

HOW TO PROBATE A LAST WILL & TESTAMENT IN THE BERGEN COUNTY SURROGATE'S COURT

2026 UPDATED EDITION

PROCEDURAL AND EDUCATIONAL INFORMATION ONLY

This booklet is designed to explain general New Jersey probate procedures and help the public prepare to work with the Bergen County Surrogate's Court. It is not legal advice. Court staff cannot give legal advice, interpret a Will for you, recommend a course of legal action, or advise you how the law applies to your individual circumstances.

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Information reviewed and updated through August 2026.

A Note About This Edition

Earlier editions of this booklet were prepared under Bergen County Surrogate Judge Michael R. Dressler, who served the people of Bergen County from January 1997 until his passing on December 4, 2025. Judge Dressler believed strongly that understandable public information could reduce confusion and help families prepare for difficult moments. This updated edition continues that educational mission while reflecting current law and current Court procedures.

At the time of publication, the office of Bergen County Surrogate is vacant. The Bergen County Surrogate's Court continues to serve the public from Two Bergen County Plaza in Hackensack. Because procedures, forms, fees, tax rules, and staffing can change, readers should always confirm current requirements on the Court's website or by telephone before submitting documents.

Public source: Bergen County Surrogate's Court, "In Memoriam - Surrogate Michael R. Dressler," confirming service from January 1997 through December 2025 and date of death December 4, 2025.

Important: Court staff provide procedural assistance, not legal advice.

Court staff can explain Court procedures, identify forms used by the Court, explain filing requirements, provide fee information, and tell you what documents are missing from a submission. Court staff cannot interpret a Will, determine who should inherit, tell you whether to file a lawsuit or contest, choose a fiduciary for a family, calculate tax liability, draft legal documents for you, or predict how a judge will decide a disputed legal issue.

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1. Probate at a Glance

Probate is the court process used to establish a Will as the decedent's Last Will & Testament and to authorize the person named as executor to act for the estate. In a routine, uncontested matter, the Surrogate's Court reviews the original Will and required information, prepares the probate papers, and, when the legal requirements are satisfied, issues a Judgment of Probate and Letters Testamentary.

Not every asset requires probate. Whether probate is needed generally depends on how property was owned and whether a valid beneficiary designation or survivorship arrangement controls the asset. A Will governs property that becomes part of the probate estate; it does not automatically control every asset a person owned or used.

The Bergen County process begins before the appointment.

Current Bergen County procedure asks the applicant to send or drop off the required documents and information before meeting with a probate clerk. After the Court receives the required materials, a clerk contacts the applicant to schedule an appointment. Remote probate/document processing remains available as an alternative in appropriate matters. Always confirm the current procedure before sending an original document.

Current procedure source: www.bergencountysurrogate.com (Important Information for Visitors), reviewed August 2026.

What probate does - and does not do

- Probate establishes the Will for estate-administration purposes and authorizes the executor to act.
- Probate does not, by itself, determine title to every asset the decedent may have owned.
- Assets with valid survivorship rights or beneficiary designations may pass outside the Will.
- An asset that avoids probate may still have tax, creditor, or reporting consequences.
- A disputed Will, a missing original, a nonconforming writing, or other contested legal issue may require proceedings in the Superior Court rather than routine Surrogate's Court probate.

A typical uncontested probate sequence

1. Locate the original Will and obtain a certified copy of the death certificate.
2. Identify the decedent's closest surviving next of kin, including people who are not beneficiaries under the Will.
3. Contact the Bergen County Surrogate's Court and submit the requested information and documents for review.
4. A probate clerk reviews the materials and contacts the applicant regarding the appointment or remote processing.
5. The fiduciary signs the required probate and qualification papers and pays the statutory fees.
6. If the Will can be admitted routinely, a Judgment of Probate and Letters Testamentary are issued.
7. The executor provides the Notice of Probate required by Court Rule 4:80-6.

8. The executor gathers and manages estate assets, addresses debts and taxes, keeps records, and ultimately distributes the estate according to the Will and applicable law.

2. Probate and Non-Probate Assets

A central probate question is how the decedent owned each asset. The examples below are general educational examples; the actual legal result depends on the title, account agreement, deed, contract, beneficiary form, and surrounding facts.

Common example	Usually probate?	Why
Bank or brokerage account in decedent's sole name with no beneficiary	Usually yes	The executor generally needs authority to collect or transfer it.
Real estate in decedent's sole name	Usually yes	The executor or estate may need probate authority to sell or transfer title.
Property owned as tenants in common	Usually yes as to the decedent's share	The decedent's fractional interest does not automatically pass to the co-owner.
Joint Tenants with Right of Survivorship (JTWROS)	Usually no	The surviving joint tenant generally receives the property by operation of the title.
Property owned by spouses/civil union partners as tenants by the entirety	Usually no at the first death	The survivor generally succeeds to the property by operation of law.
Life insurance, IRA, 401(k), pension or similar account with a living designated beneficiary	Usually no	The beneficiary designation or plan terms generally control.
POD/TOD or similar beneficiary account	Usually no	The account agreement generally directs payment to the named beneficiary.
Asset payable to "Estate of ..."	Usually yes	The estate is the beneficiary, so the personal representative must collect it.

