

Glossary of Estate Planning Terms

Lawyers are notorious for using Latin and legal terms that are unfamiliar to most people, sometimes called "legalese." Professionals working in estate planning and probate have made an extensive effort to avoid using Latin and complicated terms and phrases and to use plain English as much as possible. However, the law is sometimes complicated and frequently words that everyone may not understand must be used.

This glossary of the basic terms may be of assistance in trying to understand the basic concepts in estate planning and probate. However, because there are so many, only basic terms relating to estate planning and probate in the State of Washington have been included. Terms that deal with powers of attorney, health care directives, Medicaid planning, and death taxes, and those that may be specific to another state have been omitted.

Please note that this glossary is not intended to be a definitive legal definition of terms, but is merely provided for a basic or general understanding of terminology in the context of estate planning and probate. The glossary is intended for general information purposes only, and do not constitute legal advice. If you have a need for definitive legal definitions of these or any other legal terms, you should seek the services and advice of an attorney. If you have a legal problem or questions concerning your own specific circumstances, you should consult with an attorney.

TERM	DEFINITION
Acknowledgment	Confirmation by the person signing the document or a notary public that the signature on the document is genuine.
Administration	The process of handling the affairs of a trust or a decedent's estate.
Administrator Administratrix	The person(s) or financial institution that is appointed by court order to administer the estate of an intestate deceased person who died without a Will. An Administrator is male; An Administratrix is female. While still sometimes used, this term is generally obsolete in Washington, the position is now called "personal representative."
Adult	A person who has reached the age of majority. In Washington, 18 years of age or older.

TERM	DEFINITION
Affidavit	A written or printed statement of facts confirmed by the oath or affirmation of the party making it and verified by a notary public.
Ancillary Administration	Probate proceedings in another state, usually when the deceased person owned real estate in a state other than his or her home state.
Appraisal	An itemized list of the estate property prepared by the personal representative which includes the value of the property, also for one particular item or piece of property. See also "Inventory."
Attest (verb)	To bear witness to an act or event. The law requires that some documents, such as Wills and Codicils, are only valid and binding if the signatures on them have been attested to by a witness(s), who also sign the document.
Attestation (noun)	The signature of witnesses to the making of a will. See also "Execution."
Attesting Witnesses	A person who observes the signing of a Will and/or codicil and attests to the signature of the Will. In Washington, at least two witnesses are required for a valid Will. Also called "Subscribing Witnesses."
Beneficiary	A generic term that usually refers to a person or entity that is entitled to receive something. For example, a beneficiary of an estate or trust, or a beneficiary of life insurance or retirement benefits.
Bequeath (verb)	To dispose of personal property through a Will.
Bequest (noun)	A gift of personal property in a Will.
Codicil	A written supplement or addition to an original Will that adds to the Will, deletes part of the Will, or modifies, explains, or otherwise qualifies the provisions of the Will in some way. A Codicil must be executed in the same manner as a Will.
Creditor	An individual or entity to which an estate may owe a debt.

TERM	DEFINITION
Creditor's Claim	A formal, written request by a creditor of the estate for payment of a liability of the decedent, whether arising in contract, tort, or otherwise, and funeral expenses. The term does not include expenses of administration or estate, inheritance, succession, or other death taxes.
Decedent	A deceased person.
Devise (noun)	A gift of real property under a Will.
Devise (verb)	To dispose of real property by Will.
Devisee	A person designated in a Will to receive a gift of real property.
Disclaimer	The rejection, refusal, or renunciation of a claim, power or property.
Domicile	The place of one's home or permanent residence and often synonymous with "residence." The laws of the state of a person's domicile determine what happens to that person's property at death.
Donee	The recipient of a gift.
Donor	A person who makes a gift; A person who establishes a living trust. See also "Grantor."
Escheat	Assigning property to the State of Washington when a person dies with no known beneficiaries under a Will, or if there is no Will, when a person dies with no known heirs.
Estate	This word has a number of meanings depending on the context in which it is used. It can refer to those items of property owned by the decedent or are subject to administration in the probate court. However, for the IRS definition is broader and includes all of a deceased person's assets that are included in that person's estate for tax purposes (usually everything) whether received by the estate or a designated beneficiary, such as life insurance proceeds.
Estate Planning	The process of arranging one's personal and financial affairs, and often preparing a Will, trust, and health care documents.

