

LEGAL STEPS TO TAKE UPON THE LOSS OF A LOVED ONE



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Please allow me to offer my condolences for the loss of your loved one. Because this can be a traumatic time, I have designed this booklet to serve as a guide.

This booklet is designed to assist your family in addressing concerns you may be facing after the death of a loved one. The goal is to make this booklet as informative and concise as possible.

In addition to the checklist contained in this booklet, there are other issues that may be relevant to your situation. You will find some of the most common listed in the pages that follow the checklist. Please read each section. It may save you a great deal of time, money and aggravation.

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AFTER DEATH CHECKLIST

1. CONTACT YOUR ATTORNEY

If you don't have an attorney, contact an attorney who limits his or her practice to wills, trusts and probate matters. Our attorney is available to consult families that have recently experienced the death of a loved one. These meetings are given top priority since various members of a family may have traveled long distances for the funeral and need to return to their homes. Simply contact our office to schedule a meeting at a convenient time.

2. SEND ACKNOWLEDGEMENT CARDS

This should be for flowers, memorial donations, food and spiritual remembrances. (Tip: Save the cards and stubs from the flowers or donations, or ask a family friend to do this for you.)

3. IDENTIFY THE ASSETS YOUR LOVED ONE OWNED

This is a critical and sometimes tricky process. What steps you need to take to transfer property to the beneficiaries can be determined by what your loved one owned at the time of death. The following steps will assist you in making that determination:

- Create a folder or binder to keep all your paperwork organized.
- Locate the will (or trust), if one exists. Please note that by law all wills must be presented to

the probate court in order to be valid. The amount of time allowed to do so varies from state to state. For example, in Kansas the will must be presented within six months of the date of death, whereas in Missouri it can be presented within one year.

- Prepare a list of all assets owned by your loved one. List things like his or her home, other real property, motor vehicles, bank accounts, stocks and bonds, etc. If your loved one died with assets titled solely in his or her name, you will need to probate the estate. Probate is explained in more detail under "Wills and Probate."
- If all the assets are owned jointly, then there may be no need for probate. However, you must still take steps to transfer assets. For example, if your loved one died owning a home jointly with someone, then the other joint owner may wish to record the death certificate in the county records.

4. NOTIFY INSURANCE COMPANIES AND IF NECESSARY, FILE CLAIMS

See if your loved one had any of the following insurance:

- Life Insurance
- Medical, Health, Disability, Travel & Accident Insurance
- Check credit cards for life insurance. Sometimes credit card companies have this for

certain situations.

- Retirement Benefits
- If the death was the result of an auto accident, certain auto insurance may apply

5. APPLY FOR BENEFITS where applicable:

- Social Security benefits
- Veteran's burial benefits and survivor benefits
- Pension benefits
- Workers' Compensation benefits (if the death was a result of an accident on the job)

6. NOTIFY ALL CREDIT CARD COMPANIES

Cancel all individually owned credit cards. Change all accounts that are presently joint accounts to individual accounts. Please note that although you are making a telephone call canceling the card, you may not be personally responsible for the payment of the card. Only if a person is on the card jointly with your loved one will the person be financially responsible. If there is an estate, the estate will pay the creditor. You will want to speak to your probate lawyer about this in your first meeting. Most credit cards have an 800

number or address on the back. To minimize the possibility of identity theft, run a credit check on your loved one to find open accounts that need to be closed.

7. CANCEL YOUR LOVED ONE'S VOTER REGISTRATION CARD AND DRIVER'S LICENSE.

8. FILE A FINAL TAX RETURN FOR YOUR LOVED ONE.

This return may be due on the following April 15th. If you do not have an accountant qualified to file a final tax return, please give our office a call and we can provide you with a list of qualified professionals.

9. CHANGE THE ADDRESS OF YOUR LOVED ONE TO YOURS.

This is so bills and other details about your loved one come directly to you. It may take several months you get every detail about them, as many investments and savings accounts only have quarterly statements.