Non-probate does not mean "irrelevant."

Non-probate assets can still affect estate planning, inheritance-tax analysis, beneficiary coordination, and other legal or tax questions. The Court can explain its filing procedures, but questions about ownership, beneficiary rights, taxes, creditor exposure, or conflicting documents may require professional legal or tax advice.

Beneficiary designations deserve separate attention

Life insurance, retirement accounts, annuities and many financial accounts can pass according to a beneficiary designation rather than under the Will. The governing contract or plan documents control. A beneficiary designation should therefore be reviewed as part of overall estate planning, particularly after marriage, divorce, birth or adoption of a child, death of a beneficiary, or other major life change.

3. Last Wills & Testaments in New Jersey

Who may make a Will

Under N.J.S.A. 3B:3-1, an individual 18 years of age or older who is of sound mind may make a Will and may appoint a testamentary guardian.

Formal execution requirements

N.J.S.A. 3B:3-2 provides that, except for writings that qualify under the statutory exceptions, a Will must be in writing, signed by the testator (or in the testator's name by another individual in the testator's conscious presence and at the testator's direction), and signed by at least two individuals who sign within a reasonable time after witnessing the signing or the testator's acknowledgment of the signature or the Will.

Statutory authority: N.J.S.A. 3B:3-1 and 3B:3-2.

Handwritten and other nonconforming writings

New Jersey law recognizes certain writings that do not follow the ordinary witnessed-Will format. Under N.J.S.A. 3B:3-2(b), a writing can be valid as a writing intended as a Will if the signature and material portions are in the testator's handwriting. N.J.S.A. 3B:3-3 also permits a court, upon clear and convincing evidence of the decedent's intent, to treat certain nonconforming documents or writings as a Will, revocation, alteration, addition, or revival.

These matters generally require judicial determination under the Rules of Court and are not the same as routine probate of a formally executed, self-proved Will in the Surrogate's Court.

Statutory authority: N.J.S.A. 3B:3-2(b), 3B:3-3 and 3B:3-19.

Do not write on or alter an executed original Will

Do not make handwritten changes, cross-outs, interlineations, cancellations, additions, remove pages, or otherwise alter the executed original. A later marking does not automatically have the same legal effect in every case, but it can create serious questions about alteration or revocation and can prevent routine probate. New Jersey law contains specific rules governing revocation and writings intended to alter or revoke a Will, including N.J.S.A. 3B:3-3 and 3B:3-13.

If an original Will has been marked, damaged, unstapled, altered, or appears incomplete

Do not attempt to "fix" it. Preserve the document exactly as found and contact the Court for procedural guidance. The Court may advise that a Superior Court proceeding or legal counsel is necessary.

Changing an estate plan

A Will can be changed by a properly executed new Will or codicil. Because handwritten changes to an already executed Will can create legal problems, changes should be made through documents executed with the required formalities. A new Will can also reduce the risk of inconsistency among several codicils.

Divorce and certain non-probate transfers

N.J.S.A. 3B:3-14 addresses the effect of divorce or annulment on certain probate and non-probate transfers involving a former spouse, subject to statutory exceptions and the terms of governing instruments, court orders, or agreements. The law is more detailed than simply saying that every gift to an ex-spouse automatically disappears in every circumstance. After a divorce or other major relationship change, estate-planning documents and beneficiary designations should be reviewed.

Statutory authority: N.J.S.A. 3B:3-14.

Where to keep the original Will

Keep the original Will in a secure location where it can be located after death. A copy may be kept with other important records along with instructions identifying the location of the original. New Jersey also provides a Will Registry through which identifying information and the location of a Will may be registered; the registry does not replace the original Will itself.

Do not rely on the Will alone for urgent funeral instructions.

A Will cannot be admitted to probate until the statutory waiting period has elapsed. New Jersey law separately permits appointment of a person to control funeral and disposition arrangements, including through a properly executed board-approved form. See Section 19 of this booklet.

4. When and Where to Probate

Ten-day waiting period

Under N.J.S.A. 3B:3-22, a Will may not be admitted to probate until after 10 days have elapsed from the testator's death. The Court may receive information and begin processing during that period, but the Will cannot be admitted to probate before the statutory time has run.

Statutory authority: N.J.S.A. 3B:3-22.

County of probate

For a New Jersey resident, the Will may be admitted to probate in the Surrogate's Court of the county where the decedent was domiciled at death or in the Superior Court. Different statutes govern the probate of Wills of nonresident decedents and property located in New Jersey. If the decedent was not domiciled in Bergen County, contact the appropriate county Surrogate or obtain legal advice concerning the proper venue.

