

Probate Glossary

This "*Glossary of Terms*" is not intended to be a definitive legal definition of terms, but, is merely provided to assist the public with general understanding of court terminology.

If you have a need for definitive legal definitions of these or any other legal terms, you should seek the services of an attorney.

1. **AFFIDAVIT**- A written or printed declaration or statement of facts confirmed by the oath or affirmation of the party making it.
2. **AMENDMENT**- Alteration of a law or resolution.
3. **ANCILLARY ADMINISTRATION**- Administration of an estate other than where the decedent was domiciled.
4. **BENEFICIARY**- Heir at law, in an intestate estate, and devisee, in a testate estate.
5. **BONA FIDE**- In or with good faith, honestly, openly & sincerely, without deceit or fraud.
6. **CAVEAT**- If an creditor of the estate of a decedent is apprehensive that an estate, wither testate or intestate, will be administered without the creditor's knowledge, or if any person other than a creditor is apprehensive that an estate may be administered, or that a will may be admitted to probate, without the person's knowledge, he or she may file a caveat with the court. Upon a probate proceeding opened, the court will notify that person of the opening.
7. **CLAIMS**- Liabilities of the decedent, whether arising in contract, tort, or otherwise, and funeral expenses. The term does not include expenses of administration or estate, inheritance, succession, or other death taxes.
8. **CLERK**- The clerk or deputy clerk of the court.
9. **CODICIL**- A supplement or addition to a will, not necessarily disposing of the entire estate but modifying, explaining, or otherwise qualifying the will in some way.
10. **COURT**- The circuit court.
11. **CREDITOR**- An individual or entity to which an estate may be indebted.
12. **CURATOR**- A person appointed by the court to take charge of the estate of a decedent until letters are issued.
13. **DECEDENT**- The person who has died.
14. **DEVISE**- When used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by a will. The term includes "gift," "give," "bequeath," bequest," and "legacy."
15. **DEVISEE**- A person designated in a will to receive a devise.
16. **DISCLAIMER**- The rejection, refusal, or renunciation of a claim, power or property.
17. **DOMICILE**- A person's usual place of dwelling and shall be synonymous with "residence."
18. **ELECTIVE SHARE**- A widow's statutory prescribed share.
19. **ESTATE**- Property of a decedent that is the subject of administration.
20. **EXECUTOR**- A person named by a testator to carry out the provisions in the testator's will.
21. **EXEMPT PROPERTY**- Estate property which is not subject to probate proceedings.

22. **FAMILY ADMINISTRATION**- Simplified probate proceeding which may be used if total value of the estate is less than \$60,000.
23. **FAMILY ALLOWANCE**- A portion of a decedent's estate set aside by statute for a surviving spouse, children, or parents, regardless of any testamentary disposition or competing claims.
24. **FIDUCIARY**- Another name for an executor or personal representative.
25. **FOREIGN GUARDIAN**- A guardian appointed in another state or country.
26. **GUARDIAN**- A person who has been appointed by the court to act on behalf of a ward's person or property or both.
27. **HEIRS**- An individual entitled by law to inherit from another.
28. **HOMESTEAD**- Property which is set aside for the benefit of specific family members, and which cannot be transferred by the decedent to a third party. As long as the homestead does not exceed in area or value the limits fixed by law, in most states it is exempt from forced sale for collection of a debt.
29. **INCAPACITATED PERSON**- A person who has been judicially determined to lack the capacity to manage at least some of the property or to meet at least some of the essential health and safety requirements of such person.
30. **INTESTATE**- Without a will.
31. **LETTERS**- The authority granted by the court to the personal representative to act on behalf of the estate of the decedent and refers to what has been known as letters testamentary and letters of administration.
32. **MINOR**- A person under 18 years of age whose disabilities have not been removed by marriage or otherwise.
33. **OATH**- A solemn affirmation to tell the truth.
34. **PERSONAL REPRESENTATIVE**- The fiduciary appointed by the court to administer the estate and refers to what has been known as an administrator or executor.
35. **PER STIRPES**- To distribute a share to a descendant of a deceased beneficiary.
36. **PETITION**- A written request to the court for an order.
37. **PLENARY GUARDIAN**- Full, entire, complete Guardianship.
38. **PRENEED GUARDIAN**- A person named in a written declaration to serve as guardian in the event of the incapacity of the declarant.
39. **PROBATE OF WILL**- Means all steps necessary to establish the validity of a will and to admit a will to probate.
40. **PRO BONO**- Work or services done or performed by an attorney, free of charge.
41. **RESCIND**- To cancel; revoke; terminate.
42. **RESIDUARY DEVISE**- A devise of the assets of the estate which remain after the provision for any devise which is to be satisfied by reference to a specific property or type of property, fund, sum, or statutory amount.
43. **REVOCATION**- The act of withdrawal or recall of some power, making void a will.
44. **SELF-PROVED WILL**- A will in which at least two witnesses took an oath, included in the will, at the time the will was signed, and in which both the witnesses' and the decedent's signatures were notarized by a qualified notary public.
45. **SUBPOENA**- A document ordering an individual to appear in court and give testimony.
46. **SUI JURIS**- Of full age and capacity.
47. **SUMMARY ADMINISTRATION**- Administration used if assets are under \$25,000 or the decedent has been dead for more than 2 years.

48. **TESTATE**- Having left a will at death.
49. **TRUSTEE**- Person or entity authorized by a trust document to handle certain property matters on behalf of another.
50. **WAIVER**- The voluntary relinquishment of a privilege or a right.
51. **WARD**- A person who is under a guardian's charge or protection.
52. **WILL**- An instrument executed by a person, which disposes of a person's property on or after his or her death.