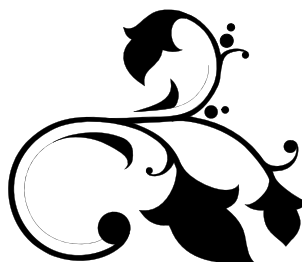


# WHAT TO DO WHEN YOUR SPOUSE DIES

- Decisions to Make
- Legal & Financial Considerations
- Planning Ahead



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### **Grief and Decision Making**

It is difficult to make decisions after a spouse's death. Most surviving spouses have trouble concentrating, feel disoriented and despairing, and are overwhelmed by problems or decisions that would, under other circumstances, seem straight-forward. This difficulty can continue for many months. Well-meaning friends and family often offer advice -- "Why don't you sell your home? You don't need all that room. You'd better get a job. You should move closer to your children/friends/relatives. You should go back to school. You should pay off your mortgage with your insurance proceeds."

Because grieving people have trouble concentrating, their judgment tends to be poor. It is important, therefore, to defer making decisions, particularly decisions that cannot be changed, for several months after a spouse's death. It is best to wait until the emotional roller coaster levels out.

Fortunately, most significant decisions regarding legal and financial matters can be postponed for a while. If a major decision has to be made, you can turn for help to trusted friends and family members who are not as emotionally affected by your spouse's death and can give you sound, objective advice. You should not hesitate to consult experts for a thorough analysis of important decisions.

### **Common Misconceptions**

There are many misconceptions about the legal and financial consequences of the death of a spouse. These myths are often perpetuated by well-meaning friends who are truly trying to give practical advice. Unfortunately, a tremendous amount of misinformation is often unintentionally provided. To set the record straight, please remember:

💧 Bank accounts are not frozen in Texas. Any person who could sign on the account prior to your spouse's death will continue to have access to the funds on deposit.

💧 Safe deposit boxes are not sealed in Texas. No court order or tax permit is required to open your Spouse's safe deposit box. Any person who could sign to open the box prior to your spouse's death will continue to have access to the safe deposit box.

☹ Certificates of deposit can be withdrawn without penalty. There is no penalty for early withdrawal of a C.D. upon the death of the person who owns it. You are not required to liquidate the C.D. but you may do so without penalty if you choose to.

☹ Probate is not typically time consuming or expensive. Most people who die with a Will prepared in Texas have opted for “independent” administration, which is relatively quick and inexpensive.

☹ Lawyers do not receive 3% (or any other fixed percentage) of the estate for their services in Texas. Instead, most lawyers charge fees based upon the time involved and the complexity of the matter. Your lawyer should be able to give you a fairly good estimate of what you can expect in legal fees before any work is performed. The same is true for accountants, financial planners, and other professionals whom you might engage to assist you with handling your spouse’s affairs.


### **People and Places to Call**


**The following people and places should be called soon after your spouse’s death:**


- ✓ Immediate family.
- ✓ Friends and relatives.
- ✓ Hospital or organ bank, if you want to make anatomical gifts. If your spouse named a specific organization in a Will or Uniform Donor Card to receive an organ or tissue donation, contact that organization. Anatomical gifts are discussed in more detail on page 5 under Organ and Tissue Donations.
- ✓ Funeral home. Make an appointment to discuss funeral arrangements.
- ✓ Business associates of your spouse. If your spouse died before completing work for a client or customer, notify the person your spouse would recommend to complete the work.
- ✓ Executor named in your spouse’s Will. (In most cases, you will have been named executor if your spouse had a Will).


You may want to wait until after you have made funeral arrangements before calling people other than members of your immediate family and close friends. That way you won't have to make a second phone call to give them information about the funeral. Be sure to write down information about funeral arrangements and keep that information by the phone. Don't rely on your memory. Don't hesitate to ask people to make calls for you. Most people will welcome the opportunity to be helpful.


**You can wait a few days before calling these other people and places:**


 A lawyer experienced in probating estates if you have been named Executor or no Executor has been named.


 The personnel department of your spouse's current employer and any former employers that had retirement plans. Have them send you any wages, vacation pay, sick leave pay and other compensation they owed your spouse and any death benefits payable to you (e.g., life insurance policy proceeds, or the death benefits from a retirement plan).


 Labor union, if your spouse belonged to a union. Determine whether it provides any death benefits.

 Social Security office. What benefits you and your children are entitled to are discussed in "Finding Money to Pay the Bills" (see pages 20-25). If you have not been receiving Social Security benefits, you should bring your Social Security number, your spouse's Social Security number, your birth certificate, your marriage license, your spouse's most recent W-2 or self-employment tax return, and your checkbook or passbook (if you want your benefits deposited directly into your account). Bring your children's birth certificates and Social Security numbers if they are entitled to benefits.


 Veterans Administration, if your spouse was a veteran. The VA can provide help paying funeral and burial expenses. You and your children may also be entitled to monthly benefits. See "Finding Money to Pay the Bills" on pages 21-25.


 Insurance agent. Obtain the forms that have to be filed to collect life insurance proceeds and schedule an appointment to discuss the adequacy of the insurance on your life. Ask your agent whether any portion of the last premium paid for the life insurance policy and any health insurance policy covering your spouse will be reimbursed to you.


 Bank. If you have no checking account in your own name, open one. If your spouse was receiving any direct deposit checks (e.g., Social Security) instruct the bank to return the checks to their sender, if the sender so requires.


 The trustee of any trust benefitting your spouse (including IRAs and self-employed retirement plans). If your spouse was a trustee of a trust, the co-trustee or successor trustee should be notified of your spouse's death.


**Other people and places should be called within the first month or so following your spouse's death:**

 Credit card companies. Credit cards issued solely in your spouse's name should be destroyed. You may continue using credit cards that you and your spouse both were authorized to use, but the credit card company may ask you to fill out a new application and may reduce your line of credit. If your spouse purchased credit card insurance, the outstanding balance will be canceled at your spouse's death. Check whether the credit card company provides any death benefits.

 Utility companies. If bills were addressed to your spouse, you may want to tell the companies to change their billing. If you are a woman and have been using your husband's last name, you may not want to change your telephone billing and listing. Many women do not want it known that they are living alone. Some people recommend that women use the first letter of their first name in their telephone listing, but use of the first letter has become a signal that the person listed is a woman.

 College financial aid office, if your children are in college. Because of your spouse's death, your children may qualify for financial aid (or additional financial aid).

 Health club. If your spouse had a health club membership which you do not wish to continue, contact the club and ask for a refund of dues that have been paid in advance.

 Magazines. If you are not interested in certain magazines your spouse was receiving, you should contact the magazine to cancel the subscription and request a refund.

**Organ and Tissue Donations**

You may be asked to donate all or some of your spouse's organs and tissues for transplantation, therapy, medical research, or education. Your spouse may have made that decision for himself or herself by signing a donor card or saying yes or no in a Will or Directive to Physicians ("Living Will"). Texas has a donor card on the back of each driver's license.