TERM	DEFINITION
Execution	<p>The formal process by which a Will is made legally valid. In Washington, generally, this process requires that the testator sign the Will, usually at the end of the document and including the date; the testator's signature must be made in the presence of at least two witnesses, present at the same time, who also each sign the Will (attest) at the same time while in the testator's presence.</p> <p>See also "Attestation" and "Will."</p>
Executor Executrix	<p>The person(s) or financial institution nominated in a Will and appointed by court order to administer the estate of a deceased person who died with a Will.</p> <p>An executor is male; An executrix is female.</p> <p>While still sometimes used, this term is generally obsolete in Washington, the position is now called "personal representative."</p>
Fiduciary	<p>This is a generic term used to refer to a person (or entity) that serves in a representative capacity and has the power and obligation to act for another under circumstances which require total trust, good faith and honesty, such as a personal representative, trustee, or guardian.</p> <p>A fiduciary has special duties and obligations and is held to a standard of conduct and trust above that of a stranger.</p> <p>A fiduciary must avoid "self-dealing" or conflicts in which the potential benefit to the fiduciary is in conflict with what is best for the person for whom the fiduciary is acting or responsible.</p>
Grantor	In a trust context, this is the person that established the trust.
Guardian	An adult person appointed by the court, often nominated by the deceased parent in his or her Will, who is responsible for a minor child or legally incapacitated person's personal care and nurturing.
Heir	<p>This is a generic term used to refer to a person (or entity) who inherits property from a deceased person.</p> <p>See also "Heirs at Law" and "Natural Heir."</p>

TERM	DEFINITION
Heirs at Law	A person who by operation of law inherits the property of a person who dies without leaving a valid will. See also “Heir” and “Natural Heir.”
Intangible Personal Property	Property that cannot physically be touched, though it may have some paper associated with it, and that derives its value from what it represents rather than from its intrinsic physical nature, such as a stock certificate, copyright, or professional license.
Inter Vivos Trust	See “Living Trust” below.
Interested Witness	A witness to a will who would receive a gift under that will. In Washington, a Will is not invalid because it is signed by an interested witness; generally, instead the interested witness receives only the part of the gift that does not exceed the interested witness’s intestate share (the share received if there was no Will).
Intestate	Refers to when a person dies without a Will.
Intestate Estate	The estate of a decedent who has died without a Will.
Intestate Share	The fraction or percentage of the estate an heir is entitled to receive under state law when there is no valid Will.
Inventory	An itemized list of the estate property prepared by the personal representative. See also “Appraisalment.”
Irrevocable Trust	A trust that can no longer be amended or revoked by anyone. Most revocable trusts become irrevocable at some time, for example, when the person who established the trust dies.
Joint Tenancy with Right of Survivorship	A form of property ownership, where the surviving owner(s) inherit the decedent’s interest in the property, whether or not there is a Will.
Legatee	A person who receives a gift under a Will.
Letters of Administration Letters Testamentary	The official document issued by the clerk of the court to a personal representative, showing that the personal representative has the authority to act on behalf of an estate. Letters of Administration are issued when there is not a Will. Letters Testamentary are issued when there is a valid Will.

TERM	DEFINITION
Living Trust	<p>A trust that a grantor establishes during his or her lifetime which is not part of a Will and is usually established by a separate written trust agreement or declaration of trust.</p> <p>A living trust can be amended and revoked, usually by the person who established the trust, but may become irrevocable when the grantor dies or becomes incapacitated.</p> <p>Same as "Inter Vivos Trust" or a "Revocable Living Trust."</p>
Minor	<p>A person who is under the age of majority.</p> <p>In Washington, 18 years of age.</p>
Natural Heir	<p>An heir (as a child) whose status as an heir arises from especially close blood relationship, as distinguished from one (as the state) whose status arises by operation of statute.</p> <p>See also "Heir" and "Heirs at Law."</p>
Nonintervention Powers	<p>Powers granted by court order which authorize the personal representative to administer an estate, whether the decedent died testate or intestate, with little court involvement.</p> <p>Generally, the estate must be solvent (the value of the assets of the estate are greater than debts owed by the estate) for nonintervention powers to be granted.</p> <p>For example, the personal representative may pay creditor's claims; sell, transfer, and distribute real estate and personal property; and make distributions to beneficiaries without any court involvement.</p>
Notary Public	<p>Any person appointed by the state to perform notarial acts.</p> <p>Notarial acts include: taking an acknowledgment; administering an oath or affirmation; taking a verification upon oath or affirmation; witnessing or attesting a signature; certifying or attesting a copy; and certifying that an event has occurred or an act has been performed.</p>
Oath	<p>A solemn affirmation to tell the truth.</p>
Omitted Child	<p>A child that the Will fails to name, who was born or adopted after the Will's execution, and survives the decedent.</p> <p>In Washington, an omitted child must receive a portion of the estate as determined by statute, unless the failure was intentional. See also "Pretermitted Heir."</p>