JOINTLY HELD PROPERTY

In most states (Missouri & Kansas included), you can own property jointly with someone else. Upon the death of that person, you are the sole owner of the property. This is called "joint tenancy with the rights to survivorship." The only requirement is that you provide a death certificate, but you may wish to. For example, if you own a stock or bank account jointly with someone else, upon that person's death, you are the sole owner. You would have to provide the stockbroker or the bank with a certified copy of the death certificate and they will switch the account solely in your name.

VEHICLE, MOBILE HOME AND BOAT TITLES

Determine if the deceased owned any of the following: cars, boats, trucks, vans, mobile homes,

motorcycles, mopeds, motor homes or campers. The vehicle may be registered with a TOD (Transfer on Death), as such the vehicle would belong to whom the TOD named. If it is not TOD and depending on how the vehicle is registered, whether jointly or individually, the following documentation is required to transfer the title:

- Title of the vehicle
- Name and location of the lienholder (if applicable)
- One certified death certificate for each vehicle
- Current registration
- A copy of will proving who the beneficiaries are (if applicable)
- Letters of administration if a personal representative is appointed

With the above documents, you can usually transfer these assets through your local Department of Motor Vehicles.

INSURANCE BENEFITS

Insurance benefits may be available from the following:

- Life insurance
- Group insurance from employer or other organizations
- Fraternal and civic organizations
- Credit card insurance, both life & to pay off balances
- Car insurance, if death is a result of an auto accident
- Homeowners insurance, if death occurred as a result of the negligence of the homeowner
- Government life insurance
- Veteran's life insurance

Please note that each insurance policy may have different requirements for submitting a claim. You will need to contact each company to receive instructions and the correct forms to file your claim. Your attorney can help you with this.

Generally, death benefits are paid to the listed beneficiary. If there is not a beneficiary listed, then

they are likely to be paid to the estate of the decedent and probate is necessary.

SOCIAL SECURITY SURVIVOR BENEFITS

Your funeral director will send a statement of death to the local Social Security office. You personally must contact the Social Security office for any benefits to which you may be entitled.

Generally, benefits are available to the following:

- Unmarried children under 18 (19 if in high school)
- Unmarried son or daughter who was severely disabled before age 22 or continues to be disabled
- Widow or widower 60 or older (reduced benefits before age 65)
- Widow or widower, or surviving divorced partner or mother or father at any age if caring for the worker's child under 16 (or disabled) who is getting benefits based on the earnings of the deceased worker
- Widow or widower 50 or older who becomes disabled not later than 7 years after the workers death
- Dependent parents aged 62 or older
- Surviving spouse or children may receive a one-time death benefit of \$255.00 if the deceased has enough work credits

If your loved one has been divorced, their former wife or husband can receive benefits under the same circumstances as their widow or widower if their previous marriage lasted 10 years or more. Under certain conditions, children may be eligible for Social Security benefits based upon a grandparent's earnings. Generally, surviving spouses may receive benefits if the marriage was at least 9 months duration.

If you need more information regarding Social Security, you may call the local Social Security office at:

Joplin Branch: 866.964.7421
Springfield Branch: 877.850.7824
417.623.0697 or 800.325.0778 for hearing impaired

RETIREMENT ACCOUNTS

Retirement accounts are generally transferred to the person listed as the designated beneficiary on the account. The transfer of retirement account benefits is a complex matter. You must work together with your attorney and financial advisors to maximize the benefit. Failure to properly coordinate the timing and manner of a retirement account transfer may result in unnecessary tax consequences.

TAXES

After death, there are 3 types of taxes that your loved one may owe: income, estate and inheritance taxes.

- A final income tax return must be filed on their behalf.
- Estate taxes are taxes levied on the assets your loved one owned at death. The good news is that if the estate is under \$5,340,000 (2014) then it is likely no estate tax will be due.
- Inheritance taxes are taxes paid upon what a beneficiary receives from an estate. The IRS and some states do not charge inheritance taxes. However, if any of the beneficiaries are from a state other than Missouri or Kansas, your attorney will need to find out if their state will require the payment of inheritance taxes.
- You should hire a qualified professional to file these tax returns.