If your spouse has named a donee, contact that organization and make certain that it will accept a donation. If you want to know who would be interested in a donation, contact a local hospital or organ bank. In Houston, one such organization is Life Gift Organ Donation Center, 5615 Kirby Drive, Suite 900, Houston, Texas, 77005, (713) 523-4438.

The decision has to be made quickly because organs remain useful for only a limited time. You may be able to donate tissues even though your spouse was considered too old or ill to donate organs. It should not cost you anything to make a donation. All expenses should be paid by the organ procurement organization. If a hospital or doctor charges you to evaluate an organ or tissue for donation or to remove an organ or tissue, ask the organ procurement organization to correct the error. Making a donation should not delay your spouse's funeral, nor should it prevent you from having an open casket. Your spouse should not be disfigured by a donation.

### **Medical Autopsy**

You may be asked for permission to do a medical autopsy on your spouse (at no cost to you). Autopsies usually are requested if a person died unexpectedly or from a rare or heavily researched disease. Medical autopsies can be useful for medical research. In an autopsy, the body is examined for information about the cause of death. Some tissue samples may be removed for further study. With clothing, you should not be able to tell that the body has been autopsied.

In Texas an autopsy cannot be performed without your consent if your spouse died of natural causes. It can be done without your consent if foul play is suspected.

You will want an autopsy if you suspect that your spouse's death was caused by someone's negligence. You will not want an autopsy if it would prevent you from making an organ or tissue donation (because of time delays). Be sure to check whether your spouse left any written instructions about autopsies. If not, decide whether you think your spouse would approve of being autopsied.

### **Funeral Arrangements**

Unless your spouse prepaid for a funeral, you will have to make funeral arrangements. Be sure to check whether your spouse left any instructions. Instructions may have been included in your spouse's Will or in a separate letter. You do not have to carry out your spouse's wishes if they are unreasonable or financially burdensome.

If your spouse did not specify how the funeral should be conducted, you will have to decide what arrangements should be made. Consider not only what you think your spouse would have wanted, but also what you can afford. Some people pay for more lavish arrangements than they can afford, out of respect or guilt, but any spouse worthy of such a show of affection would not want to jeopardize the financial security of his or her family. A dignified funeral can be provided at a reasonable price.

Funerals can take many forms. The body can be buried in a cemetery plot or interred in a mausoleum. The body can be cremated and the ashes can be buried, scattered, or inurned in a columbarium or at home. Services can be held in the funeral home chapel, in your church or synagogue, or at graveside. You may have a clergyman or anyone else conduct the service. The body may be present at the service, or the service may be a memorial service with no body present. The casket can be opened or closed. A good funeral director can provide great assistance and make a difficult time less stressful for you. You may know of a good funeral director from past dealings. If not, ask your friends or clergy for recommendations. A nonprofit memorial society in your area, for a one-time membership fee, may be able to help you make arrangements with a funeral home for an economical, dignified funeral.

### **Visiting the Funeral Home**

Before making a final decision, you may want to visit the funeral home. Look around. Would you be comfortable holding a service there? Some funeral homes are more comforting than others. Talk with the funeral director. You want a funeral director who is warm, honest and professional. Be sure that the funeral home can provide the type of service you desire. Ask for a general price list itemizing the products and services offered. Funeral directors are happy to provide you with this price list; its provision is required under the Federal Trade Commission's Funeral Rule. Prices for products and services can vary considerably from one funeral home to another.

You will have to go to the funeral home to make funeral arrangements. Invite someone who is emotionally less involved to come with you and help you make decisions. If you want your spouse to be buried in certain clothes or with certain other items (e.g., jewelry, glasses, dentures, wig, toupee) bring the items to the funeral home. If you would like to say something special in the obituary, you may want to write it out before meeting with the funeral director. Most local newspapers charge for the obituary and the cost is normally passed along to the family by the funeral home. Consider whether you would like to request the mourners to contribute to a charitable organization instead of sending flowers.

### **Veterans**

If your spouse was a veteran, take your spouse's discharge papers to the funeral home. Veterans (unless they were dishonorably discharged) can be buried for free in one of the national cemeteries. The Veterans Administration (VA) will furnish a flag for the service and a headstone or marker. If your spouse was receiving a pension or compensation from the VA (or would have been entitled to compensation if not for the receipt of military retirement pay), or your spouse died in a VA facility or contract nursing home to which he or she properly was admitted, the VA will pay you a modest allowance to help cover burial and funeral expenses. Your funeral director can help you apply for VA benefits.

### **Funeral Home Services**

The funeral home will pick up the body, obtain all required legal permits, fill out the death certificate, prepare the body for burial, and make arrangements with a cemetery for burial or

cremation. The funeral home can, if you desire, assist in making other arrangements for the funeral service (e.g., contact the clergyman you want to conduct the service, purchase flowers, provide music). If you have not already purchased a cemetery plot, space in a mausoleum, or a niche in a columbarium for your spouse's cremated remains, your funeral director can help you select a site and make that purchase. If you are not familiar with the cemetery or columbarium, you should visit the site. Your funeral director can send an obituary to your local newspapers, pay the honorarium to your clergyman, and handle gratuities for the hearse and limousine drivers, if you so desire.

If your spouse died away from home, you can have a funeral director in your community make arrangements to transport your spouse back home. Because the transportation expenses can be substantial and embarking will be required, you might want to consider having your spouse cremated where he or she died and then holding a memorial service in your community.

### **Caskets**

Caskets vary in price from a few hundred to thousands of dollars. They can be constructed from a wide variety of woods, metals, and fiberglass. They may be lined with a variety of fabrics, and their shapes may vary. They can be constructed so that the entire body can be viewed or so that the body can be seen only from the waist up. Seals may be used to help keep out moisture.

Copper and bronze caskets tend to be the most expensive, but the plushness of the lining also affects the price. Less expensive caskets may not be displayed by the funeral home but can be seen upon request. If you do not see the color you want, ask what other colors are available.

If you are embarrassed by the looks of the coffin that you feel you can afford, consider draping it with a pall (or a flag, if your spouse was a veteran).

Remember that caskets are designed to display the deceased during the funeral service and protect the buried body. Caskets may retard decomposition; they will not preserve the body indefinitely. Even an airtight casket will not guarantee eternal preservation. You do not have to purchase a casket if your spouse is to be cremated. Instead, you can purchase a plain container for the cremation. If you want the body present at the service, you can rent a casket.

You may be asked whether you want to purchase a vault or grave liner to enclose the buried casket. Vaults and grave liners are used to prevent the earth over the casket from sinking as the casket decomposes. State law does not require you to have a vault or grave liner, but local governments or the cemetery may require a liner. Liners are significantly cheaper than vaults but are typically just as effective.

### **Embalming and Viewing**

Embalming is designed to make the body look presentable for the funeral. Some people mistakenly think that embalming will preserve the body for hundreds of years, but embalming retards decay only temporarily. Unless the body is to be buried more than three days after death (and refrigeration is unavailable) or is to be viewed, embalming probably is not necessary. Embalming may be required by your cemetery if the body is to be entombed in an above-ground crypt. If the body is to be donated for research, embalming must be done under the supervision of the recipient.



