

Dear Residents:

It is my great honor to serve the residents of Union County as County Surrogate. This is an important position, which impacts many aspects of the lives of the residents of Union County. My duties as Surrogate include the probate of Wills, appointment of estate administrators, supervising the appointment of guardians and administration of adoptions. I also direct and supervise the Office of the Surrogate and its staff.

Perhaps the most important duty of my office is reaching out to the residents of Union County, to make you aware of the importance of making a Will, understanding the probate process and the significance of Advance Directives, or Living Wills. I have extended our office hours to include evening sessions by appointment in Cranford, Rahway, Union and Summit and I have improved our outreach through the worldwide web. I am available to meet with groups and organizations anywhere in Union County.

My staff and I are here for you. We are available to answer your questions, listen to your concerns and offer guidance where appropriate. Please contact us at (908) 527-4280 during business hours, Monday through Friday 8:30 a.m. to 4:30 p.m.. or on the web at www.ucnj.org/surrogate.

Sincerely,
James S. La Corte



Administration Intestacy Provision

When no Will exists, the statutes of New Jersey provide for the distribution of property to heirs, that is, by intestate succession.

HOW WILL YOUR PROPERTY BE DIVIDED IF YOU HAVE NO WILL?

If you die without leaving a Will and are a resident of New Jersey, the State law provides the manner for distributing your property. Your net estate remaining after deduction of debts, taxes, family exemptions, etc., would be distributed under the Statutes governing Decedent's Estates and, in the case of most common occurrence, an example of the heirs who would receive such property are as follows.

If You Die Leaving:

Spouse and parent(s), but no children. Spouse: the first 25% (but not less than \$50,000 nor more than \$200,000), plus three fourths of the balance. Parents: All other estate assets.

Spouse and children of the Decedent all of whom are also children of the spouse and the spouse has no children by a previous relationship. Spouse: 100% of the estate. Children: nothing.

Spouse and children of Decedent all of whom are also children of the spouse and the spouse had children by another relationship. Spouse: the first 25% but not less than \$50,000 nor more than \$200,000 plus one half of the balance. Children of the Decedent: All other estate assets.

Spouse and step-children (children of spouse who are not children of decedent). Spouse: 100% of the estate. Children of spouse (step-children) nothing.

Children of Spouse (step-children) but spouse has predeceased and there were no children of the decedent, no parents, decedents of parents or descendants of grandparents. Step-children 100% of estate.

For more information on intestacy provisions you may go to the web site www.ucnj.org/surrogate

Wills should be reviewed when life changes occur.

INFORMATION ABOUT WILLS & ESTATES



*James S. LaCorte,
Surrogate of Union County*

The Surrogate administers the Probate of Wills, Appointment of Estate Administrators, Appointment of Guardians for minors, Administration of Adoptions and Files Superior Court, Chancery Division, Probate Part Complaints. The Surrogate is also the Judge and Clerk of the Surrogate's Court and he is the Deputy Clerk of the Superior Court Chancery Division, Probate Part.



Union County Surrogate's Court
Phone: 908-527-4280
Fax: 908-351-9212
www.ucnj.org/surrogate

Wills

What is a Will?
The Requirements of Making a Will
The Need for a Will



When planning a new Will you should seek the help of a professional.

What Is A Will?

A Will is a legal document which allows you to determine who receives your assets, and the manner in which the beneficiaries shall receive their share. A Will also permits you to choose fiduciaries such as executors,

trustees, and guardians of minor children. You should notify your fiduciary of the location of your original Will. Without a Will, the State of New Jersey will determine who receives your assets through the laws of intestacy.

The Requirements of Making a Will

Any person who is at least 18 years old and of sound mind may make a Will. In order to be valid in the State of New Jersey, a Will must be a written document signed by the person making the Will (the testator or testatrix) and the signing must be witnessed by at least two people over the age of 18. A handwritten Will, known as a holographic Will, may be valid. However, it may be necessary for a Superior Court Judge to determine the validity of the handwritten Will.

Accordingly, this procedure may be costly.

The Need for a Will

Many people mistakenly believe that if they die without a Will their spouse will inherit their estate under New Jersey State law. However, if there are surviving children of the marriage or children of the decedent from a prior marriage, the surviving spouse is only entitled to a portion of the estate.

In the case of surviving children of the marriage, the spouse will receive 100%, the children nothing.

In the case of surviving children from any other marriage or relationship, the surviving spouse gets the first 25% but not less than \$50,000 nor more than \$200,000 plus one half of the balance. Children receive all other assets.

If there are no children but parents of the decedent are surviving, the spouse gets the first 25%, but not less than \$50,000 nor more than \$200,000 and three-fourths of the balance; parents get all other assets.

The Passing of Assets

Any property passing under a Will is called a probate asset. Not all assets are controlled by a Will. Real property held by married couples, as tenants by the entirety, will automatically pass to the surviving spouse. Life insurance policies are an example of assets that designate beneficiaries through a contract and are, therefore, not controlled by a Will.

Probate

Probate is the process which permits the transfer of assets in accordance with a Will from the maker of the Will (the testator) to the beneficiaries under the Will. A Will is

probated by the Union County Surrogate if the testator is domiciled in Union County at the time of their death. This must be indicated on the death certificate.

A Will cannot be probated until 10 days after the death of the testator. However, you may begin the process with the Surrogate's Court within this 10-day period; the Surrogate's Court simply will not admit the Will to probate until after the 10 days have expired.

In order to probate a Will, if you are the Executor, you must bring the following with you to the Union County Surrogate's Court:

- (1) the original Will;
- (2) a certified copy of the death certificate (which you can obtain from the municipality in which the testator died);
- (3) the full names and latest addresses of the closest surviving next of kin;
- (4) sufficient funds in cash or check for probate fees. Master Card /Visa accepted.

Not all assets must go through probate to be transferred. Some assets pass by operation of law to other persons without the need for probate. Whether or not a particular asset must go through probate to be transferred depends on how title to the asset is held. Ask your financial institution or broker for their policy on how they would pay such assets.



*James S. LaCorte,
Union County Surrogate*