

# A Guide to Probate in Florida

Claude Pepper Elder Law Clinic

## WHAT IS PROBATE

Probate is a legal process that distributes a deceased person's assets and settles their debts according to the will or state law (if there is no will)

**Time:** Probate can be time-consuming and costly, involving court oversight, an attorney, and potential delays. While there are ways to ease the process, probate is not necessarily “bad.” Each case will differ.

**How can I avoid it?:** Certain assets like POD/TOD accounts, jointly owned property, and property held in trust can avoid probate if they are set up properly.

## TIMELINE

1. File the Will/Petition (1-2 months)
2. Notice to Interested Parties (2-3 months)
3. Inventory and Appraisal (3-4 months)
4. Payment of Debt and Taxes (6-12 months)
5. Distribution of All Assets (6-12 months)
6. Final Accounting and Closing (8-12 months)
7. Challenges and Disputes (Timeline varies)



# Pay and Transfer on Death Accounts

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## WHAT IS A POD/TOD

A POD (Payable on Death) or TOD (Transfer on Death) designates who will inherit a bank or investment account after the owner's death. The beneficiary can claim the account by providing proof of death. This does not apply to cars or houses.

## HOW TO CREATE BENEFICIARY DESIGNATIONS

1. Open a bank or investment account, or use an existing one.
2. Name a beneficiary on a POD or TOD form.
3. Update as needed.
4. This can often be done online, or in person.

### BENEFITS

- Free and easy to create
- Avoids probate
- Beneficiaries can't access until after death
- Can have multiple beneficiaries

### CONS

- If the beneficiary is a minor, the financial institution will not release funds until they reach the age of majority (18).
- Not a complete substitute for a will, which specifies how other assets are distributed.

## JOINT ACCOUNT VS. POD/TOD ACCOUNT

Joint accounts can have multiple owners and share equal access to funds. All owners are equally responsible for fees. In a POD/TOD Account, there is a single owner who controls the account and can withdraw from the account at any time. The beneficiary only gains access after the owner's death.



# Summary Probate Administration

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## Requirements for Petition:

### SIGNATURE

- Must be signed by the surviving spouse of the decedent, if any, and all beneficiaries
- If a beneficiary does not sign the petition, the petition must be mailed to them upon filing

### FACTS

- Must state that the value of the estate is under \$75,000 or more than two years have passed since the decedent passed away

### CREDITORS

- A statement indicating:
  - the estate is not indebted;
  - all creditor's claims are barred; or
  - the name of each creditor, the nature of the debt, the amount of the debt, whether the amount is exact, and when the debt is due

### PLAN

- A plan for distribution of all estate assets, including to whom each asset is to be distributed

Checklists and Forms  
Available

Leon County Clerk of Courts  
850-606-4180



# Summary Probate Administration

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## BENEFITS

- Summary administration is a faster way to pass a loved ones assets to heirs, taking only 1 to 3 months compared to formal administration which can take 6 to 18 months.
- Attorneys generally charge less for summary administration. However, participation of an attorney is not mandatory.

## REQUIREMENTS

The value of the estate is under \$75,000  
OR

The decedent has passed away more than two years ago

## PROCESS

### 1. File a petition for Summary Administration

Any beneficiary or person nominated as personal representative in the decedents will can file the petition.

### 2. The court determines if the estate qualifies for summary administration

The court will examine the assets of the estate and any potential claims by creditors.

### 3. The court issues an order distributing the assets of the estate

If the court determines the estate is eligible for summary administration and payments due to creditors have been provided, it will issue an order distributing the assets. This allows the assets to pass to the heirs.

## NOT INCLUDED IN ESTATE VALUATION

- Homestead Property
- Household furniture and appliances up to 20,000
- Two motor vehicles used by the decedent(s) immediate family
- Qualified tuition programs

## SUMMARY IS ADMINISTRATION NOT AVAILABLE IF:

- The decedent passed away less than two years ago and the value of the estate is over \$75,000
- The decedent's will requests formal administration