Otherwise, the recipient may refuse the donation.

In most states, a body does not have to be embalmed unless death was caused by a highly contagious disease, the body will be transported a long distance, or the time between death and burial will be lengthy. Some people object to embalming on religious grounds (e.g., embalming is prohibited by orthodox Judaism, which considers it a desecration of death). If you do not want the body embalmed, you should say so before the body is transported to the funeral home.

You will have to decide whether you want the body made suitable for viewing. The body may be prepared for viewing even though no one actually will see it. To make the body suitable for viewing, makeup will be applied, hair will be groomed, and reconstruction will be performed, if necessary. If your spouse wore makeup, it will help the funeral director to know what colors were worn. Do not expect your spouse's face to look the same as you remember it. The best cosmetic restorers can produce a remarkable likeness but tend to make the person look 10 to 20 years younger.

Viewing costs can be significant. If a body is to be viewed, it will be embalmed, cleaned, dressed and made up with cosmetics. You will have to rent a viewing room and hire an attendant.

### **Cost Itemization**

Ask for an itemized written statement of the products and services you have selected and the price for each item before you sign any contract. You are entitled to such a statement under the FTC's Funeral Rule. Look over that list and decide whether there are any products or services that you do not want. Unless the Statement says that a particular product or service is required by state law or by your cemetery (e.g., the cemetery may require a grave liner), you do not have to purchase it. Under Texas law, your spouse's estate, and not you personally, is liable for the costs of the funeral. Check whether the contract makes you responsible for paying funeral expenses if your spouse's estate does not have enough money. If you suspect that your spouse did not leave enough money to pay the bill, you may want to reduce the cost to an amount that you can afford. Check what payment terms are available.


### **Pallbearers and Home Security**


You will want to ask friends and relatives to be pallbearers if your spouse is buried. In choosing pallbearers, consider whether they will be able to help carry the casket. If you are concerned that your friends and relatives may not be able to carry the casket, the funeral home can provide personnel to help them.


It is advisable to have someone stay in your home during the funeral. Sadly, burglars look at funeral notices to find out when people will be away from home.


## Documents and Information to Gather


You should locate the following documents:


 Will signed by your spouse. The Will should be read immediately since it may tell you whether your spouse wanted to make organ and tissue donations and may express your spouse's preferences for funeral arrangements. It should also name an Executor -- the person responsible for carrying out the terms of the Will. Most people name their spouse to serve as Executor. Although movies and novels suggest otherwise, no formalities are required for you to read the Will (i.e., your lawyers and relatives do not have to gather together for the reading of Will). If you cannot find the original Will, contact your lawyer or bank, who often retain original Wills. Surprisingly, most people die without a Will. If your spouse died without a Will, a lawyer experienced in probating estates can advise you about the procedures for settling your spouse's estate.


 Trusts established by your spouse, trusts benefitting your spouse, and trusts for which your spouse acted as trustee.

 Life insurance policies owned by your spouse. Do not throw away life insurance policies, even though you know the premiums have not been paid. The policies should be read to determine whether coverage has continued despite nonpayment of premiums, whether coverage can be reinstated, and whether any benefits still may be payable.

 Retirement plans (including not only plans provided by your spouse's current and former employers, but also IRAs and self-employed retirement plans).

 Business agreements involving your spouse, and business books and records.

 Uniform Donor Card (authorizing anatomical gifts).

 Final instructions left by your spouse. Your spouse may have prepared a list of final instructions that tell you where documents and records are located, what property your spouse owned, what funeral arrangements your spouse wanted, and other information you may need.

The funeral home will arrange to provide you with certified copies of the death certificate. Photocopies of the death certificate may or may not be accepted. Certified copies of the death certificate usually are needed to collect life insurance proceeds and other death benefits (e.g., Social Security benefits) and transfer title to property. Most people start out by ordering 10 or so copies. Separate certified copies of the death certificate may be needed for each life insurance policy, each property transfer, and each death benefit. If additional copies are needed, your funeral director or lawyer can help you obtain more, or you can order certified copies from your local county clerk or state health department.

**Expect people who assist you in finalizing your spouse's affairs to ask you for the following types of information:**

- ✍ Your spouse's Social Security number.
- ✍ Names, addresses, Social Security numbers, and telephone numbers of heirs and other beneficiaries.
- ✍ Names, addresses and telephone numbers of your legal and financial advisors.
- ✍ Property owned by your spouse.

**If you have trouble locating required documents and information, consider the following tips:**

- ✓ Check your safe-deposit box. If you own the box or co-owned it with your spouse, you will have no trouble entering it. If you are not an owner or authorized to enter, you may have to obtain an affidavit to search it, and may have to have a bank representative present when you search the box. Ask your lawyer for details. If you think your spouse had a safe-deposit box but do not know where, contact the banks where your spouse did business and the local state deposit association for help in locating the box. Check your tax records and canceled checks for the name of the bank paid rental for a safe-deposit box.
- ✓ Look where your spouse kept important papers (i.e., file cabinets, desk, safe, briefcase, suitcase, or old shoe box).
- ✓ Look at old tax returns and records and financial statements (if prepared). They should tell you what assets your spouse owned.
- ✓ Ask your legal and financial advisors. If you cannot remember their names, look through your checkbooks and canceled checks. Check tax returns and other legal and financial documents for their names.
- ✓ If you think your spouse owned life insurance but you cannot locate the policy or remember the name of your spouse's life insurance agent, look through your spouse's checkbook and canceled checks for premium payments. If you send a stamped, self-addressed envelope to the American Council of Life Insurance Policy Search, ACLI, 1001 Pennsylvania Ave., N.W., Washington, D.C., 20004, that organization will ask its members to search their files. The search is free.
- ✓ Contact your bank. Your bank may have been named Executor of your spouse's Will or trustee of any trusts established by your spouse and either may possess those documents or know where they can be found.

## Selecting Legal and Financial Advisors

As a general rule, you may want to hire professional legal and financial advisors to help you settle your spouse's estate and get your own legal and financial affairs in order. Which professionals you may want to consult will depend on the size and complexity of your spouse's estate, your knowledge about financial and legal affairs, and the kind of advice you need to help you with your own legal and financial affairs. Legal and financial advisors whom you may want to consult include:



### **Lawyers**

Lawyers experienced in the probate area can do everything required to probate your spouse's estate (e.g., prepare and file papers, notify creditors, make court appearances, and transfer title to property). They can help you collect survivor benefits and deal with creditors, as well as help you revise your own Will and other estate planning documents, if necessary. Lawyers can also assist in preparing estate and inheritance tax returns. If your spouse's Will appointed an "Independent" Executor, the probate process in Texas is relatively simple. If no Independent Executor is appointed, the cost and complexity of probate may increase. An experienced probate attorney can advise you regarding these procedures. Lawyers who have passed an examination administered by the Texas Board of Legal Specialization and who have at least five years of extensive experience in the areas of estate planning and probate can hold themselves out as "Board Certified" specialists in the field of Estate Planning and Probate Law.