Statutory authority includes N.J.S.A. 3B:3-24, 3B:3-26 and 3B:3-28.

5. Preparing a Bergen County Probate Submission

Bergen County currently asks applicants to submit the required materials before meeting with a probate clerk. Once the necessary materials have been received and reviewed, a clerk contacts the applicant to schedule the appointment or arrange remote processing as appropriate.

Information and documents currently requested

- The original Last Will & Testament. If mailing an original, use a tracked delivery method and follow the Court's current instructions.
- A certified copy of the death certificate with a raised seal is required to finalize the matter. A copy is requested as part of the initial inquiry.
- Full name, address, daytime telephone number, email address, and other requested identifying information for each proposed fiduciary.
- Names and current addresses of the decedent's closest surviving next of kin, even when they are not beneficiaries under the Will.
- The number of Surrogate's Certificates requested.
- Copies of two forms of photo identification for the fiduciary or fiduciaries, not for the decedent.
- Proof of current address for the fiduciary or fiduciaries, when requested.
- The current Bergen County Will Fact Sheet and any additional forms the Court identifies as necessary.
- The statutory filing fee, as instructed by the Court.

Current procedural source: www.bergencountysurrogate.com, "Important Information for Visitors," reviewed August 2026.

Original documents are important.

The original Will and the certified death certificate used to complete probate remain part of the Court record and are not returned. If the original Will cannot be located, routine probate in the Surrogate's Court may not be available. Do not assume that a photocopy can be substituted for the original.

Fees and payment methods

Surrogate's Court fees are established by New Jersey statute, including N.J.S.A. 22A:2-30, and can vary with the filing and number of pages or certificates requested. Payment methods and operational policies may also change. For that reason, this booklet does not hard-code a total probate cost. Confirm the current fee and accepted payment method with the Court before your appointment.

6. Self-Proving Wills and Wills Requiring Additional Proof

A properly self-proved Will can generally be admitted to probate by the Surrogate without further affidavit, deposition, or proof. New Jersey law permits a Will to be made self-proved at execution or later by following the statutory acknowledgment and affidavit procedures in N.J.S.A. 3B:3-4 and 3B:3-5.

If a formally executed Will is not self-proved, N.J.S.A. 3B:3-19 provides for proof by an attesting witness or another individual having knowledge of the facts relating to proper execution and attestation. The specific proof required depends on the document and circumstances.

Statutory authority: N.J.S.A. 3B:3-4, 3B:3-5 and 3B:3-19.

Do not judge self-proof by the age or appearance of the Will.

The reliable question is whether the document contains the required execution and self-proving language and formalities. If you are unsure, provide the original to the Court for procedural review.

7. The Probate Appointment and Letters Testamentary

At the probate appointment - or through the approved remote process - the probate clerk reviews the submission and prepares the papers required for the probate matter. The proposed executor signs the qualification documents and takes the required oath or affirmation. If the Will and filing can be accepted in the Surrogate's Court, a Judgment of Probate is entered and Letters Testamentary are issued.

Letters Testamentary and Surrogate's Certificates

Letters Testamentary establish the executor's appointment and authority to act for the probate estate. Certified proof of that appointment is commonly requested by banks, brokers, transfer agents, title companies, and other institutions. In Bergen County, these certified documents are commonly called Surrogate's Certificates.

The number needed depends on the estate and the requirements of the institutions holding or receiving estate property. Some institutions insist on a recently issued certificate even though the executor's underlying appointment has not ended. Ask each institution what it requires before ordering a large number of certificates.

Do not expect same-day issuance unless the Court confirms it.

Current Bergen County FAQ materials state that applicants should not expect to receive certificates on the same day. Processing time depends on the submission and Court operations.

8. Notice of Probate

New Jersey Court Rule 4:80-6 requires the personal representative, within 60 days after probate of the Will, to mail written notice to all beneficiaries under the Will and to the persons designated by Rule 4:80-1(a)(3) at their last known addresses. The notice states that the Will has been probated, the place and date of probate, the name and address of the personal representative, and that a copy of the Will will be furnished upon request.

Proof of mailing must be filed with the Surrogate within 10 days after the mailing. The Rule also addresses publication when names or addresses cannot be determined by reasonable inquiry and

notice to the Attorney General when property is devoted to a present or future charitable use or purpose.

Authority: New Jersey Court Rule 4:80-6. Always use the current Rule text and current Bergen County Notice of Probate form/instructions.

Certified mail is not stated as a universal requirement in Rule 4:80-6.

Follow the current Court form and instructions for documenting mailing. If a particular estate presents a dispute about service or notice, that is a legal issue rather than routine procedural assistance.