TERM	DEFINITION
Omitted Spouse	A spouse that the Will fails to name, who married the decedent after the Will and who survives the decedent. In Washington, an omitted spouse must receive a portion of the estate as determined by statute, unless the failure was intentional. See also "Pretermitted Heir."
Per Capita	A method of division of shares of an estate, especially an intestate estate, among the members of the group of descendants based on the number of descendants in the group regardless of the degree of kinship to the Decedent. Compare "Per Stirpes."
Per Stirpes	A method of division of shares of an estate, especially an intestate estate, among the members of the group of descendants based on the particular degree of kinship to the decedent, such as along bloodlines. Compare "Per Capita."
Personal Property	Property other than real property (such as a vehicle or furniture) that is movable, but not resources still attached to land.
Personal Representative	The person(s) or financial institution appointed by the court to administer a deceased person's estate. See also "Administrator," "Executor," and "Fiduciary."
Pretermitted Heir	A descendant of a testator who would be an heir under the laws of intestacy but who is not named to take under the will. <i>Note: Many states have statutes requiring a share of the estate to go to a pretermitted heir on the assumption that the omission was unintentional.</i> See also "Omitted Child" and "Omitted Spouse."
Probate	The legal court proceeding for settling an estate, which often includes admitting a Will to probate, determining the heirs of the estate, settling debts of the decedent and expenses of the administration, and distributing and transferring the property of the estate. When a Will has been "admitted to probate" the court determines if the Will is valid and the time limit for a challenge of the Will begins.

TERM	DEFINITION
Real Property	Property consisting of land, buildings, crops, or other resources still attached to or within the land or improvements or fixtures permanently attached to the land or a structure on it, such as a house.
Residuary	A devise of the assets of the estate which remain after the provision for any gift which is to be satisfied by reference to a specific item, value or type of property, fund, sum, or statutory amount; everything that is left over.
Residue Residue Clause	See "Residuary" above.
Revocable Living Trust	See "Living Trust" above.
Revocation	The act of making void a Will or other document. The act of withdrawing or recalling of some claim, power or property.
Right of Representation	A method of determining distribution in which the takers are in unequal degrees of kinship with respect to the intestate, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the intestate who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the intestate but who left issue surviving the intestate; each share of a deceased person in the nearest degree shall be divided among those of the deceased person's issue who survive the intestate and have no ancestor then living who is in the line of relationship between them and the intestate, those more remote in degree taking together the share which their ancestor would have taken had he or she survived the intestate. Posthumous children are considered as living at the death of their parent.
Self-Proving Will	A Will that has attached to it or accompanying it, a written affidavit by the attesting witnesses stating such facts as they would be required to testify to in court to prove such will. The affidavit is often verified by a notary public.
Settlor	See "Grantor" above.

TERM	DEFINITION
Subscribing Witness	See "Attesting Witnesses."
Tangible Personal Property	<p>The term refers to articles of personal or household use or ornament. For example, furnishings, automobiles, boats, jewelry, and precious metals.</p> <p>The term does not include real estate, mobile homes, intangible property, money, currency, evidences of indebtedness, bank accounts, documents of title, or securities.</p>
Testamentary Trust	A trust that is part of a Will.
Testate	Refers to when a person dies with a valid Will
Testator Testatrix	<p>A person who makes a Will.</p> <p>A testator is male; a testatrix is female.</p>
Trust	<p>A legal arrangement, usually established by a written document, to provide for the management and disposition of assets by a fiduciary for the benefit of another party.</p> <p>It normally involves three parties: the person who establishes the trust (sometimes called a donor, grantor, settlor, or trustor), a trustee, and one or more beneficiaries. In some cases, these parties may be the same individual person.</p>
Trustee	<p>A fiduciary responsible for the administration of a trust.</p> <p>The trustee can be either one or more adult individuals, a financial institution, or an individual and a financial institution serving together simultaneously.</p>
Trustor	See "Grantor" above.
Will	<p>A written document which contains the legal declaration of the a person's wishes concerning his/her estate upon his or her death, formally called a Last Will and Testament.</p> <p>The Will usually disposes of property, nominates personal representatives, names heirs, and may include a trust, nominate a guardian for minor children, and provide any other instructions and wishes of the testator.</p> <p>In Washington, generally, a Will must be written and signed by the testator in the presence of at least two witnesses who must each sign at the same time and in the testator's presence. See also "Execution" and "Self-Proving Will."</p>