### **Accountants**

Accountants can help you prepare tax returns and make financial decisions. Accountants may be qualified to offer a full array of financial planning advice, including investment advice. Like lawyers, they may be general practitioners or specialists. Accountants can call themselves Certified Public Accountants (CPAs) if they have passed a national examination administered by the American Institute of Certified Public Accountants and have worked at least two years for a public accounting firm.



### **Financial Planners**

Financial planners can help you establish realistic financial goals (e.g., save money to purchase a home, retire, or pay for a child's education) and develop strategies to reach these goals. They will look at your current financial situation, recommend ways to manage your income, and help you select investments. They can help you decide what types of insurance you should purchase (e.g., health, property/liability, disability, and life) and help you plan your estate so that a maximum amount of money can be transferred to your loved ones.

A financial planner will work with your accountant and lawyer. They may work with insurance agents/brokers and stockbrokers or investment advisors, or they themselves may sell insurance and handle investments. Financial planners may charge you a flat or an

hourly fee for their help, may be compensated by commissions they receive from the insurance and investments they sell, or may be compensated by a combination of fees and commissions. In dealing with your financial planner, try to assure yourself that the financial planner has access to high quality products and will make recommendations based on what insurance policy or investment is best for you.



### **Insurance Agents or Brokers**

Insurance agents and brokers can help you determine your current insurance needs. They may recommend that you purchase additional coverage or advise you to drop unnecessary coverage. They can help you find policies that will give you the most coverage and best service for the least amount of money. Insurance agents represent one or more insurers; they do not represent you. Insurance brokers are independent middlemen not tied to a particular insurance company. They may or may not represent you. Unless you know that you want to purchase insurance from a particular insurer, you may want to consult several agents/brokers to get a representative sample of the types of policies that are available.



### **Stockbrokers or Investment Advisors**

Stockbrokers and investment advisors can help you invest your money. Stockbrokers receive a commission each time you buy or sell an investment. Investment advisors (including investment advisors for mutual funds) usually take a percentage of the money entrusted to them as their fee. If you know what investments you want to purchase or sell and do not need investment advice, you can save money by having a discount broker make the trade. Ask prospective stockbrokers and investment advisors how well their recommended investments have performed and compare that performance with national averages, such as Standard and Poor's index of 500 stocks, over the same period of time. You should be able to obtain information about national averages from the stockbroker or investment advisor or your local library. Be skeptical of quoted investment returns. Does the quoted return take into account all investments recommended by the advisor or only the ones that have done the best? Does it reflect investments recommended to former, dissatisfied clients? Have fees and expenses been deducted from the quoted return? How risky were the investments? Will the advisor take your risk tolerance into account?

If you or your spouse already have established a good relationship with legal and financial advisors, you probably will want to continue working with those persons. However, you should determine whether they are experienced in the matters you need help with. For example, the lawyer who did a good job with your house purchase may not be knowledgeable about probate and estate planning.

If you do not know whom to turn to, ask friends, family members, and legal/financial advisors you respect for recommendations. Think twice before selecting a relative or close friend as an advisor. Would you hire that person if he or she were not a close friend or relative? Would you be more reluctant to divulge information about your finances and personal affairs to a relative or close friend than to a complete stranger? Do you think you may be taken for granted because you are a close friend or relative? Will you be able to fire

your close friend or relative if you are displeased with the advisor's performance?

Meet with people you are considering hiring and determine whether you can be confident that their advice will be good and in your best interests. Are they knowledgeable about the matters with which you need help? Do they listen to you and treat you with respect? Would you feel comfortable telling them about your finances and personal affairs? Do you trust them? Ask what their fees are and have them estimate how much it will cost for the work you want done. Ask whether they have any conflicts of interest that would prevent them from giving objective advice.

To have a good working relationship with any legal or financial advisor, it is important to communicate your concerns. If you feel uncomfortable with a recommended course of action, say so. Let your advisor know if you don't like the way he or she is treating you. Give your advisor a chance to convince you that a recommendation has merit or offer alternatives that you might like. Give your advisor the opportunity to measure up to your standards. If you still are not happy, feel free to change advisors.

Remember: **you have to live with the results of their advice and actions.**

## **PROBATING THE ESTATE AND PAYING TAXES**

If your spouse left a Will, it will need to be filed with the probate court. After meeting with you to discuss the estate, your lawyer will file your spouse's Will for probate. This step is usually taken within a month or two after your spouse's death. Texas law requires you to file the Will within four years of your spouse's death. If your spouse left no Will, you will want to notify your lawyer that no Will can be found, and discuss how the administration of the estate will proceed from there.


Probate is the legal process whereby a court assures itself that a Will is valid (or that there is no Will) and oversees distribution of probate property to creditors and rightful beneficiaries. If an Independent Executor is named, that person oversees distribution of property to creditors and beneficiaries without court supervision. Property that your spouse owned individually or as a tenant in common will pass through probate.


### **Community vs. Separate Property**


Under Texas law, all property owned by a married couple is presumed to be "community" property. Community property assets are co-owned by the spouses, so only a one-half interest in those assets is subject to your spouse's Will. Your spouse may have separate property not subject to the community property co-ownership rule. Separate property consists of property acquired before marriage; property acquired while living outside a community property state; property acquired by gift or inheritance; recoveries for personal injuries; and property established as separate property by a valid pre-marital or post-marital agreement. Your spouse's Will disposes of all of his or her separate property and one-half of the community property. Your separate property and one-half of the community property belongs to you.


## **Probate and Non-Probate Assets**


Not all of your spouse's property will pass through probate. Some types of property pass automatically to the recipient by contract or by operation of law, regardless of whether he or she is named in a Will. The following types of property will pass to designated beneficiaries without going through probate:


 Property owned in joint tenancy with right of survivorship (if property is so owned, those words should appear on the title to the property or on the agreement establishing the bank or brokerage account). The property will pass to the survivor.

 Funds on deposit in a financial institution in your spouse's name, marked "payable on death" (P.O.D.) or "transfer on death" (T.O.D.) to a named beneficiary. The account balance will be paid to whoever is named as a beneficiary.

 Life insurance proceeds (unless the proceeds are payable to your spouse's estate or all named beneficiaries have died). The proceeds will be paid to whoever is named as a beneficiary.

 Property held by a trust established during your spouse's lifetime (including a "living" or "inter vivos" trust). Trust property is distributed according to the provisions of the trust agreement.

 IRA and other retirement plan benefits (unless your spouse's estate was named as the beneficiary or all named beneficiaries have died). The benefits will be paid to whoever is named as a beneficiary.

 U.S. savings bonds that are co-owned or payable to a beneficiary. The bonds can be redeemed by the co-owner or the beneficiary.

