

Planning Ahead



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Post-Death Access to Safe Deposit Box

People often ask if they should keep their signed Estate Plan documents in their safe deposit box. The answer is: "It depends." If the safe deposit box is in the deceased person's sole name or held by the deceased person and others where all the others are deceased, getting into the box and removing any contents of the box is very limited. But if there is surviving coholder on the box or if the safe deposit box is held in the name of a Trust, then access to the box after you are gone should not be a problem.

If the deceased person is the only one whose name is on the safe deposit box, the only way for anyone else to get into the box is for the sole purpose of looking for the deceased person's Will. If a person has a key, a certified copy of the Death Certificate, and proper identification, the person may open the safe deposit box, but with limitations. The person may only open the box under supervision of a bank officer. The person accessing box may make an inventory of the contents of the box but may not remove anything except instructions for disposition of remains, and a Will and Trust documents if they are in the box.

Before the Will and Trust documents can be removed, they must be photocopied and the photocopies placed in the box to replace the originals. Nothing else can be removed until an Executor or Administrator of the deceased person's estate is appointed, or if the "small estates" procedures apply, until after 40 days from the deceased person's death when the successor in interest may provide the required declaration.

If an original Will is found in the safe deposit box, the person given access to the box is required by law to deliver the Will to the Clerk of the Superior Court and to mail or deliver a copy to the person named in the Will as Executor or beneficiary.

These restrictions do not apply to a surviving coholder of the safe deposit box. If the safe deposit box is in the name of a Trust, the Successor Trustee should be able to access the box. A safe deposit box may be an appropriate place to keep Estate Plan documents, but only if care is taken to be sure someone can access the box when you are gone.

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