

# Hoffman & Associates

— ATTORNEYS - at - LAW, LLC —

## The 2022 Survivor's Checklist

### *What To Do When Someone You Love Dies*

The death of a loved one often comes suddenly and may cause strong and overwhelming emotions. And while everyone processes loss differently, it's common to be anxious when it comes to what steps to take next. Whether you are the person responsible for handling all of the affairs or are simply assisting a family member or friend, here is a checklist of the most important tasks that need to be considered when a loved one dies.

#### **WHAT TO DO IMMEDIATELY:**

- If your loved one passes away at home, call the paramedics or police so that a proper pronouncement of death can be made.
- Check the decedent's driver's license, living will, or advance directive to verify whether the deceased was an organ donor or the body is to be given as an anatomical gift; if so, quickly call the nearest hospital.
- Arrange for the immediate care of any people or pets until further arrangements can be made.
- Contact immediate family and friends.

#### **THE NEXT DAYS:**

- Notify the deceased's employer(s), appropriate neighbors, and co-workers and welcome offers to help share the news, answer phone calls, collect mail, and locate important items.
- Locate documents that express your loved one's end-of-life wishes - a last will & testament, advance directive, or simple notes detailing them. If no wishes have been documented or communicated, make appropriate arrangements with immediate family members.
- Notify clergy or others to request officiating the funeral or other service. Identify a funeral home, crematory, or cemetery to plan final preparations and/or burial. Online resources include the funeral marketplace *Ever Loved*. Independent funeral consultants, such as *805 Funerals*, provide a more personal approach. These resources may offer helpful time and money-saving options.
- Draft and publish an obituary with the help of family and friends or by using an online obituary writing tool. You will typically pay for each line of text posted in local newspapers. Longer obituaries can be published online for no charge or distributed directly to friends and family.
- Decide on charities that honor your loved one's legacy. Most friends and family like to express their sympathies by sending flowers or through charitable donations. Include your preference in the obituary and during any funeral ceremonies, or share that information online if using an online memorial service like *LifeWeb360*.

- Review the last will & testament and other legal documents, paying close attention to the dates and titling to ensure you have those most current. Interpreting documents, such as wills and trusts, can be challenging, so consult an attorney if needed. If the documents appear to be drafted or signed by a law firm, call their office to alert them of your loved one’s passing and request any other related documents they may have on file.
- Secure the decedent’s valuables from criminals or even well-intentioned family members wanting to claim sentimental items. Check the entire home, including under mattresses or in coat pockets for cash or other valuables, like jewelry, keys, or family heirlooms. Depending on family relationships, it might be worthwhile asking a friend or family member to join you and even record your walk-through. Consider changing locks and even installing security cameras to monitor the home’s surroundings.
- Remove perishable items from the kitchen, and clean the home if it will be unoccupied for a length of time. Ask a friend or neighbor to keep watch over the home, and don’t allow trash cans, recycling bins, mail, deliveries, or newspapers to pile up outside.

## **IF YOU ARE THE NAMED EXECUTOR OR PERSONAL REPRESENTATIVE:**

While being named as the executor or personal representative is a big honor, it can also require a considerable amount of time and work. Being named does not require that you accept the responsibility, so a close reading of the will and discussions may need to happen to determine willingness and/or ability to serve and carry out the necessary activities:

- Determine whether probate will be necessary, and if so, whether the estate may qualify for accelerated probate. This may be a good time to contact an attorney. Some details that can complicate administering an estate on your own are:
  - Extended family relationships,
  - Ownership and titling of the decedent’s assets,
  - Fair market value of all assets left behind in the estate,
  - Federal and local laws.

It’s always best to involve professionals who are well-versed in managing an estate and can help you make the right decisions, thereby saving you time and money. However, if probate IS needed AND you choose to go-it-alone, you will start the probate process by presenting the will (if there is one) and proper Petition to the probate court to obtain “letters”. Probate clerks and judges are trained to help; however, be aware that they will not provide you with any legal advice.

## **NEXT STEPS:**

(Note: we highly recommend working with a probate attorney on the following tasks)

- Notify the guardian/agents – If the decedent had a guardian, durable power of attorney agent, or agent for healthcare, inform them that their responsibilities are over.
- Obtain a death certificate – A death certificate will be completed and signed by either an attending medical provider or the medical examiner/county coroner and is filed with a local registrar and transmitted to the Vital Records system for recording in the state’s official records. Certified copies can be obtained after the death certificate has been filed with the local registrar. It may be a few weeks before it is ready for pick up or delivery, so call Vital Records before you go.