9. What the Executor Does After Probate

After appointment, the executor becomes responsible for administering the probate estate. The precise duties depend on the Will, the assets, debts, taxes, beneficiaries, and any disputes. In general, administration involves identifying and safeguarding estate property, collecting assets payable to the estate, keeping accurate records, addressing valid expenses and claims, satisfying tax obligations, and distributing the remaining estate in accordance with the Will and applicable law.

Practical recordkeeping

- Keep copies of bank and brokerage statements, receipts, bills, tax filings, correspondence and closing documents.
- Keep estate funds separate from personal funds. An estate account may be appropriate depending on the assets and administration.
- Record every receipt and disbursement made on behalf of the estate.
- Keep documentation supporting sales, appraisals, distributions and payments.
- Do not assume an asset can be distributed merely because a beneficiary requests it.

Debts, expenses and taxes come before final distribution

An executor who distributes estate property too early can create complications if taxes, expenses, claims, or other estate obligations remain. The Surrogate's Court can explain filing procedures, but it cannot determine whether a particular debt is valid, decide contested creditor rights, calculate tax liability, or advise the executor when a particular distribution is legally safe.

When professional advice may be appropriate

Complex tax issues, disputed claims, insolvent estates, real-estate sales, business interests, unusual beneficiary designations, contested accountings, family disputes, and questions about fiduciary liability can require legal, accounting, appraisal, or tax assistance.

10. Executor Commissions

New Jersey law permits fiduciary commissions. These commissions are not the same as reimbursement of properly documented estate expenses.

Corpus commission - N.J.S.A. 3B:18-14

- 5% on the first \$200,000 of corpus received by the fiduciary;
- 3.5% on the excess over \$200,000 up to \$1,000,000;
- 2% on the excess over \$1,000,000; and
- 1% of all corpus for each additional fiduciary, subject to the statutory limitation that no one fiduciary may receive a greater commission than would be allowed if there were only one fiduciary.

Unusual or extraordinary services - N.J.S.A. 3B:18-16

On an intermediate or final settlement of the fiduciary's accounts, the court may allow corpus commissions in addition to those otherwise provided upon a showing that unusual or extraordinary services were rendered for which extra compensation is appropriate.

Income commission - N.J.S.A. 3B:18-13

N.J.S.A. 3B:18-13 permits a 6% commission on income received by a fiduciary without court allowance. Multiple-fiduciary and other fact-specific commission questions may involve additional statutory provisions.

Statutory authority: N.J.S.A. 3B:18-13, 3B:18-14 and 3B:18-16.

Commission calculations can involve legal and tax questions.

Court staff can identify the governing statute and filing procedures but cannot calculate the correct commission for a particular estate, determine whether a particular asset is commissionable corpus, or advise whether a fiduciary should waive a commission.

11. Distribution, Release and Refunding Bonds

New Jersey law uses refunding bonds to protect the estate when assets are distributed. Under N.J.S.A. 3B:23-24, a personal representative paying a devise or distributive share or delivering property takes a refunding bond from the person entitled to receive the distribution. Related statutes govern the amount and conditions of the bond.

Refunding Bond vs. Release

- A Refunding Bond is the beneficiary's statutory promise to refund distributed property, to the extent required, if estate assets are later needed to satisfy proper estate obligations.
- A Release is commonly combined with the Refunding Bond and acknowledges receipt/distribution and releases the fiduciary to the extent stated in the document.

The Bergen County Surrogate's Court can provide the current form used for filing and explain the filing procedure and fee. Questions about whether a proposed release waives particular legal rights or whether a distribution is appropriate are legal questions.

Statutory authority: N.J.S.A. 3B:23-24 et seq.

12. When There Is No Will

A person who dies without a valid Will dies “intestate.” The estate is then distributed under New Jersey's intestacy statutes rather than according to a Will. The personal representative is called an administrator rather than an executor.

Who may receive letters of administration

N.J.S.A. 3B:10-2 provides priority for the grant of administration. The surviving spouse or domestic partner is first entitled to administration if that person will accept; if not, or if there is no such survivor, administration may be granted to the remaining heirs, or some of them, if they will accept. If no heir entitled to administration claims it within the statutory period, the court may grant administration to another fit person who applies.

Statutory authority: N.J.S.A. 3B:10-2. Particular family structures, renunciations, consents, disputes, or disqualifications can affect the procedure.

Who inherits when there is no Will

Intestate distribution depends on the family relationships that survive the decedent. N.J.S.A. 3B:5-3 governs the intestate share of a surviving spouse, partner in a civil union, or domestic partner. N.J.S.A. 3B:5-4 governs the balance or entire estate when property passes to descendants, parents, descendants of parents, grandparents, and more remote relatives under the statutory order.

