

When The Worst Happens

*Guidance After
The Death Of
A Loved One*



Life happens.
Plan on it.™



Geneva N. Perry, Esq.

If you are reading this booklet, you may have already experienced the death of a family member or friend. If so, I extend my deepest condolences.

You may also be reading this because you are worried about what to do when that time comes for someone you know and love. Whatever brings you here, I commend you for taking the time to consider this important, if challenging, topic.

At Promise Law we've helped hundreds of people like you right now. In all those instances we have observed this: it is hard to know what to do and to make good decisions when in the fog of grief. You might not have any idea where to start or what to do. Maybe you have lots of different opinions being offered by people who mean well and are trying to be helpful, but it's all just making you more confused.

We developed this booklet to give you some guideposts for what may need to be done and when. One step at a time, and everything in its own time. The sections are organized in time frames by months, and then in subsections, which are by and large sequential. In each subsection there are checklist items or descriptions that are generally addressed in that section's time frame.

I know it isn't easy to take these first steps, but I founded Promise Law to help people just like you, people who want to know and plan as much as they can, rather than live in fear of what they do not know (or other people tell them). We know that this process can be overwhelming, and it is our sincere hope that this booklet can be a beginning to work through this time. But if you find you need more, please call us. Promise Law is here to help you navigate the road ahead.



Immediately After The Death To Two Weeks After The Death

THIS IS A TENDER TIME AND A BUSY TIME. There is the immediate grief of the loss, but also the need to make final arrangements. The focus should be rallying to the support of the surviving spouse and/or other immediate family. While it is appropriate and necessary to secure the property of the person who died (the decedent) this is not the time to think about who gets what. The truth is that there is not enough information at this point to know what may or must be done with the decedent's assets.

Assess Anatomical Donation Wishes And Notify Others of the Death

- ☑ Review the decedent's Driver's License or any written direction for organ, tissue, or whole-body donation so the proper paperwork can be completed as time is of the essence here.
- ☑ Contact the agents under the decedent's Advance Medical Directive who may have some residuary authority to sign post-death paperwork, especially relating to organ or tissue donation or whole-body donation.
- ☑ Consider enlisting a family spokesperson or close friend to assist with sharing information, especially if there may be media involvement.
- ☑ Contact attending physician, funeral home, or police, especially if the death is at home and not in a medical or hospice facility.
- ☑ Call close family and friends as directed by the surviving spouse and/or other family.
- ☑ If the decedent was retired military, notify the Decedent Affairs Officer at the closest base of the retiree's service branch.



Arrange Support For Surviving Family And Pets

- ✓ Evaluate the emotional impact of the death and, if needed, arrange for someone to stay with the surviving spouse and/or other family as appropriate.
- ✓ Coordinate meal delivery to support but not overwhelm the family.
- ✓ Board pets or arrange for their care, especially if numerous people may be coming and going from the house. Be sure to inform pet caregiver of any medication or dietary needs of the pet.

Make Final Arrangements And Plan The Funeral/Memorial Service

- ✓ Find and review the decedent's expressed funeral and burial wishes including any document designating someone to make arrangements. If a burial designee document is found, contact the designee.
- ✓ Check to see if the decedent had already pre-planned and/or prepaid for funeral, burial, or cremation arrangements, and if so contact the funeral home to make arrangements.
- ✓ If the decedent was eligible to be buried or inurned in a state or federal veterans cemetery, check to see if they made preliminary arrangements. If not, note the statutory order of individuals who can make these arrangements. Call the Veteran's Administration at (800) 827-1000 or the local VA/State Dept. of Veteran's Affairs to determine death benefits.
- ✓ If none of the above, select funeral home/crematorium and make final arrangements. It is appropriate to obtain quotes from several funeral homes, and be careful of amount spent on the services if the solvency of the estate is unknown.
- ✓ Request 6 – 12 death certificates from the funeral home.
- ✓ Prepare the obituary.
- ✓ Contact extended family and other friends not already notified.
- ✓ Plan order of service and update the eulogists on the life of the decedent.

Organize And Protect The Decedent's Premises

- ☑ Arrange for care, donation, or disposal of perishable property such as items in the refrigerator or on the counter, plants, etc.
- ☑ Create plan to address fish, birds, other pets, that have not already been provided for.
- ☑ Cancel or rearrange home deliveries.
- ☑ Arrange for security at the decedent's home during the viewing, funeral, burial, memorial service, etc.
- ☑ Secure valuables at the home if post-service reception will be held there.
- ☑ Have Post Office hold or forward mail (eventually it will need to be forwarded to the personal representative or trustee).



Two Weeks To One Month After The Death

WITH THE SERVICES COMPLETED, it is now time to assess and organize what has been learned along the way and to document expenses incurred to date. It is the start of the information gathering phase, which will extend into the next month or even months.