- Contact parties named in the will, starting with the executor(s) or personal representative(s), who will be in charge of settling or administering the estate. At this point, simply let all others named in the will know who will be working with them (the executor/personal representative) and ask for their patience, as navigating the responsibilities that follow is typically a slow process. In early conversations, it's okay not to have exact answers. If the decedent did not leave a will, laws of intestacy determined by the probate court in the county where your loved one resided will apply.
- Notify Social Security Administration and any other income sources, immediately. Any benefits received after the date of death will need to be returned. The surviving family member or estate is entitled to a one-time \$255 death benefit from Social Security. Pensions, annuities, and other income sources have different rules. Check the plan or contact the administrator of those plans for details.
- Transfer bank accounts where there is a "surviving owner", (the account may read "POD" for payable upon death, or joint owners with "ROS", right of survivorship). The surviving owner should take a certified copy of the death certificate to the bank to transfer the account. Note that if there is no surviving owner named or alive, access to accounts may be blocked until an executor or administrator is appointed on behalf of the estate.

## **ONCE YOU RECEIVE LETTERS TESTAMENTARY/LETTERS OF ADMINISTRATION FROM THE COURT:**

- Check for any safe deposit boxes, inventory the contents, or open a new security box to safe-keep any found valuables.
- Notify the IRS and obtain a Tax ID number for the estate An EIN - "Employer identification number" is also used by an estate to authorize activities on its behalf, including closing the estate when filing the final Form 1041 tax form. The estate EIN can be applied for online, by FAX, or by mail.
- File a request to forward mail to the executor, including any of the Decedent's unpaid bills, active subscriptions, or notices of financial accounts that will eventually need to be transferred/closed.
- Publish a notice to creditors – Probate laws typically require the public posting of a notice to creditors in the decedent's county's local newspaper to let creditors know of their opportunity to submit any unpaid bills or outstanding debt of the estate. In Georgia, this creditor period runs for four weeks, after which time creditors have three additional months to present their claims. If the executor fails to handle this task, creditors could come forward months or even years afterward with a legal right to demand payment, thereby forcing heirs to reopen the estate.
- Open a new bank account and transfer or retitle Decedent's individually-held assets to the name of the estate. Use this new bank account as the checking account to pay any ongoing bills such as mortgages, utilities, or to deposit funds, like forthcoming wages. Many times, executors will utilize the bank where the decedent previously did their banking. Keeping the account in the county where the decedent's estate is being probated will simplify things.
- Notify insurance companies if your loved one had any life insurance policies to submit claims against the policies.
- Contact banks and financial institutions where the decedent had accounts to arrange a meeting with a manager-level employee, ensuring they are the proper person to handle your needs and for a list of what you will need to bring to the meeting in order to appropriately transfer account assets.

- Identify which and in what order bills and claims have to be paid, carefully tracking everything paid by the estate or payments received by the estate, like unearned income or social security benefits. You may be required to provide this accounting to the probate court, advisors, family, and on estate tax forms.
- Compile an inventory of all estate assets and their estimated fair market value, using appraisers if needed. This may be formally required to determine whether probate is necessary or what inheritance taxes may be due. For many items, especially those with similar descriptions, such as jewelry, collectibles, or family heirlooms, it's a good idea to include pictures of the assets in the inventory report to help avoid confusion, suspicions, and family arguments.
- Decide if and how much the executor is to be compensated - Each state has its own laws around the maximum fees allowable, which are generally determined by the value of the assets, degree of complexity, and/or overall time involved in administering the estate.
- File returns & pay any taxes – Contact tax attorney or accountants to assist with the filing of taxes. Generally, a Form 1040 individual income taxes will need to be filed for the portion of the year covering Jan 1st until the date of passing. Additionally, an IRS Form 1041 “estate” income tax return will need to be filed covering the remaining portion of the year from the date of death until Dec 31st, and annually thereafter until the estate is closed. Depending on the primary residence of the individual, state income tax returns may also be required– again, both for the individual and for the estate. Understand that other death taxes exist and should be considered, such as estate tax or inheritance tax. However, these are uncommon as the exemption amounts are set very high (check online or with your attorney regarding the limits) and typically only apply to a small minority of very large estates, particularly at the federal level. Be aware that "estate tax" and "inheritance tax" are not the same thing.
- Distribute assets to heirs & beneficiaries - Once you believe all claims against the estate have been settled and taxes paid, the executor/personal representative can distribute any remaining assets to named heirs and rightful beneficiaries of the estate, according to the decedent’s will or laws of intestacy.
- Final report & close the estate Upon final distribution of the estate’s assets, and any ongoing family disputes or creditor claims resolved, if any, a final estate inventory reporting can be filed with the probate court (if required) to officially complete the process and close the estate. As with most legal or tax-sensitive documents, it’s recommended to keep all statements, accountings, forms, and tax returns for a period of 7-10 years as documentation in case any questions or problems later arise.

## **OTHER IMPORTANT TASKS:**

- Cancel the following services:
  - Credit cards
  - Utilities, phone, Internet
  - Driver’s license
  - Voter’s registration
  - Passport (via the U.S. Department of Service CLASP unit)
  - Digital and email accounts (Be sure to talk with family members before any accounts, like Facebook or Instagram, are closed, especially if you’re able to download or save any data. Remember to look for any files, purchased media, or pictures stored on computer hard drives or cloud storage accounts.)
- Register for DMA "Do Not Contact" List.