WILLS AND PROBATE

A will is a written set of instructions created by your loved one stating how their assets should be distributed. The will must be filed with the probate court in the county and state that your loved one lived in accordance with the laws in that state. If real estate is owned in additional states, additional probate proceedings will become necessary. If you are the person named as your loved one's Personal Representative in the will, then it is your

responsibility to file the will, hire an attorney and generally administer the estate.

If a person dies without a will, then their estate is administered in accordance with “intestacy law,” which governs how estates without a will are distributed. In this case, a family member must hire an attorney to start the probate process and to assist in the administration of the estate.

Probate, or administering the estate, can be the most confusing, frustrating and time-consuming matter after the loved one’s death. If there are no assets, then generally there is no need for probate. However, as a rule of thumb, if there are assets in your loved one’s name and the assets are not held jointly with someone else, then you will need to probate your loved one’s estate.

MEDICAID ESTATE RECOVERY

If your loved one received Medicaid benefits to pay for nursing home care, Federal law requires states to try to recover the value of Medicaid payments made to nursing home residents. About two-thirds of the nation’s nursing home residents have their costs paid in part by Medicaid. The asset most frequently caught in the estate recovery web is the home of the Medicaid recipient. There are some exceptions to estate recovery, but since Medicaid rules are constantly changing, you will need assistance from an elder law attorney knowledgeable about these rules. Our office can assist you in navigating this confusing area.

VETERANS’ BENEFITS

Various veterans’ benefits may be available to the survivors of an eligible deceased veteran. Typically, the benefits consist of burial allowance, flag and a marker for which the deceased may be eligible. Sometimes there are monthly tax-free benefits for the surviving spouse of a veteran to help defray the cost of medical expenses. Our office has an accredited VA attorney with experience in these matters that can assist you. Or you may apply for benefits through your local veterans’ office. The number there is 800.827.1000.

CIVIL SERVICE/FEDERAL EMPLOYEES

The type and amount of benefits will depend on each case. Benefits may include adjustments to health insurance, a survivor’s annuity or benefits that have not been paid to your loved one during his or her lifetime. An application for benefits must be completed before the employee service and record center can authorize any payments of possible benefits. An application can be obtained from:

Office of Personnel Management
Employee Services and Records Center
Boyer, PA 16017
202.606.0500

Your letter to them should include the exact full name of your loved one, date of birth, CSA number and the name, address, phone number and relationship of the person who desires to obtain survivor’s benefits.

THE NEXT CRUCIAL STEPS

After the death of a loved one, it often becomes apparent how much simpler things are when planned in advance. If your loved one had a will, it would have stated what went to whom. If your loved one had a fully-funded living trust, it not only stated what went to whom, but it would also have eliminated the need for probate and saved a considerable amount of time, money and headaches. And if your loved one had funeral plans, you would not have to make the difficult and painful decisions concerning funerals.

Because you care about your family and friends, you may want to review matters in your own life. You may have the following questions and concerns:

- Do I need a new will?
- What will happen if I become disabled?
- Who will take care of and protect my children or grandchildren?
- Can I provide now for the education of my children or grandchildren?
- Am I able to protect my children’s or

- grandchildren's inheritance from creditors, bad marriages and debilitating circumstances?
- Will my children know what my wishes are and how to carry them out if I become disabled or pass away?

We conduct free estate planning workshops each month. The workshops are informative and interactive, and you are welcome to bring your family & financial advisors with you. Upon completion of a workshop, you are eligible to receive a complementary consultation (a \$ 250 value).

We have found that this educational environment enables people to determine if their affairs are in order or if further planning is necessary. There is no obligation to retain our services, and you will not be asked to make any decisions during or after the workshop. Simply call our offices to register for the next monthly workshop.

We also urge you to contact one of the caring staff at the funeral home about the pre-arrangement services they offer. Funeral homes also have prepayment plans that help to offset the spiraling cost of inflation. For your peace of mind and the security of your loved ones, call them today for a free prearrangement conference.

We hope that this checklist and information presented in this booklet helps you in your time of need. If you have any questions or concerns regarding your situation, you may call us to schedule a consultation.



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