Family situation - simplified example	General statutory result
No descendant or parent survives, and there is a qualifying surviving spouse/civil union partner/domestic partner	The survivor receives the entire intestate estate.
All surviving descendants are descendants of both decedent and surviving spouse/partner, and survivor has no other descendant	The survivor generally receives the entire intestate estate.
No descendant survives, but a parent survives	The surviving spouse/partner receives the statutory first share plus three-fourths of the balance; the parent(s) receive the remainder.
Blended-family circumstances covered by N.J.S.A. 3B:5-3(c)	The surviving spouse/partner receives the statutory first share plus one-half of the balance; the remainder passes under the intestacy statute.

This chart is deliberately simplified.

Intestacy can be affected by divorce proceedings, equitable-distribution agreements, adoption, parentage, survivorship requirements, disclaimers, and other statutes. Court staff cannot determine who inherits in a disputed or legally uncertain family situation.

13. Small Intestate Estates

New Jersey provides simplified procedures for certain small estates when the decedent died without a Will. These procedures are not a substitute for probate of an existing Will.

Surviving spouse, civil union partner or domestic partner - N.J.S.A. 3B:10-3

When the total value of the qualifying intestate estate does not exceed \$50,000, the surviving spouse, partner in a civil union, or domestic partner may be entitled to the assets without formal administration by filing the statutory affidavit, subject to the requirements of the statute.

Other heirs - N.J.S.A. 3B:10-4

When the total value of the real and personal assets of an intestate estate does not exceed \$20,000 and there is no surviving spouse, civil union partner, or domestic partner, an heir may proceed by affidavit after obtaining the written consent of the remaining heirs, if any, subject to the statute.

Statutory authority: N.J.S.A. 3B:10-3 and 3B:10-4. Current dollar limits reflect P.L.2015, c.232.

If there is a Will, do not use the intestate small-estate procedure merely because the estate is small.

Contact the Court for the correct procedural route.

14. New Jersey Inheritance Tax and Tax Waivers

New Jersey no longer imposes a New Jersey Estate Tax on estates of resident decedents dying on or after January 1, 2018. New Jersey does, however, continue to impose a Transfer Inheritance Tax in certain cases. The Inheritance Tax is based principally on the relationship between the decedent and the beneficiary, the property transferred, and the applicable value and exemptions.

Official source: New Jersey Division of Taxation, *Inheritance and Estate Tax*, reviewed August 2026.

Beneficiary classes - general overview

Class	Examples	Current general treatment
A	Spouse; civil union partner; domestic partner; parent; grandparent; child; legally adopted child; stepchild; descendants such as grandchildren and great-grandchildren; certain mutually acknowledged children	No New Jersey Inheritance Tax is due.
C	Brother, sister, and certain spouses/civil union partners of a decedent's child	First \$25,000 exempt; graduated rates apply above that amount.
D	Most other individuals not	15% on the first \$700,000 and

	within Classes A, C or E	16% above \$700,000.
E	Certain qualifying charities, educational/religious institutions and governmental entities	Exempt.

As of the Division of Taxation's current published schedule, Class C rates after the \$25,000 exemption are 11%, 13%, 14%, and 16% over successive brackets. Because tax classifications and rates are tax law, verify the current Division of Taxation guidance for the date of death and do not rely on this booklet to calculate tax.

Inheritance Tax filing deadline

A New Jersey Inheritance Tax return, when required, is generally due eight months after the decedent's death. Interest can accrue on unpaid tax. The executor or beneficiary should use the current Division of Taxation forms and instructions.

Tax waivers, L-8 and L-9

New Jersey law places transfer restrictions on certain New Jersey assets until the Division of Taxation consents to transfer or an applicable self-executing procedure is used. Current Division guidance explains the following common forms:

- Form L-8: Affidavit for Release of Non-Real Estate Assets for qualifying Class A resident decedents. It is generally delivered directly to the financial institution rather than filed with the Division.
- Form L-9: Affidavit Requesting Real Property Tax Waiver for qualifying resident decedents with dates of death on or after January 1, 2018. It is submitted to the Division of Taxation.
- Form 0-1: the tax waiver issued by the Division when required.
- Form IT-R: the resident New Jersey Inheritance Tax return when a return is required.

Do not use an old dollar-threshold explanation for deaths after 2017.

The former \$675,000 and transitional \$2 million New Jersey Estate Tax thresholds apply to earlier dates of death. For decedents dying on or after January 1, 2018, no New Jersey Estate Tax is imposed, although Inheritance Tax and waiver requirements may still apply.

Official sources: NJ Division of Taxation, tax-rates, inheritance-tax filing requirements, waiver requirements, and current L-8/L-9 forms.

15. Federal Estate Tax

Federal estate-tax law is separate from New Jersey probate procedure. For calendar year 2026, the federal basic exclusion amount is \$15,000,000 per individual. Federal law also includes rules concerning portability between spouses, lifetime taxable gifts, deductions, generation-skipping transfers, valuation and filing requirements.

Because federal thresholds and tax law can change, this booklet does not attempt to provide an estate-tax calculation. An estate that may approach a federal filing threshold, involves substantial

lifetime gifts, closely held businesses, unusual assets, trusts, or portability issues may require advice from a qualified tax professional or attorney.

