

DO YOU NEED TO AVOID PROBATE?

The facts...

What is probate?

It is the legal process of presenting your Will to the Court after your death to authenticate it, and appoint your Executor. Your Executor must be appointed by the Court in order to collect and distribute your assets as stated in your Will. However, because it is a legal process, there are many steps that must be followed before your Executor can be appointed.

- The attorneys must obtain signatures from your heirs signifying they agree the Will is yours, and they will not contest it. Your heirs are your spouse and children and all must agree not to contest your Will before your Executor can be appointed. If you do not have a spouse or child, probate becomes even more complicated. Even if your heir is not a beneficiary, their waiver is still required. This can be very difficult in second-marriage situations, if you have minor children or if you have a child you have lost contact with. If a child dies before you, then all of your deceased child's children will have to agree not to contest your Will, but if they are under 18, the Court will need to appoint a separate attorney to represent them. The same is true if any of your heirs are legally incapacitated, such as a mentally disabled child or a spouse with Alzheimers.
- The Executor will have to submit filing fees, a petition, a death certificate and affidavits from the individuals who witnessed your Will. Upon receipt of all of the appropriate information (and if no heirs contest it), the Court will appoint the Executor. If they do not consent, they must be served by legal process.
- After your Executor is appointed, estate administration begins. It is a period of time the law permits the Executor to accumulate the assets and report to the Court how they intend to distribute them. This period is a minimum of six months after the Executor is appointed. However, in many cases, it can take a year or more. If you die without a will, the process is similar, but the State decides who gets your assets, not you.
- Unfortunately, probate is unpredictable. That is why many people chose to avoid it, but if all of your heirs agree and your assets are centralized, it can go smoothly.

Don't go it alone, contact *E A Corn, LLC* today at **706-896-3451 or info@eacornllc.com.**