## **Personal Representatives**

An Executor or administrator usually will be appointed by the probate court to manage and distribute your spouse's property. Most married people name their spouse to serve in this role. A person is commonly referred to as an "Executor" (or sometimes as an "Executrix," if the person is female) if he or she was appointed by Will. Anyone else appointed by the probate court is usually referred to as an "administrator" (or sometimes as an "administratrix," if the person is female). Executors and administrators collectively are referred to as "personal representatives". No personal representative may have to be appointed if your spouse's probate estate is small enough to qualify for simplified probate proceedings.

If no one was nominated by your spouse's Will or no Will was left, you probably will be appointed as personal representative. You are not obligated to accept appointment, but your involvement can

help protect your interests. Your lawyer can help you perform all the required duties of an Executor or administrator.

### **What Happens During Probate?**







Creditors have to be notified of your spouse's death, and they must be given time to file their claims. After the claims period has ended, the personal representative may start paying the creditors. If money is left over after the creditors have been paid, then the remaining property can be distributed to the persons named in your spouse's Will (or, if no Will was left, the persons designated as beneficiaries under state law). You and your children may be entitled to a living allowance while the estate is being settled.

It usually takes ninety days or so to go through probate if your spouse's Will appoints an "Independent" Executor. If no Independent Executor is named, or if estate taxes are payable, it may take a year to a year and a half before the estate administration process is complete. Occasionally the administration process may take even longer, especially if the holdings of the estate are large and complex, or if the validity of the Will is contested. Unless a Will contest is filed, you will not have to wait for the probate process to be completed to receive benefits from your spouse's estate. Property can be distributed to you and your children during the probate process so long as no creditors are injured as a result. You will want to discuss the timing and amount of distributions made to you with your lawyer prior to transferring funds from the estate to you or your children.
















### **Paying Taxes**

Various tax forms may have to be filed by the personal representative. A federal estate tax return will have to be filed if the value of your spouse's gross estate (including both probate and non-probate assets), plus the amount of taxable gifts made by your spouse, exceeds \$13,610,000 in 2024. Currently, no Texas inheritance tax return is required since there is currently no Texas inheritance tax. If your spouse owned real estate in other states, inheritance tax returns may be required for those states as well. Your lawyer or accountant can assist you in preparing these forms.

The information required to complete these returns is rather extensive. In order to prepare these returns, your lawyer may require the information listed below. Although the list is fairly long, you will have ample time to gather this information. The estate and inheritance tax returns are not due until nine months after your spouse's date of death. Do not feel that you must gather all of the information for the first meeting with the lawyer. The types of information required may include:

-  Birth certificates for you and your spouse.
-  Military discharge papers of your spouse.
-  Marriage license.
-  Prenuptial agreement.
-  Divorce papers.
-  Birth certificates and adoption papers for your children.



-  Deeds to property owned or co-owned by your spouse.
-  Title to burial plot.
-  Vehicle registrations for your spouse's vehicles.
-  Bank account statements.
-  Brokerage account statements.
-  Securities certificates and other evidence of ownership of stocks and bonds.
-  Recent tax returns and W-2 forms.
-  Loan documents (including deed of trust).
-  Homeowner's insurance policies.
-  Other insurance policies, including health, property and travel/accident insurance.
-  Membership benefit statements for organizations to which your spouse belonged.
-  Credit card benefit information.
-  Citizenship papers.
-  Appraisals of property.
-  Social Security card.

Federal income tax returns will have to be filed not only for the year your spouse died but also for the year before if your spouse died before filing a return for that year. For example, if your spouse died in February before you filed your prior year's return, you will have to file income tax returns for the year your spouse died and the year before your spouse died. You are entitled to file a joint return with your spouse for the year your spouse died, unless you remarry before the end of the year.

Federal income tax returns may also have to be filed for your spouse's estate (depending on how much income is earned before the estate is settled) because it is treated as a separate tax entity. If your spouse established any trusts, the trustee may have to file federal income tax returns for trust income.

### **Your Legal Rights to Your Spouse's Property**

You may be entitled to more of your spouse's property than your spouse bequeathed you in the Will or living trust. You are entitled to your one-half of all community property regardless of the terms of your spouse's will. If you choose to forfeit the benefits provided to you under your spouse's Will, you are entitled to occupy your residential homestead and receive a modest allowance, even if the deceased spouse's Will or living trust says otherwise. You can claim that money by electing against the Will. Your lawyer can explain these options and elections to you.

If you do not want to receive certain property, you have the right to refuse it by signing a written disclaimer before accepting the property, so long as the disclaimer is made within nine months after your spouse's death. Disclaimed property will pass to the person or persons who would have received the property had you died prior to your spouse's death. Disclaimers may have a substantial impact on your access to financial resources, and upon gift and estate taxes ultimately paid by you and your family. You should discuss these issues with your lawyer well before the nine-month deadline, and prior to having assets re-filed into your name.

### **If Your Spouse Dies Without a Will**

When a person dies without a Will, he or she is said to have died "intestate". The Texas Estates Code directs the distribution of property of an intestate person. In the typical situation when a person dies without a Will and is survived by a spouse and children, the estate passes under Texas law as follows:

- ⑧ **Separate property:** The surviving spouse receives one-third of the separate personal property and a "life estate" in one-third of the separate real property. The rest of the separate property passes to the deceased spouse's children. (A "life estate" is the right to use and benefit from the property for life. Upon the surviving spouse's death, the life estate property automatically passes to the deceased spouse's children).
- ⑧ **Community property:** All community property passes to the surviving spouse, but **only if** all children of the deceased spouse are also children of the surviving spouse. If the deceased spouse left children who are not the children of the surviving spouse, the surviving spouse retains only his or her one-half interest in the community property. The deceased spouse's entire one-half interest passes to the deceased spouse's children.

Contrary to popular belief, if there are children from a former marriage, the children (not the surviving spouse) receive most of the deceased spouse's estate, including all of the deceased spouse's one-half interest in community assets. This result will be particularly burdensome if there are minor children, for whom a court-supervised guardianship would be required. Notwithstanding our inheritance laws, the surviving spouse has the right to continue occupying the residential homestead. This right expires, however, if the surviving spouse ceases to occupy the homestead.

When a person dies and is survived by children but no spouse, all property goes to children in equal shares. When a married person dies without children, all property passes to his or her spouse, except that one-half of the separate real property passes to parents, brothers and sisters, or their descendants. When a person dies and is not survived by spouse or children, all property is divided according to a statutory formula among parents, brothers and sisters, and their descendants.

As the foregoing discussion suggests, a person dying without a Will forfeits a valuable property right --the ability to control the disposition of his or her assets. Because of the structure of the Texas probate system, dying intestate can also be costly to the decedent's family.

The estate of an intestate person is usually subject to a court-supervised administration in Texas, which is costly and cumbersome for many reasons. The court-appointed administrator will be entitled to a fee, which can be as much as 5% of the value of the estate. The administrator will have to post a bond, which is paid for by the estate. The administrator is very restricted in managing the estate. Court approval must be obtained for payment of debts, sales, distributions of assets.

