

WHEN LIFE GETS LEGAL

Surviving Spouses: Managing After Loss

April 9, 2025
12pm - 1pm

Session Notes

Below is a summary of the topics and items discussed on the April 9th session of *When Life Gets Legal: Surviving Spouses: Managing After Loss*.

Attorney David Johnson provides the information presented in this webinar for informational purposes only. Attorney Johnson is licensed to practice law in the state of Virginia. The details shared are based on his understanding of the laws within that jurisdiction. The webinar content is intended to be general in nature and may not reflect the laws of other states or regions. Attendees are advised to consult a qualified legal professional in their respective jurisdiction for advice tailored to their specific circumstances.

SESSION TOPICS

Personal Representative

Executor

Administrator

Probate Process

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IMMEDIATE STEPS AFTER LOSS

- Allow time for grieving—there no rush or deadline.
- Obtain death certificate (recommended: 20 copies).
 - Death certificates are needed for banks, insurance companies, and other institutions.
 - Getting additional certificates later can be difficult and time-consuming.
- Notify organizations:
 - Social Security (often handled by a funeral home).
 - Voting registration office (to prevent voter fraud).
 - Employer (for potential benefits).
 - Banks and financial institutions.
- Martial assets: Locate and identify all accounts, investments, and insurance policies.

FINANCIAL CONSIDERATIONS

- Access joint accounts. Also, access non-joint accounts with beneficiary designations.
- Address safety deposit boxes and arrange for proper access to contents.
- Claim life insurance benefits.
- Review the budget and make adjustments if necessary.

MORTGAGE INFORMATION

- Recent federal rules allow surviving spouses to continue making mortgage payments even if they weren't on the original loan.
- No refinancing is required; continue making payments.
- Banks suggest refinancing, but this is not legally required.

LONG-TERM LEGAL AND FINANCIAL PLANNING

- Update wills and estate plans.
- Designate secondary beneficiaries on accounts.
- Consider new power of attorney and advanced medical directive documents.
- Ensure proper transfer of property ownership.

EMOTIONAL AND PRACTICAL SUPPORT

- Take time to grieve.
- Seek emotional support resources.
- Look for practical assistance in the community.
- Have open discussions with family about legal and financial planning.

RESOURCES MENTIONED

- Legal Resources offers additional resources for members:
 - Legal Support Guide for Executors & Beneficiaries
 - Legal Support Guide for Caregivers
 - Legal Support Guide My Estate Letter

KEY ADVICE AND TAKEAWAYS

1. Get a sufficient amount of death certificates (20 recommended) to avoid complications.
2. Designate secondary individuals in estate planning documents.
3. Always plan for multiple scenarios, not just the expected one.
4. For joint real estate, file a "list of heirs" at the courthouse.
5. Probate can often be avoided with proper beneficiary documents.
6. Doing nothing after a death can lead to significant complications years later.
7. After losing a spouse, it's essential to review and update your own estate plan.



ATTENDEE QUESTIONS

Q1: What is the length of the probate process, and is there an official end to it?

A: There is no official length for probate. In Virginia, tradition suggests waiting a year when selling a deceased person's real estate, as statute gives creditors that long to make claims. For selling property sooner, the buyer's title company can issue a bond for the sale proceeds to protect against potential creditor claims. There's never a formal closure that officially ends the probate process.

Q2: Is it better to have a will or a trust, and when would a trust be necessary?

A: Most people in Virginia don't need trusts. The three primary reasons to consider a trust are: (1) If you're leaving an estate larger than \$13,990,000 (the Federal exemption from inheritance tax); (2) For blended families where you want specific assets to go back to your biological children; (3) If you have a disabled child receiving public benefits, as a special needs trust can hold money without disqualifying them from benefits.

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Juveniles in the Digital Age

May 14th, 2025
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Q3: What happens to a deceased spouse's debts and financial accounts, and am I required to pay them?

A: You are not required to pay your deceased spouse's debts - their estate is responsible. For mortgage payments, recent federal rules allow surviving spouses to continue making payments even if they weren't on the original loan, with no refinancing required. For credit cards, the accounts will typically be closed when the company is notified of the death, and authorized users will need to apply for their own cards.

Q4: How are assets divided in Virginia if someone dies without a will, especially in blended families?

A: When someone dies without a will and is survived by both a spouse and children who are not children of the surviving spouse, the split is one-third to the surviving spouse and two-thirds to the deceased person's children. This applies to assets without beneficiary designations or survivorship provisions. Assets with joint ownership or named beneficiaries pass outside of this formula.

Q5: What practical steps should be taken regarding death certificates, and how many should you obtain?

A: It is strongly recommended obtaining 20 death certificates initially. Each institution that held the deceased's assets will typically require an original death certificate, and these documents are not returned once submitted. Getting additional certificates later can be time-consuming and may require visiting the Bureau of Vital Statistics in Richmond. It's better to have extras than to need just one more later.

About our speaker:

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David C. Johnson honorably retired as a Lieutenant Colonel from the U.S. Marine Corps and takes special pride in caring for clients presently serving on active duty. He is a past president of the Thoroughgood Civic League and is active in various professional and civic associations throughout Hampton Roads.

Education

- Regent University School of Law | J.D. (2004)
- U.S. Army War College | M.S. (1996)
- Montana State University | B.S. (1976)

Certifications

- Licensed | Virginia State Bar
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