



Estate Administration

Probate Courts and Uniform Laws



Probate in Local Jurisdictions

- In Virginia: Circuit Court, Probate Division
- In Maryland: Orphans Court, Register of Wills
- In District of Columbia: Superior Court, Probate Division



Probate Jurisdiction

- Jurisdiction
 - The power or authority of the court to hear or decide a case
 - In personam jurisdiction
 - Jurisdiction over the person
 - In rem jurisdiction
 - Jurisdiction over the property



Probate Jurisdiction

- State courts
 - Federal courts have no jurisdiction to probate wills
 - Federal cases involve in personam jurisdiction
 - Probate cases involve in rem jurisdiction
 - Probate court
 - Many states establish separate court and empower it with probate jurisdiction



Probate Records

- Registry of Probate/Register of Wills/Probate Division
 - Office where all probate activities are kept
 - In some states, this recordkeeping function is performed by the clerk of court
- Registry of Deeds/Land Records
 - Office where deeds, mortgages, and other real estate documents are kept



Uniform Laws

- Proposed by the National Conference of Commissioners on Uniform State Laws for adoption by state legislatures
- **Not required, only recommended***
- Can be adopted in whole or in part
 - *16 states adopted all of UPC. MD, VA, DC adopted some of the provisions but not all



Uniform Probate Code

- Designed to modernize and standardize laws relating to the affairs of decedents, minors, and certain others who need protection
- Supervised administration: under continuing authority of the court
- Unsupervised administration: occurs without court action unless requested by interested party



Uniform Probate Code

- Purposes of Uniform Probate Code
 - Simplify and clarify the law concerning the affairs of decedents, missing persons, protected persons, minors, and incapacitated persons
 - Discover and make effective the intent of a decedent in the distribution of property
 - Promote a speedy and efficient system for liquidating the estate of the decedent
 - Facilitate use and enforcement of certain trusts
 - Make uniform the law among the jurisdictions



Uniform Probate Code

- Uniform Simultaneous Death Act
 - Sets forth rules to be followed when the passage of property depends upon the time of death, and no sufficient evidence can establish which person died first
- Uniform Transfers to Minors Act
 - Kiddie tax: taxes unearned income of children under age 14
 - Prevents using gifts to minors as tax shelters

Uniform Probate Code

- Uniform Anatomical Gifts Act
 - Testamentary donation of vital organs for medical research or transplant
 - Provisions:
 - Donor may revoke offer of anatomical gift
 - Designation of a gift of one organ does not restrict the use of other organs as donations after death
 - Hospitals are donees of anatomical gifts
 - Sale and purchase of organs prohibited
 - People acting in good faith cannot be held liable