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## *Probate Assets*

Probate assets are 1.) assets owned exclusively by the person at his or her death and 2.) assets owned as “tenants in common” with another person. Probate assets are subject to Probate Court administration and are handled by a personal representative appointed by the Probate Court. The Probate estate is administered in the county of the decedent’s last residence.

When a person dies with a Will, the probate assets generally pass to the persons designated in his or her Will. HOWEVER, a surviving spouse has the right to take either the amount left under the Will or a statutory “forced” share of the Probate assets.

If a person dies without a Will, the probate assets pass to his or her heirs as determined by state law. Generally, this state law provides that intestate assets pass to a spouse and/or children, and their lineal decedents (i.e. grandchildren, etc). If there is no spouse or lineal decedent, then the assets pass to the decedent’s parents or to the surviving parent. If the parents have predeceased the decedent, then the property passes to the brothers and sisters and their lineal decedents, regardless of whether the siblings are of whole or half blood.

It is better to execute a Will to direct the distribution of assets. However, it is often even wiser to avoid Probate all together. This can be done by using non-probate ownership.

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