Attorneys' fees are substantial because of the numerous papers that must be prepared and filed with the probate courts. These may include applications for authority to perform various acts, orders, and annual and final accounts. It may be necessary to go through a court-supervised procedure known as "Determination of Heirship" to ascertain the persons legally entitled to share in the decedent's estate and the proportion to which each is entitled. Another procedure known as "partition and distribution" may be necessary in order to divide up the estate among the various heirs, if the administrator and the heirs are unable to reach an agreement among themselves. Modest sized estates may be handled through less expensive administrations independent of the court if all heirs agree, but many probate judges seem reluctant to allow this procedure except in very limited situations.

The estate of an intestate person may pass in whole or in part to a minor, which means that a guardian will have to be appointed to hold the inherited property and administer it until the minor reaches age eighteen. This guardianship is another court-supervised proceeding involving substantial time and expense. Even when the guardian is the natural parent of the minor, the guardian must post a bond, obtain court approval of investments and expenditures, and file annual accountings with the court. In addition, the guardianship must terminate when the child reaches age eighteen, regardless of the child's financial maturity at that time.

### **Bills You Shouldn't Pay and Other "Don'ts"**

Before paying a bill, you should determine whether it is your debt, your spouse's debt, or a joint debt. You are responsible for paying your own debts and joint debts. You are not responsible for paying your spouse's debts. If you are not sure how a debt should be characterized, contact your lawyer.

Your spouse's debts are the estate's responsibility (i.e., estate debts) -- but only if the creditor files a proper claim. It is important to understand that the estate's personal representative acts on behalf of the estate, treating it as a separate legal entity. Estate debts are paid by the personal representative from estate assets. If you are the personal representative, you have to pay estate debts from the estate's funds. You should not pay estate debts with money from your personal checking account.

Loan agreements signed by both you and your spouse are joint debts. So are charges on credit cards that you are both authorized to use. Property taxes are a joint debt if you and your spouse both owned the property. Household expenses are joint debts. You are generally jointly responsible for medical bills. Funeral expenses and legal fees incurred by the estate because of your spouse's death are estate debts.

Check whether any debts were covered by insurance. If "credit life insurance" was obtained, it will cancel your spouse's unpaid balance on credit cards. Mortgage life insurance will cancel the unpaid balance on the mortgage. Your spouse's health insurance should pay a good portion of any medical expenses.

Make sure that any debt you pay is valid and for the correct amount. If you have doubts whether a charge is valid, contact the company for further information.

Don't let creditors pressure you into paying bills too quickly. Routine expenses (such as utility bills, house payments and the like) should be paid on time. Other creditors (such as medical care providers, or others providing goods or services during your spouse's last illness) will understand that it may take some time to get paid from the estate. Do not be afraid to contact a creditor and explain that their claim is being handled as a part of your spouse's estate administration. Ask their indulgence until the claim can be verified and paid from the right source. If the creditor is impatient or uncooperative, refer them to your lawyer.

Checks payable to your spouse should be deposited by the personal representative into a checking account in the name of the estate. Such money is considered part of your spouse's estate. If your spouse was receiving Social Security benefits, benefits paid to your spouse for the month your spouse died and subsequent months will have to be repaid.

If you and your legal advisor have determined that you will refuse (i.e., disclaim) your right to receive certain property (to save taxes or protect property from creditors), be careful not to do anything that could be construed as exercising ownership over the property. Discuss the proper procedures with your lawyer if you have any questions about how to handle this matter.

As a practical matter, many Surviving Spouses acting as personal representatives inadvertently pay some debts from, or deposit some receipts into, the "wrong" account (e.g., pay an estate debt from their own funds). Although you should make every effort to handle such funds properly, no irreparable harm will result if, through some oversight, an error is made. Material errors can be corrected when discovered, typically at the time that the probate process is complete.

### **FINDING MONEY TO PAY THE BILLS**

You may have immediate access to some of your spouse's property, but you may have to wait for probate proceedings to wind down before you can reach other property. Your access to property depends on whether it is considered probate or non-probate property (the distinction is explained in "Probating the Estate and Paying Taxes," pages 14-18) and whether simplified probate proceedings are available. How much of your spouse's property will go to you depends on what your Spouse's Will says or, if your Spouse left no Will, what the Texas intestacy law says.

#### **Access to Funds**

If you had joint accounts with your Spouse, you should have immediate access to funds in those accounts. Other types of property owned in joint tenancy (e.g., stocks and bonds) can be sold by you after title is transferred into your name.

## **You may be entitled to the following benefits:**

- ➔ Life insurance proceeds.
- ➔ Your spouse's employer may provide Survivor benefits from a life insurance policy and/or a retirement plan.
- ➔ Your Spouse's union may provide Survivor benefits.
- ➔ Former employers may provide Survivor benefits.
- ➔ Social Security will give \$255 as a one-time death benefit. You may receive Social Security survivor benefits if you are age 60 or older (50 or older if you are disabled). You may receive survivor benefits at any age if you are taking care of a child under age 16 or a child who is disabled. Unmarried children are entitled to benefits if they are under 18 or if they are under 19 but attending elementary or secondary school full time. Disabled, unmarried children may receive benefits even though they are 18 or older if their disability started before they turned 22. If your spouse was receiving Social Security benefits, those benefits will stop. No benefits will be paid for the month your spouse died. Do not expect to receive any money from Social Security for two or more months. The first check will include benefits payable from the date your spouse died.
  - ➔ If your spouse was a veteran (and not dishonorably discharged), the VA will help you pay funeral and burial expenses (see page 7). You and your children may be eligible for a monthly benefit (Dependency and Indemnity Compensation) if your spouse died in service or from a service-connected disability. If your spouse died from a non-service-connected cause but was receiving (or entitled to receive) compensation for a service-connected disability that was rated totally disabling for at least 10 years immediately preceding your spouse's death or at least five years from the date your spouse was discharged from active duty, you will be paid benefits as if your spouse's death were service connected. Benefits other than Dependency and Indemnity Compensation may be paid for a non-service connected death if your spouse had at least 90 days of active service (including at least one day of wartime service) or was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability. Whether you and your children are eligible for these non-Dependency and Indemnity Compensation benefits depends on your assets and income. Unmarried children are eligible for benefits if they are under age 18, they are at least 18 (but under 23) and attending a VA-approved school, or they are permanently incapable of self-support and their disability began before they turned 18. You will be entitled to additional benefits if you are in a nursing facility or require the regular aid and attendance of another person to care for your basic needs or you are disabled and permanently housebound. Check whether your spouse had veterans life insurance.
    - ➔ Professional, fraternal, and other types of organizations that your spouse joined may provide death benefits.
    - ➔ An accident insurance policy (e.g., flight insurance, auto club policy, or travel insurance offered by credit card companies) may provide medical and death benefits if your spouse died in an accident.
    - ➔ Workers' compensation, if your spouse's death was work related.