Official federal source: IRS Revenue Procedure 2025-32, Section 3.14 (2026 basic exclusion amount of \$15,000,000).

16. Lifetime Planning: Powers of Attorney

A financial power of attorney allows a principal to authorize another person - traditionally called an attorney-in-fact and commonly called an agent - to act on the principal's behalf. A durable power of attorney can continue despite later disability or incapacity if properly drafted under New Jersey law.

Execution formalities

N.J.S.A. 46:2B-8.9 provides that a power of attorney must be in writing, duly signed, and acknowledged in the manner set forth in R.S. 46:14-2.1. New Jersey does not impose a universal rule that every financial power of attorney must also be signed by two witnesses. Particular transactions or documents can involve additional requirements.

Statutory authority: N.J.S.A. 46:2B-8.9.

The agent is a fiduciary

Under N.J.S.A. 46:2B-8.13, an attorney-in-fact owes fiduciary duties to the principal, must act within the delegated powers and solely for the principal's benefit, and must maintain accurate books and records of financial transactions. The statute permits specified persons and the court to require an accounting in appropriate circumstances.

Statutory authority: N.J.S.A. 46:2B-8.13.

Drafting matters

Powers involving gifts, trusts, beneficiary changes, real estate, banking, retirement assets, business interests, tax returns, digital accounts, or Medicaid/long-term-care planning can have major legal and tax consequences. The Surrogate's Court does not draft powers of attorney or advise what powers a person should grant.

A power of attorney ends at death.

After the principal dies, authority to administer the estate comes from probate or administration, not from the decedent's lifetime power of attorney.

17. Advance Directives for Health Care and POLST

New Jersey's Advance Directives for Health Care Act permits adults to state health-care wishes and/or appoint a health-care representative to act when the patient lacks decision-making capacity.

Execution

Under N.J.S.A. 26:2H-56, an advance directive may be signed and dated by or at the direction of the declarant in the presence of two subscribing adult witnesses who attest to the statutory matters; the designated health-care representative may not serve as a witness. Alternatively, the directive

may be signed and dated and acknowledged before a notary public, attorney at law, or other person authorized to administer oaths.

Statutory authority: N.J.S.A. 26:2H-56.

Proxy and instruction directives

- A proxy directive appoints a health-care representative to make decisions when the patient cannot.
- An instruction directive records the person's instructions and preferences concerning health care.
- A person may use one or both forms of directive, consistent with New Jersey law.

Modification and revocation

N.J.S.A. 26:2H-57 allows an advance directive to be reaffirmed or modified using the execution requirements of N.J.S.A. 26:2H-56 and permits revocation through oral or written notification, a subsequent directive, or other conduct evidencing intent to revoke. The statute also addresses the effect of divorce, legal separation, termination of domestic partnership, or dissolution of civil union on certain representative designations.

Statutory authority: N.J.S.A. 26:2H-57.

POLST

POLST stands for Practitioner Orders for Life-Sustaining Treatment. It is a medical order intended for people with serious illness or frailty whose health-care professionals would not be surprised if they died within a year, and it is designed to travel across health-care settings. A POLST does not replace an advance directive; the two documents serve different functions and can work together. Current forms and medical guidance should be obtained from health-care professionals and official New Jersey sources.

18. Digital Assets

Digital assets can include online financial accounts, cloud-stored photographs and documents, email, social-media accounts, websites and domain names, subscription accounts, digital intellectual property, cryptocurrency, and other electronically stored records or property. Access to an account is not always the same as ownership of its contents.

New Jersey has enacted the Uniform Fiduciary Access to Digital Assets Act, which establishes rules for access by executors, agents, guardians and trustees under defined circumstances. A person's estate plan, the service provider's online tools, the terms of service, federal privacy law, and the type of digital asset can all affect access.

Safer planning practices

- Maintain an up-to-date inventory of important digital accounts and assets.
- Use a reputable password manager or secure method for emergency access rather than circulating passwords in an unsecured list.
- Use platform legacy-contact or inactive-account tools where available.

- Keep recovery codes, private keys, and cryptocurrency access information secure and separate from public-facing documents.
- Include appropriate digital-asset authority in estate-planning documents where legal counsel determines it is appropriate.

Do not publish or casually share passwords.

A government educational booklet should not instruct readers to hand account passwords to another person. Security, privacy, terms-of-service agreements, and legal authority all matter. Plan for authorized access rather than informal password sharing.

19. Funeral and Disposition Instructions

New Jersey law permits a decedent to appoint a person to control the funeral and disposition of human remains. Under N.J.S.A. 45:27-22, the appointment may be made in a Will. The person appointed does not have to be the executor, and the funeral and disposition may occur before probate of the Will.

Since 2019, New Jersey law also permits a person to make the appointment in a separate writing using a board-approved form. The form must comply with the statutory execution requirements, including the required witnesses and notarization.

