



*Live for Today. Plan for Tomorrow.*

## *Successions in Louisiana*

### **What you are about to read might make you nervous...**

Did you know that at your death, Louisiana's default rules allow for the public to find out what assets you owned, how much you had, and who inherits everything from you? This is exactly what happens in a succession.

A succession, also called a probate in many other states, is the court process of transferring your assets to others after your death. Like any court process, it is open for the public to view. Under Louisiana's default rules, you have no say in who's in control of your assets during this process, and who ultimately inherits those assets. Instead, a judge will make those decisions for you. The most common way to avoid this is by using a will. A will can allow you, instead of a judge, to say who's in control of your assets during the court process, and who ultimately inherits those assets. However, wills are often invalidated for not complying with the proper formalities.

There are many steps involved in a succession. If you have a will, it has to be presented to the judge for authentication. This may require affidavits from loved ones. Also, the person named in the will as the executor has to be confirmed by the judge. If you don't have a will, then someone has to request the judge appoint them as the administrator. In either event, affidavits from individuals that knew you are required to verify certain information about you. This includes a family tree of sorts. Also, a detailed list describing all of your assets and their values is required to be filed. **Don't forget, this is all public record!**

Once the executor/administrator is in place, estate administration begins. This is the period of time permitted by law for the gathering of your assets and payment of your debts, none of which can be done without approval from the judge. There is no limit on how long this period can last.

After administration is finished, your remaining assets are distributed to who you named in your will. If you have don't have a

will, then your assets are distributed to who the judge determines are your heirs. Typically, your children are your heirs. It doesn't matter if you didn't want the child to inherit from you or if you've lost contact with the child. Also, if a child has died before you, then their children will become potential heirs. This could be problematic if the heir is a minor because their inheritance is controlled by their surviving parent, which could be an ex-in-law! If you are married, then your spouse will have the right to use those assets which were owned jointly until their death or remarriage. This could prove problematic in second-marriage situations.

Unfortunately, successions in Louisiana can be unpredictable. However, the process can sometimes be simplified. For example, the estate administration period can be streamlined if the people named in the will or the heirs agree to independent administration.

Independent administration allows the executor/ administrator to gather your assets and pay your debts without getting approval from the judge. Also, estate administration can be avoided if the people named in the will or the heirs agree to receive the assets in their current form and assume your debts. Additionally, assuming the total gross value of your assets is below \$75,000

and you don't have a will, then your succession can be handled via an affidavit instead of the court process.

However, even if the succession is simplified, it is still public record. That's why many people choose to include a trust in their estate plan. A properly drafted trust allows you to say who's in control of your assets during your life and at your death, who ultimately inherits those assets, and maintains your privacy by avoiding the need for a succession altogether.

If you need assistance with the succession of a loved one, or would like more information on how to avoid a succession, contact the Walker Law Group, LLC at (318) 445-4516 to schedule a FREE consultation with one of our experienced attorneys.