## **Making Ends Meet**

In virtually all cases, you will have access to sufficient assets to pay your living expenses. It is very common however, for surviving spouses to feel overwhelmed by the prospect of paying expenses associated with the death of a spouse, and to worry about having to pay living expenses after a spouse's death. Regardless of the size of the estate, many surviving spouses feel that they will not have sufficient resources to make ends meet. As time passes and you get a better feel for what your income and expenses will be, this anxiety will diminish. As indicated earlier, most of your spouse's financial assets will continue to be available to you without delay. Bank accounts are not "frozen" as a result of your spouse's death. If your spouse's estate has sufficient assets to cover all of your spouse's debts, including taxes, the personal representative can make distributions to you before closing the estate. Personal representatives have to be careful in making distributions. If they distribute property and it turns out that the estate does not have enough money to pay its debts, they may have to make up the difference out of their own pocket.

Check whether your spouse purchased any mortgage or credit life insurance to cover debts (e.g., mortgage, credit card balances). If so, the debt will be considered paid in full at your spouse's death.

If you are short on funds while waiting to receive various survivor benefits and money from your spouse's estate, you should consider which bills have to be paid first and which ones can be delayed. You will probably want to make house payments (including utilities) first. Health and property insurance premium payments should also be given priority.

If you know that you will have difficulty making payment, contact the creditor, explain what has happened, and try to modify your payment schedule (e.g., by extending the time for repaying the loan or by paying only interest until your situation improves). Creditors usually will be accommodating. They would rather encourage you to make some payments than proceed through the probate claims procedure, which can be slow and costly to the creditors. Community organizations may offer financial counseling at little or no cost. You also may receive free or low-cost counseling from Consumer Credit Counseling Services, a nonprofit organization supported by creditors, 4600 Gulf Freeway, Houston, Texas, 77023, (713) 923-2227.

Before selling any property, you should consider what alternatives you have for raising cash. For example, you may be able to pledge the property as collateral for a loan. You also should consider the tax consequences of the sale. Depending on the tax consequences, it may make more sense to sell one type of property instead of another. Your lawyer or tax advisor can explain the tax consequences of selling any property.

## **Watching Out for Con Games**

You should be alert for the con games that people try to play on grieving widows and widowers.

In one type of scam, a con artist may call, tell you that your spouse ordered a product or service (perhaps a gift for you) and ask you when he or she can deliver the merchandise or perform the service and pick up your cash payment. In another type of scam, the con artist or accomplice may arrive at your doorstep with a C.O.D. package containing an inexpensive item (many times a Bible) or will come to your house and want to start performing some service. Tell the person that your spouse has died and that you cannot accept anything that your spouse has ordered. If the person will not go away, give the person your lawyer's name and tell him or her to file a claim against your spouse's estate.

Be wary of someone who professes to be a city inspector, claims to find something seriously wrong with your home (e.g., with the plumbing, furnace, electrical wiring, or air conditioning), tells you that something vital must be shut down, and offers to have a friend fix the problem quickly and cheaply. Verify that the person really is a city inspector. Call the city (using the telephone number in the phone book, not some number offered by the "inspector").

You may hear from a sales representative who claims that your spouse was about to purchase an investment that the sales representative is hawking. Any investment must be evaluated on its own merits. The fact that someone claims that your spouse evaluated the investment should be ignored. If you do not recognize the person's name, or if the sales person seems too aggressive, don't be afraid to give him or her a firm "no" and hang up the phone.

All bills should be scrutinized to make sure they are valid and for the correct amount. Con artists have been known to read obituaries and notices to creditors in newspapers and send out fake bills.

Whenever someone unfamiliar calls and asks to speak to your spouse, you should say "I'm \_\_\_\_\_'s wife/husband. Can I help you?" If you recognize the person's voice, you can say that your spouse has passed away. If you don't recognize the voice and the person insists on talking to your spouse, ask for the person's name, business, and telephone number so that the call can be returned. If you are interested in what the caller has been telling you but are not sure whether the person is legitimate, ask the person to send you information in writing, in care of your lawyer. Do not give your address or other information over the phone.

## **Reevaluating Your Insurance Needs**

You should contact your insurance advisor for help in reviewing and reassessing your insurance needs. If you were covered by your spouse's health insurance from work, check whether you can continue that coverage. Businesses employing 20 or more persons are required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) to permit an employee's surviving spouse and

dependent children to continue coverage for up to 36 months and cannot charge you more than 102% of their cost for your coverage. If your spouse was covered by your group policy at work or you had an individual policy, notify the insurer that you should no longer be paying premiums to cover your spouse. If you are eligible for Medicare and have little income, check whether Medicaid will pay your Medicare premiums, deductibles, and co-payments.

The amount of property insurance that you need may have changed. You may no longer need insurance for your spouse's car or boat or other property (e.g., jewelry) if it passes to someone other than you. If so, contact your insurance agent or insurance company to cancel the coverage and obtain a refund for premiums paid in advance. If you never had disability or long-term care insurance, you may want to purchase such policies.

Your life insurance needs may have changed. More or less may be required to provide for your loved ones after your death. Transferring your policy to adult children or a life insurance trust may save your children taxes.

You should be aware of the financial health of your insurance companies. Your insurance advisor can tell you how insurance companies are rated by Best (top rating: A+), Standard and Poor's (top rating: AAA), Duff & Phelps (top rating: AAA), and Moody's (top rating: AAA). Such information also may be available in your local library.

### **Revising Your Financial Goals and Strategies**

Your spouse's death may require you to revise your financial goals and strategies. If you have never taken time to set financial goals and develop strategies for achieving those goals, now is the time to start.

Your financial objectives may change following your spouse's death. Goals you wanted to achieve as a couple may not be important to you as a single person. For example, retirement in a warm climate or in your vacation home may have sounded good when your spouse was alive, but you may not want to live there alone.

The strategies you use to reach your financial objectives we bound to change. You no longer can count on income that your spouse was earning. You may receive a large sum of money from your spouse's life insurance and retirement plans. Your tolerance for taking investment risk may be different than your spouse's.

If substantial life insurance or retirement benefits are paid, you may receive more money than you have ever had before. You may think you have no more financial worries, but use caution. Even large sums of money can be quickly dissipated unless properly managed.



Many spouses experience some sense of guilt about receiving money as a result of their spouse's death. They somehow view these funds as "tainted", or fear that they will be viewed as having profited from their spouse's death. Remember, however, that any funds provided as a result of your spouse's death are intended not to "make up" for the loss of your spouse, but to alleviate some of the worry and financial stress that you might otherwise experience.

What should you do with any large sums of money that you receive? Your best bet, at least until you feel up to handling financial matters, is to put the money in a safe liquid investment, e.g., savings accounts and short-term certificates of deposit (but do not deposit more money in any one bank than the federal government will insure; current limits are generally \$250,000 per institution), money market funds, or Treasury bills.

