit*. This is a special form you can get from most banks, lawyers or from the ACCESS Center, Room 208.

To transfer real property (like a house), you can use a form called *Petition to Determine Succession to Real Property*.

## What if the person left more than \$100,000?

If the dead person's property is worth more than \$100,000, you must go to court and start a probate case.

To do this, you must file one of these forms:

- *Petition for Letters Testamentary*
- *Petition for Letters of Administration with Will Annexed*
- *Petition for Letters of Administration*

## What if I was married to the person who died?

You may be able to use a simple form, called a *Spousal Property Petition*, to get a court order that says:

- What your share of the community property is.
- What part of your deceased spouse's share of community and separate property belongs to you.

## What does the "Custodian of the Will" do?

The person who has the will at the time of the person's death is the custodian of the will. The custodian has 30 days to take the original Will to the Probate Clerk's Office:

Civic Center Courthouse  
400 McAllister Street, Room 103  
(corner of Polk and McAllister)

The custodian must also send a copy of the Will to the Executor.

If the custodian does not do these things, he or she can be sued for damages caused.

## What happens if there is no Will?

If there is no Will and a court case is needed, the court will appoint an Administrator to manage the estate during the Probate process.

The person who wants to be the administrator must file a *Petition for Letters of Administration*. The Administrator usually is the spouse, domestic partner or close relative of the dead person.

## What happens after a probate case is filed?

1. The Probate clerk sets a hearing date.
2. The petitioner must give notice of the hearing to anyone who may have the right to get some part of the estate. The petitioner cannot be the one to mail the notice. It must be mailed by any other adult.
3. A Court Probate Examiner reviews the case before the hearing to see if it was done correctly.