

Notes Wills and Trusts	
Slide 1	Today I am going to talk about something that is uncomfortable for most people talk about: death; however, if someone is and asks you for your help, this presentation will give you some things to think about. Imagine you are at the hospital and you have just been told that a loved one has just passed away. This person asked you some time to go if you would be their personal representative after they die. He gave you a folder filled with this will naming you as the personal representative along with some instructions. You notice that there are some blanks in the forms and you don't exactly remember the information he gave you. And even though this presentation focuses on a person with a legal will, you may be thrust into being a personal representative out of default for someone without a will.
Slide 2	This presentation is going to be related to money by explaining what it generally expected in Fairfax County Virginia to settle the estate of a decedent (aka a deceased person). Costs to be considered are time, money, potential travel, emotions, positive and negative, and desire. In general, there will be ten steps explained relating to probating the duties such as filing out forms and paying debts. There is an expectation that the person asking you to take on this duty has a legal will with general instructions about want for themselves after death. The formal definition according to the American Bar Association of Virginia is: “[A] Personal Representative is a term used to mean either the executor or the administrator of the estate, as the context requires.” Simply put, you are in charge!
Slide 3	Some questions to keep in mind are if you have the resources, money, time and flexibility available to take on the task of being a personal representative. Keep in mind that the IRS and The Code of Virginia are updated annually so make sure to double check and make sure that any information you use is current. Realize that this is an overview and that each person has their own special circumstances. Some estates are big and some are small. Alert! There could possibly be surprises that you may not know about until you are already in the estate administration process.
Slide 4	Number One: Typically, you will be the one to take charge after death. Generally, you will be the one making decisions relating to the burial, showings and funeral details. Quick action needs to be taken after death because if you are in the hospital there is not a lot of extra room to store dead bodies' for long so you need to find a place to move the body. You should have a legal will if possible with you so people know you are the designated person to make decisions if you are questioned. Alert! Just because a relative verbally asks you to be their legal representative does not mean you have the legal authority to make decisions according to the law.

	Alert! Get a fair number of physical death certificates because you will need them. You also may need to have money on hand to pay bills because the money in the will not be able to be accessed right away. Question? Are you in a financial situation to take on the responsibility to pay the first costs or do you have a way to get the money from someone else quickly? Cremations, funerals, etc. can run into the thousands of dollars. Perhaps a discussion of having a prepaid funeral plan could be a condition of you undertaking on the responsibility. Alert! The person that has passed may not have any money. Another duty you need to take on is to keep the loved ones' property safe after death. Do you have the keys and passwords available to you? Can you pay their bills at least in the short run? Do they have a dog? Are you able to take the dog in for a period of time? Alert! If someone is not willing to trust you with passwords beforehand perhaps you should reconsider. You will also need to notify governmental agencies such as the Social Security Administration, life insurance companies, employers, etc.
Slide 5	Number Two: Finding the Will is very important. Some people have their will in a locked box or safe deposit box. Alert! Do you have access to the keys and the safety deposit key? In Virginia there is a law allowing the "limited access to a safe deposit box upon death of lessee to locate the Will to deliver to the Fairfax County Clerk to be used to enter into the legal probate process. In the future you may need the access the safe box again to retrieve the items in it. Plans should be made so that there will be a legal Will available to the personal representative. Alert! If you verbally take on being a personal representative with assets and children what are you going to do under this circumstance. Alert! Is this the right Court to go to? Do they have property in a different area, state or internationally. This is an important question to ask if you do not know. Alert! Fairfax County Circuit Court allows you to have a digital rendering of you Will so that professional access the information if needed. No need to go searching.
Slide 6	Number Three:

	Entering Probate The formal definition according to the American Bar Association of Virginia: of probate “ Probate is the procedure whereby a will is admitted to record in the Clerk’s Office; the process of qualifying a person as an executor or administrator of an estate; also, sometimes used generally to refer to the entire process of administering an estate.” Not all Wills go to Probate. For example, if you have a small amount of money for example \$5,000 and few assets you most likely will not enter probate. Typically, the person responsible for Probate is the Personal Representative. To be eligible to be as a Personal Representative you need to be over 18 years of age, having a surety or bond may or may not be needed, be a resident of the State of Virginia (or nonresident with stipulations), and you must be deemed competent and suitable by the Court you meet the qualifications. You will be sworn in if approved. You need to contact the Fairfax County Circuit Court in the Probate Court to make a probate appointment. Make sure that you have all the required items before you are seen for your appointment. Q: How is a will probated? A: The person who intends to qualify as personal representative of the estate of the decedent takes the original will and a certified death certificate to the Clerk’s Office of the Circuit Court that has jurisdiction over the will. Alert! You may not be able to be a personal representative if you have a police record. Just because you qualify as an personal representative does not mean you are a legal heir. Alert! You can be removed as a personal representative if the Court so be aware of that!
Slide 7	Number 4 Picture of Fairfax County Courthouse Fairfax County Courthouse Probate Division 4110 Chain Bridge Rd Suite 401 Fairfax, VA 22030

	To probate an estate, you must go to the Circuit Court of the county in which the decedent resided at the time of death. You need to take the Will and the death certificate to the Clerk's Office at the Fairfax County Circuit Court. The Will will be examined by Court officials to see if the Will is lawful. The typical next step is to be seen by a judge at the Circuit Court so make an appointment to appear for a probate proceedings. Once you are approved, you will then be required to fill out forms to make it official. You will receive a letter of testamentary or certificate of qualification to be used to settle legal issues with the estate. A person will be appointed to you by the Court in the role of a commissioner of accounts to oversee your progress. Alert! Make sure your will is for example find out the law required to be legal in the State of Virginia. Some of the items needed for probate: 1. Authentic original Will or equivalent 2. Surety on the bond (a surety is a written guarantee by a third party such as an insurance company) may not be necessary 3. A nomination of a person to be the Personal Representative if you cannot take on the task. 4. A certified check that included the probate tax and Clerk's fee 5. A death certificate that is certified. Alert! There are some things that a Personal Representative may do with out being in Probate and not signing in. For example, you can access assets jointly owned with survivorship rights. Check an see if you can bypass the whole Probate process with small estates. Alert! You need to have a self-proving affidavit attached to the legal will to prove. Basically, this is to make sure the witnesses of the Will actually can verify the instrument is legitimate if needed and it contains specific language required by law. You could obtain a death certificate if you need more if the death occurred in Fairfax County from the Joseph Willard Health Center located at 3750 Old Lee Highway, Fairfax, 703-246-7100
Slide 8	Probate Information Form This is an example of a form you will have to fill out. Some forms you may have to fill out: Memorandum of Facts or probate information, probate tax return, list of heirs.
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