### **Insurance Proceeds**

If you are entitled to life insurance proceeds, you may be asked how you want those proceeds paid to you. Typically, you can choose to receive the proceeds in a lump sum, or in installments (including accrued interest) over your lifetime or for a fixed number of years. You can receive installments of a specified amount until the proceeds plus accrued interest run out, or you can leave the proceeds with the insurance company and have them pay you only the interest earned on the proceeds.

Most people like to receive life insurance proceeds in a lump sum so that they can reach the money at any time. Others prefer to let the insurance company invest the proceeds for them and don't want to be tempted to spend the money. Which option will give you the most money depends on your life expectancy, the interest rate paid by the insurance company, and the mortality tables used by the insurance company to calculate pay-outs. Before choosing an option other than the lump-sum payment option, consider the financial stability of the insurance company. You will not want to delay receipt of the proceeds if you doubt that the insurer will be able to pay what you're owed. Your financial advisor can help you decide what's best for you.

### **Retirement Benefits**

You may have a variety of payment options with respect to benefits payable to you by your spouse's retirement plan (unless payments started before your spouse's death). Your choice is complicated by tax considerations. Retirement plan benefits, unlike life insurance proceeds, are subject to income tax when they are received.

If you withdraw the benefits in a lump sum, you will have to pay income tax on the amount withdrawn, except to the extent that you roll it over into your individual retirement account (IRA). Money deposited in your IRA will not be subject to federal income tax until you withdraw it. You can withdraw money any time you want, but a penalty may apply if you withdraw funds before attaining age 59 ½. You do not have to make any withdrawals until April 1<sup>st</sup> in the year after you turn 70 ½.

If you leave the money in your spouse's retirement plan, you will have to start receiving payments by the end of the year that your spouse would have turned 70 ½. You will not have as much flexibility in making withdrawals as you would with money in your own IRA. You also may not have as much control over how the money is invested.

Delaying receipt of your spouse's retirement benefits may not be desirable. Options regarding retirement benefits can be extremely complex. Your lawyer, accountant, and financial advisor can help you sort through these tax implications and maximize the amount you and your family receive.

### **Money Management**

If your spouse made most of your family's financial decisions or you and your spouse never paid much attention to how much money you were spending or how much it cost you to live, you may feel intimidated by the prospect of having to take sole responsibility for watching your spending and investment money. However, help is available. Financial planners and accountants experienced in financial planning can help you analyze your spending habits, establish financial goals, and develop strategies to achieve those goals by saving more money and investing your assets at the greatest return for the risk you are willing to take.

Hiring a financial advisor does not excuse you from educating yourself about money management. The more you know, the easier it will be for you to tap your financial advisor's knowledge, the better your decisions will be, and the more control you will have over your finances.

After your spouse's death, you should keep track of your income and expenditures and add up your assets so that you can get a good picture of your new financial situation. Look closely at your expenditures and decide which ones were worthwhile. When you think about some of the things you spend money on, often just a few dollars here and there for impulse items, you might find that you spend hundreds, maybe even thousands, of dollars on things you care very little about. There is nothing wrong with spending money for things you enjoy, so long as the expenditures are within your means. People dread budgeting because they view it as a form of enslavement. In reality, it enables people to spend money on things that are important to them. People who don't budget are the ones enslaved -- to their whims. They waste thousands of dollars a year and then feel that they have no money to buy the things they'd really like.

Once you and your financial advisor have analyzed your current financial situation, you should decide what you want to be able to spend money on (i.e., your financial goals) and how you should invest the money you have (and can save) to accumulate enough money to meet your objectives.

## **Reworking Your Estate Plan**


You will want to review your estate plan after your spouse's death. If you have named your spouse as your beneficiary in your Will, trust, life insurance policy, or retirement plan, you will want to review the alternate beneficiaries who now stand to receive your assets. If you have children under 18, you will have to nominate a guardian (or guardians) to take personal and financial care of them until they become adults. If you nominated your spouse as your Executor or as a trustee, you should review the alternate to ensure that your wishes are met.


If your spouse made it easy for you to settle his or her estate, you should want to do the same for your heirs. If your spouse did not plan properly, you should want to ensure that your heirs do not have to confront the same problems you encountered.


Prepare a letter of instruction listing the following types of information:


- ✍ Location of your personal papers.
- ✍ Location of your legal and financial documents and records.
- ✍ Description of your assets and debts. Be sure to identify valuables that your heirs may not realize are valuable.
- ✍ Location of your safe deposit box (and key).
- ✍ Names, addresses, and telephone numbers of your employer and legal and financial advisors that you consult.
- ✍ Funeral arrangements that you desire.
- ✍ Whether you want your body autopsied.
- ✍ Whether you want to make organ or tissue donations; if so, fill out a Uniform Donor Card.
- ✍ Who you want to receive various personal effects.
- ✍ Names, addresses, and telephone numbers of all of your relatives and any non-relatives named as beneficiaries.
- ✍ Location of keys and combinations to locks.
- ✍ Hiding places.


Consult an attorney who specializes in estate planning and have that person help you arrange for the management of your personal and financial affairs in the event that you die or become disabled. Proper planning can maximize the amount of money you pass to your loved ones after your death. Some of the estate planning documents that you may want include:

 **Will.** A Will should be drafted to ensure that your assets pass to your intended beneficiaries. You also need a Will to appoint an Executor and perhaps a guardian and trustee.

 **Living Trust.** Property transferred to a living trust (i.e., a trust you establish during your lifetime) can be distributed to your beneficiaries without going through probate. Trusts can be used to manage your financial affairs during periods in which you are disabled. Because we have a simplified probate system, most Texans use Wills and not living trusts to dispose of their assets. Living trusts are used, however, when management assistance is needed during your lifetime, or if you own real property in a state where probate avoidance is important.

 **Durable Power of Attorney for Property.** The durable power of attorney for property authorizes someone to handle your financial affairs during periods in which you are unable to do so, due, for example, to physical or mental incapacity.

 **Durable Power of Attorney for Health Care.** The durable power of attorney for health care authorizes someone to make health care decisions on your behalf if you are unable to make them yourself.

 **Living Will.** A living will tells people what medical treatment you would want to receive if you became terminally ill or lapsed into a persistent vegetative state and no longer could make your own decisions.

### **A Final Word**

Remember that you do not have to go through grieving alone. Because grief is a normal and natural healing process, sharing with others who are experiencing similar emotions can be a very helpful and supportive means of resolving grief. Consider joining a group of widows and/or widowers affiliated with your church or synagogue, or a support group sponsored by your hospital, hospice or other community organization. For example, Houston Hospice, 8811 Gaylord, Suite 100, Houston, Texas, 77024, (713) 468-2441, offers a bereavement support group which meets bi-weekly for individuals who have lost a loved one due to a terminal illness. Professional counseling is available from private therapists and through community organizations.

The information in this booklet should help you perform the tasks and make the decisions required of you after your spouse's death. With each task you perform and each decision you make, your self-confidence will grow, and gradually you will regain control over your life.

Portions of this outline were adapted from a pamphlet entitled "What to Do When Your Spouse Dies" by David L. Gibberman (Commerce Clearing House, Inc., 1991).