Statutory authority: N.J.S.A. 45:27-22, including amendments by P.L.2019, c.187.

If no person was appointed

The statute establishes priority classes. In general, priority begins with the surviving spouse, civil union partner, or domestic partner, followed by a majority of surviving adult children, surviving parent or parents, a majority of siblings, and other next of kin according to degree of consanguinity, subject to statutory exceptions and special rules.

Funeral arrangements do not have to wait for probate.

This is one reason the funeral-agent section should not state that the ten-day probate waiting period prevents the appointed person from acting. The statute expressly allows funeral and disposition to occur before probate in accordance with N.J.S.A. 45:27-22 and 3B:10-21.1.

20. About the Bergen County Surrogate's Court

The County Surrogate is a constitutional county officer in New Jersey. The Surrogate traditionally serves as Judge and Clerk of the county Surrogate's Court and also performs statutory and court-rule functions as a deputy clerk in matters assigned to the Superior Court. The office maintains probate and related records and performs additional functions established by law.

Judge Michael R. Dressler served as Bergen County Surrogate from January 1997 until his death on December 4, 2025. Earlier editions of this booklet were an important part of his public-education work. At the time of this 2026 edition, the office of Bergen County Surrogate is vacant. The Court's

current staff and procedures can be found through the official website and main office in Hackensack.

What our staff can help with

- Explaining the steps used to open a probate or administration matter;
- Identifying the Court's current fact sheets and forms;
- Explaining what documents and identifying information the Court requires;
- Explaining filing fees and how to obtain Surrogate's Certificates;
- Explaining procedural deadlines and filing steps shown in statutes, Rules of Court, or Court forms;
- Providing copies of records available through the Court, subject to law and policy.

What our staff cannot do

- Tell you what a Will “means” or decide how an ambiguous provision should be interpreted;
- Determine whether you should challenge a Will, creditor claim, fiduciary action, beneficiary designation, deed, or other legal instrument;
- Choose the person who should serve as executor, administrator, trustee, guardian, or attorney-in-fact when the law does not make the answer purely procedural;
- Draft a Will, trust, power of attorney, deed, settlement, release, tax return, or other legal instrument for you;
- Calculate taxes, commissions, fiduciary liability, damages, or the legal value of a claim;
- Predict what the Superior Court will decide in a contested matter.

21. Frequently Asked Questions

1. Do I need an appointment to probate a Will in Bergen County?

Yes. Current Court procedure requires the necessary documents and information to be submitted before the clerk appointment. After the Court receives the required materials, a clerk contacts the applicant to schedule the appointment. Remote processing may also be available. Confirm the current procedure on the Court website.

2. Do I need an attorney for every probate?

No attorney is required merely because a routine probate is being opened in the Surrogate's Court. However, Court staff cannot provide legal advice. A disputed Will, missing original, tax issue, creditor dispute, contested accounting, ambiguous document, unusual asset, or other legal problem may warrant counsel.

3. What documents do I need?

For a routine Will probate, the Court currently requests the original Will, a death certificate (with a certified raised-seal copy required to finalize the matter), fiduciary identification and contact information, names and addresses of closest surviving next of kin, the current Will Fact Sheet, the requested number of certificates, and the statutory fee. The Court may request additional material depending on the file.

4. Can I probate a photocopy of a Will in the Surrogate's Court?

Routine Surrogate's Court probate ordinarily requires the original Will. A proceeding involving a lost original or copy can require Superior Court action. Preserve all available documents and contact the Court for procedural guidance.

5. May I write on the original Will?

No. Do not make notes, cross-outs, additions, cancellations, or other markings on an executed original. Such markings can create legal questions concerning alteration or revocation. Preserve the document exactly as found.

6. When can the Will be admitted to probate?

After 10 days have elapsed from the date of death. The Court may begin processing before then, but N.J.S.A. 3B:3-22 prevents admission to probate before the statutory waiting period has run.

7. Does every asset have to go through probate?

No. The answer depends on title, survivorship rights, account agreements and beneficiary designations. Sole-name assets with no beneficiary are commonly probate assets; survivorship and beneficiary-designation assets commonly pass outside probate.

8. What is a self-proving Will?

A Will executed or later acknowledged using the statutory self-proving procedure may be admitted without additional witness proof under N.J.S.A. 3B:3-19. If the Will is not self-proved, additional proof may be required.

9. How many Surrogate's Certificates do I need?

Order enough to deal with the institutions or assets that require proof of appointment. Ask each institution what it requires. Some institutions require a recently issued certificate. Current Bergen County materials advise not to expect certificates the same day.

10. Why must I provide next-of-kin information if those people are not beneficiaries?

New Jersey probate procedure requires identification and notice of persons who would have an interest in the estate if the Will were not admitted or were later set aside. Court Rule 4:80-6 requires notice after probate to beneficiaries and specified next of kin.

