

WHEN LIFE GETS LEGAL

Probate, Estates, & Leaving a Legacy

September 9, 2026
12pm - 1pm EST



Session Notes

Below is a summary of the topics and items discussed in the September 9, 2026 session of **When Life Gets Legal: Probate, Estates, & Leaving a Legacy**, presented by Ashby Pope from Riddick & Pope.

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SESSION TOPICS

Wills & Trusts | Probate Process | Assets In vs. Out of Probate
Choosing an Executor | Tax Traps to Avoid | Organizing Your Estate

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SESSION OVERVIEW

- Probate has a bad reputation; "avoid probate" is the top reason members ask about a trust
- Covers what probate is, estate plan basics, what happens after a death, what does/doesn't pass through probate, and the executor's role
- Educational only, not legal advice; focused on Virginia
- Hosted by Legal Resources, questions moderated by Megan Morin
- Recording on LRSeminars.com and the member portal

ESTATE PLAN BASICS

Five documents make up a typical plan, and they divide by when they take effect — the power of attorney and advance medical directive apply while you are living; the will and beneficiary designations apply only after death.

- **Will** — directs property distribution, names executor and guardians for minor children
- **Power of attorney** — authorizes someone to handle your affairs when you can't, limited or durable through incapacity
- **Advance medical directive** — covers wishes on ventilators, feeding tubes, and resuscitation; names who decides. DNR is separate — talk specifics through with your agent
- **Beneficiary designations** — life insurance, retirement accounts, and payable-on-death accounts pass directly, no further paperwork
- **Trust** — established while living, survives death; many people don't need one despite social media messaging otherwise

AFTER A DEATH

- Will determines executor; no will means administrator, governed by statute
- Request 7-10 original death certificates from the funeral home for the raised seal
- File the original will and death certificate at the circuit court clerk's office where the person resided, not where they died; call ahead for an appointment
- No will means Virginia's statutory descent and distribution scheme controls; property escheats to the state only after relatives are exhausted
- Debts must be paid if the estate can cover them, otherwise pro rata by statutory priority

WHAT AVOIDS PROBATE

Passes outside probate:

- Life insurance and retirement accounts with a named beneficiary
- Payable-on-death bank accounts
- Jointly owned property with survivorship (home, bank account, car) — passes to the surviving spouse regardless of the will
- Transfer on death deeds recorded with the clerk
- Assets properly held in certain trusts (still need a pour-over will)

Passes through probate:

- Accounts with no beneficiary or joint owner
- Personal property of real value — jewelry, vehicles, a piano (everyday household items don't count)
- Real estate held as tenants in common

TAX TRADE-OFFS

- Deeding your home to a child now is generally ill-advised — they inherit your cost basis and owe capital gains on all growth, with no threshold amount
- Probate tax is modest by comparison
- Some transfers are made deliberately for long-term care planning given the five-year look-back — review with a tax professional first
- Adding a child to accounts or titles means that child legally owns everything; an instruction to split it with a sibling isn't enforceable

PROBATE STEP-BY-STEP

- Qualify at the clerk's office with the original will, death certificate, and photo ID
- Post a bond if required — waivable by will language, mandatory without a will, smaller estates may qualify for an unsecured bond
- Identify and list assets with no beneficiary
- List debts and pay by statutory priority
- Open the estate account
- Distribute and close — the will controls, or a legal analysis does if there isn't one
- Most estates never see a courtroom; absent a dispute, it's paperwork handled at the clerk's office

Coming Up Next Month

**Family Law:
Planning for Divorce
and Property Division**

October 7, 2026
12pm - 1pm

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EXECUTOR DUTIES

- Executor holds legal authority heirs at law don't have — only the executor can sign a listing agreement, for example
- As a fiduciary, must realize full value on estate assets (use appraisers, not yard sales)
- Carries out specific bequests and documents each transfer
- Pays funeral costs and estate debts
- Choose someone with basic organizational sense, local, and able to appear in person — not necessarily the oldest or most emotionally burdened family member
- Avoid leaving property to multiple heirs jointly; sell it and let interested heirs buy out the others

NAMING BACKUPS

- Always name an alternate executor, power of attorney, and medical agent
- Without an alternate, a common disaster leaves the estate in limbo
- Avoid co-executors or co-agents — disagreement forces court intervention

ORGANIZING YOUR AFFAIRS

- A written, accessible list of accounts and assets matters more than the documents themselves
- Should cover what the will doesn't dispose of — retirement accounts, insurance policies, advisor contacts
- Include funeral wishes
- Just needs to exist somewhere findable

MEMBER RESOURCES

- My Estate Letter — writable guidebook in the member portal covering advisors, accounts, property, liabilities, insurance, passwords, and pets
- Executors and Beneficiaries guidebook — writable inventory forms covering this session's topics

MEMBER QUESTIONS

Q: I only have a copy of the will, not the original. What can I do?

A: A copy cannot be probated without court permission. Verifying it requires a circuit court hearing, and the code mandates calling witnesses. A certified or notarized copy does not change this — to go through probate without a court process, it has to be the original.

Q: How do I find out whether a relative had a bank account nobody knew about?

A: There is no reliable way. Unclaimed property sites can be checked online, but banks will not release information to anyone who is not the qualified executor or administrator — which is exactly why the written list matters.

Q: Can I just add my child to my property, bank account, and car title so everything passes automatically?

A: Much of probate can be avoided that way, but on real estate it can create a large capital gains bill for the child. And that child then legally owns everything — an understanding that they will share with a sibling is not binding.

Q: Can I name an attorney as my executor?

A: Yes. Anyone named as executor may charge a fee based on a percentage of the estate's value under the code, and an attorney would take that from the estate account. Some people prefer this so no family member is burdened with the task.

Q: As executor, can I sell the house to a relative below market value?

A: Not where other heirs are involved. Selling a \$550,000 home to one of five children for \$350,000 gifts away the other four heirs' share and breaches the fiduciary duty. That child does not pay for their own share, but must pay full value over and above it, typically by securing a mortgage to buy the others out.

ABOUT OUR SPEAKER:



ASHBY POPE | RIDDICK & POPE

Ashby Pope is an attorney at Riddick & Pope, with offices in Smithfield and Portsmouth. Her practice concentrates on criminal, traffic, and family law, while her partner, William H. "Bill" Riddick, handles the firm's real estate and landlord-tenant matters. Ms. Pope serves on occasion as a substitute judge in the 5th Judicial District, and Mr. Riddick is Commissioner of Accounts for Isle of Wight — giving the firm day-to-day exposure to the process discussed in this session.

DISCLAIMER: This summary highlights key webinar points and questions. For comprehensive details, view the full seminar at [LRSeminars.com](https://www.LRSeminars.com).

Contact Us

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