Gather Information And Keep Good Records

- ☑ While helping find homes for pets, preparing the decedent's home for a repass, etc. you are likely to come across legal and financial documents.
- ☑ Keep a summary record of everything you find including a description of the item and where it will be secured, so "ABC Bank Statement dated 01/31/2020; Study Filing Cabinet".
- ☑ Keep copies of all funeral and other expenses paid both with a receipt and proof that the expense incurred was for the benefit of the decedent's estate. This means you need receipts, invoices, copies of the cancelled checks, etc.
- ☑ Essentially, you should be able to summarize what you have found and what you have paid and, for the latter, why it would be appropriate to reimburse you.



One Month To Two Months After The Death

THE NEXT FEW MONTHS should be spent gathering more information to determine if probate or trust administration is needed. That's right. It is still not the time to try and distribute any of the decedent's property. The goal is to get as clear as possible about the decedent's legal documents governing distribution of the estate and the assets owned at the decedent's death. Besides, the list of areas that need attention can be daunting and is simply too much for the grieving family to work through in a few days. As a practical matter, allowing a few months means that more information will become available simply due to billing and statement cycles. While working through this phase, resist the temptation to request the court appoint you as the executor (sometimes also called personal representative) or to try and step up as successor trustee. You should never take on this type of responsibility until you have spoken to an attorney.



Assess (Possible) Administration – The Priority Items to Locate or Investigate

- ✓ Original wills, codicils (amendment to a will), trust and any trust amendments. If you are not the nominated successor fiduciary, notify the person / entity that is named.
- ✓ Safe Deposit box key(s) and box location(s). The personal representative is granted access to them to obtain an original will, but this is of course much harder without a key and a copy of the will.
- ✓ Social Security benefits for surviving spouse / minor children.
- ✓ Employee benefits, including accrued vacation, death benefits, final wages, retirement plans, deferred compensation, medical reimbursements, etc.
- ✓ Bank accounts (checking and savings) (update to the surviving owner if jointly held)
- ✓ Investment / Brokerage accounts (update to the surviving owner if jointly held)
- ✓ Vehicles (update to the surviving owner if jointly held)
- ✓ Business interests
- ✓ IRAs / 401(k)s or other retirement plans
- ✓ Life insurance policies
- ✓ Union death benefits
- ✓ Fraternal organization benefits
- ✓ Credit cards (destroy the card, close the account, if possible, but at the very least give notice of death to guard against fraudulent activity)
- ✓ Fire, theft, liability and auto insurance on the decedent's property
- ✓ Refunds of insurance, utilities, cancelled subscriptions

Retain Professional Assistance To Determine Next Steps

- ☑ Meet with attorney to determine whether and how estate administration should proceed. If administration is necessary, retain attorney to assist with formally accepting the duties of personal representative or trustee, and administering the estate thereafter.
- ☑ Meet with and retain CPA / enrolled agent to assist with tax and accounting matters. The decedent's last return must be filed, and if estate / trust administration is necessary, then there may also be returns for the estate.



Two Months To Eighteen Months After Death

THE PROCESS OF ADMINISTERING ESTATES (whether probate through the court or a trust privately) is not quick and it is not easy. This is because the process is a combination of administering the decedent's assets (getting things to the right people, in the right order, in the right time, and documenting doing so), managing financial accounts, tending to the tax issues for the decedent and the estate, etc. Then on top of all that the work also includes responding to requirements of the court and/or queries of the beneficiaries.

Manage Your Expectations For The Work Ahead

- ✓ Probate administration may take anywhere from six months to two years from the qualification by the clerk to the final distribution from the estate.
- ✓ Trust administration is typically six months to one year.
- ✓ The duration of administration is impacted by many factors including whether there is conflict in the family, if assets do not “align” with the decedent's documents, etc.

Undertake The Work Of Administration

- ✓ Notices to beneficiaries and/or heirs.
- ✓ Transfer of assets to the estate or trust.
- ✓ Payment of the decedent's debts.
- ✓ Distribution of the remaining assets to the beneficiaries.
- ✓ With probate, there is formal accounting, supervised by the court, for the duration of administration.
- ✓ Most trusts permit beneficiaries to request an accounting, but an accounting may not be needed if the beneficiaries know of and generally feel comfortable with the assets.
- ✓ Preparation and filing of the decedent's individual taxes and, if needed, those of the estate/trust.



Closing Thoughts

Avoid the Quicksand

(i.e. Why You Shouldn't Go It Alone)

HAVE YOU EVER REGRETTED RAISING YOUR HAND?

Sometimes there are ways to get the assets where the decedent wanted them to go without taking on the duties of personal representative or trustee. The transfer of certain asset types at the wrong time or wrong way may trigger negative tax consequences. Plus, if the decedent's debts outstrip his/her estate, then the personal representative (i.e. the person who raised their hand!) may be personally liable for paying a creditor out of order.



Questions?

Contact Us Today

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Disclaimer: This booklet provides suggestions on how to move forward after the death of a loved one, and some of the general rules about handling a decedent's probate and/or trust estate. The determination of whether, when, and how someone should administer a decedent's estate is very fact specific. Accordingly, the materials presented here are informational and should not be construed as providing specific legal advice to any reader.



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