11. What is a bond?

A surety bond can protect the estate and interested persons against certain losses caused by a fiduciary. Bond requirements depend on the type of matter, the Will, governing statutes, consents or renunciations, and the Court's determination. Court staff can explain what bond is required procedurally in the file but cannot provide insurance or legal advice.

12. What is a Release and Refunding Bond?

It is commonly used at distribution. The refunding-bond component protects the estate if distributed assets later need to be returned to satisfy estate obligations. The release component acknowledges receipt and may release the fiduciary as stated in the document.

13. Is there a small-estate affidavit in New Jersey?

Yes, for certain intestate estates only. N.J.S.A. 3B:10-3 currently provides a \$50,000 procedure for a qualifying surviving spouse/civil union partner/domestic partner, and N.J.S.A. 3B:10-4 provides a \$20,000 procedure for qualifying other heirs when there is no such survivor and the required consents are obtained.

14. Does New Jersey still have an estate tax?

For resident decedents dying on or after January 1, 2018, New Jersey does not impose a New Jersey Estate Tax. New Jersey Inheritance Tax may still apply, and tax waivers may still be required.

15. What is the federal estate-tax exclusion in 2026?

\$15,000,000 per individual for calendar year 2026 under current federal law. Federal tax law is separate from probate procedure and should be verified for the relevant year.

16. Does a New Jersey power of attorney require two witnesses?

New Jersey's general financial power-of-attorney statute, N.J.S.A. 46:2B-8.9, requires a writing that is duly signed and acknowledged. It does not impose a universal two-witness requirement. Particular documents or transactions can have additional formalities.

17. Can a funeral agent act before the Will is probated?

Yes. N.J.S.A. 45:27-22 expressly provides that funeral and disposition may occur before probate of the Will. New Jersey also allows appointment through a properly executed board-approved written form.

18. Does the Court give legal advice?

No. The Court provides procedural and educational information. Staff cannot interpret documents, advise what legal strategy to choose, calculate tax liability, or tell a person how the law applies to disputed individual facts.

22. Current Contact Information

Bergen County Surrogate's Court

Two Bergen County Plaza, Suite 5000

Hackensack, New Jersey 07601

Telephone: (201) 336-6700

Regular hours: Monday-Friday, 8:30 a.m.-4:30 p.m., excluding County holidays.

Website: www.bergencountysurrogate.com

Before coming to the Court

Current procedure requires advance submission and scheduling for probate matters. Do not rely on an older edition of this booklet that says to walk in without an appointment. Check the website or call the Court before sending original documents or appearing in person.

Legal Sources and Research Notes

This 2026 edition was rebuilt from the prior Bergen County booklet and updated using current New Jersey statutes, current New Jersey Court Rules and official federal/state tax guidance. The source list below is provided for transparency and further research; it is not a substitute for legal advice or for checking the law in effect on the relevant date.

Topic	Primary authority / source
Wills and probate	N.J.S.A. 3B:3-1; 3B:3-2; 3B:3-3; 3B:3-4; 3B:3-5; 3B:3-13; 3B:3-14; 3B:3-19; 3B:3-22; 3B:3-24; 3B:3-26; 3B:3-28.
Intestacy and administration	N.J.S.A. 3B:5-3; 3B:5-4; 3B:10-2; 3B:10-3; 3B:10-4.
Fiduciary commissions	N.J.S.A. 3B:18-13; 3B:18-14; 3B:18-16.
Refunding bonds	N.J.S.A. 3B:23-24 et seq.
Surrogate fees	N.J.S.A. 22A:2-30.
Notice of Probate	New Jersey Court Rule 4:80-6.
Powers of attorney	N.J.S.A. 46:2B-8.1 et seq., including 46:2B-8.9 and 46:2B-8.13.
Advance directives	N.J.S.A. 26:2H-53 et seq., including 26:2H-56 and 26:2H-57.
Funeral/disposition	N.J.S.A. 45:27-22; N.J.S.A. 3B:10-21.1.
New Jersey tax	New Jersey Division of Taxation, Inheritance and Estate Tax pages, current rate tables, waiver guidance, Forms L-8/L-9 and filing requirements.
Federal estate tax	IRS Revenue Procedure 2025-32, including the 2026 \$15,000,000 basic exclusion amount.
Bergen County procedure	www.bergencountysurrogate.com , including current visitor instructions, probate information, FAQs, and office location/hours, reviewed August 2026.

Publication note

Because statutes, Court Rules, tax laws, filing fees, forms and office procedures can change, the Court should review this publication periodically and update website-linked procedures as needed. Operational details that change frequently - such as payment methods, form versions, processing times and document-delivery instructions - are intentionally summarized rather than frozen into permanent narrative text.

Prepared as a procedural and educational public-information booklet. This publication does not create legal rights, replace statutes or Rules of Court, or provide legal advice.