

How to Avoid Probate in Massachusetts

Services

Probate, Trust & Estate
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By Thomas J. Cleary on April 29, 2026

Losing a loved one can be unimaginable. Though probate is a necessary part of finalizing an estate after someone dies, it can make the process more time-consuming, expensive, and stressful for the heirs.

When you create a comprehensive estate plan well before you pass away, your last gift to your heirs can be avoiding probate. Let's examine how to avoid probate in Massachusetts with guidance from a [Massachusetts probate law attorney](#) from Cohen Cleary, P.C.

Why Do People Want to Avoid Probate?

The probate process is the legal process wherein the state assesses, taxes, and transfers property after someone dies. While you may not mind paying the due taxes, it's possible to reduce your survivors' tax burden in probate with careful planning while you're alive. You can minimize creditor claims and taxes while leaving more to your loved ones.

Going through the [Massachusetts probate court](#) also makes your assets a public record, something you may wish to avoid. In essence, people want to avoid probate for privacy, efficiency, and the maximum benefit for their family members.

7 Strategies to Help Avoid Probate in Massachusetts

There are several actions you can take with help from a qualified [estate planning attorney](#) to safeguard your assets, such as real estate, bank accounts, and retirement savings, from probate. These include the following:

1. Create a Revocable Living Trust

Most people think a will is the only estate document they need, but a skilled lawyer can assist you in [understanding trusts](#) and choosing the right one(s) to safeguard your assets, including a revocable living trust. Under [M.G.L. Chapter 203](#), you can establish living trusts to legally own assets while still benefiting from them. For example, you could fund a trust that manages your money and pays you a regular dividend.

The trust document outlines the terms for [administering the assets](#) both before and after you pass away. Revocable trusts and their holdings do not pass through probate, which can save your loved ones time and money.

2. Use Joint Ownership with Right of Survivorship

If you are married, you may benefit from titling your home deed with [Joint Ownership with Right of Survivorship \(JOWROS\)](#) to avoid probate. Property titled this way will move directly to your spouse, should you pass away, and does not go through probate in Massachusetts.

Another option is Tenants by the Entirety ([M.G.L. Section 7](#)), which shields the surviving spouse

from creditor claims against the deceased person.

3. Add Payable-on-Death (POD) Designations

For bank accounts, you can add [Payable-on-Death \(POD\)](#) designations to allow a named beneficiary to automatically claim the funds in the account without passing through probate. For your retirement accounts and life insurance policies, you can do the same by naming primary and secondary beneficiaries with the management company.

4. Use Transfer-on-Death (TOD) for Investments

Under [Mass. General Laws c.190B § 6-305](#) (part of the Massachusetts Uniform Probate Code), you can designate an investment, such as bonds, brokerage accounts, and stock holdings, as Transfer-on-Death (TOD). This process transfers the asset directly to your named beneficiary without passing through probate.

5. Gift Assets During Your Lifetime

Consider handing down your assets before you die by gifting money and property to your heirs now. Any estate worth over \$2 million is subject to [Massachusetts estate tax](#), so making gifts can reduce the value of your estate and cause less work for your survivors. This process could also help you avoid the [federal estate tax](#), allowing you to give up to \$19,000 per person (\$38,000 for married couples) annually to as many people as you'd like.

There's a lifetime limit of \$15 million for individuals (\$30 million for married couples), but some gifts are exempt. For example, paying for a relative's education or medical needs does not count toward the lifetime limit, making those options beneficial for you both.

6. Properly Title Real Estate

If you have several pieces of real estate, ensure you have titled it properly to avoid probate. Do this by placing the property into a revocable Living Trust, using Joint Tenancy with Right of Survivorship (JTWROS), or Tenants by the Entirety. Leaving property that's titled in your name only through your will doesn't protect it from probate the way the other options do.

7. Use Massachusetts Small Estate Procedures (If Eligible)

In situations where the estate is relatively simple, your relatives may be able to use the [Voluntary Small Estate Administration](#) process. To qualify, the estate's value must be less than \$25,000 and contain no real estate property. They can initiate the process when 30 days have passed since your death.

This option avoids probate and [simplifies estate settlements](#). Your heirs can distribute your personal property and close your estate with less stress and paperwork.

What Assets Typically Must Go Through Probate?

The assets most commonly put through probate include bank accounts without a POD designation, vehicles or real estate titled solely to the deceased, any valuable personal property, and businesses. You can leave some small personal items, such as sentimental jewelry, through your will.

When Probate May Still Be Necessary in Massachusetts

Your relatives may still need to go through probate in the following instances:

- They discover the will is invalid.
- Your real estate or other property was titled only in your name.
- You didn't file POD or TOD for your bank accounts or investments.
- Your estate has creditor claims against it.
- Your relatives need to obtain your medical records, such as for a wrongful death lawsuit.
- Your personal representative needs to file your final tax return.
- There are [disputes or legal challenges](#) over your estate.

No matter the size of your estate, your survivors can likely benefit from [legal assistance in handling your final affairs](#).

How a Massachusetts Probate Attorney Can Help You Avoid Probate

Although online estate planning sites can seem enticing, both you and your heirs could make mistakes that wind up costing more in probate. Instead of taking those risks, a Massachusetts probate attorney at a reputable law firm can identify potential concerns and help you overcome them.

At Cohen Cleary, P.C., we are here to guide your family members during their time of grief, limiting the demands of probate and helping them move forward with their lives. To discuss your estate planning and probate questions with a compassionate legal professional, [contact us](#) to arrange a consultation.