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Locations

Our main office is located at
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For our clients' convenience,
 we also have offices in
 Braintree, Cambridge and
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Whatever services you need, you
 may rely on us for steadfast,
 friendly and skillful service.

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Changes to Probate Laws Expected on March 31

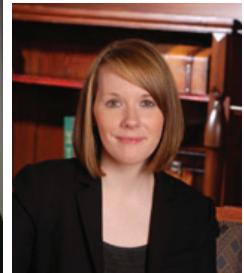
As we cross the threshold into a new year, there are several notable developments relating to probate laws that we want to call to your attention.

Significant changes to the Massachusetts Uniform Probate Code (MUPC) are due to go into effect on March 31, 2012.

Following a debate that lasted almost 20 years, the MUPC was signed into law in 2009. The first major provision of the law, dealing with guardianships and conservatorships of legally incapacitated individuals, became effective July 1, 2009. This second phase of the Code addresses wills and the probate and settlement of estates. Among the many changes, the rules of intestate distribution (dictating who would inherit your assets if you die without a will) will be dramatically altered. The law is going to address “blended” family



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Massachusetts Uniform Probate Code

Preview of the New MA Uniform Probate Code

After two decades of debate, the Massachusetts Uniform Probate Code (MUPC) will become effective in its entirety on March 31, 2012. The MUPC is designed to simplify, streamline, and clarify the process of settling a decedent's affairs in a manner consistent with the decedent's intent. This major legislation is going to bring significant changes to the probate process and procedures. It will increase uniformity with other states,* ease the administration of probate matters for judges and court personnel

and reduce delays in the estate settlement process.

(* To date, 18 states have adopted the Uniform Probate Code, including states in which many Massachusetts residents own property, such as Florida and Maine.)

The MUPC will revise the rules of “intestate distribution,” which is how one's estate is distributed when one dies without a will. This new law will especially impact “blended” families (i.e., second marriages where the spouses may

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Massachusetts Uniform Probate Code

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have children from prior unions and may have children together).

Terminology will also be streamlined. Previously, probate forms and terminology were different for those who died with a will (testate) and for those who passed without one (intestate). There will no longer be a confusing distinction between Executor and Administrator; the term that will be used to identify the person appointed by the court to manage the estate is Personal Representative.

The following comparison of the old and new rules of intestate distribution illustrates the significance of the changes:

Under the former law, if a person died without a will and was survived by a spouse:

- If the decedent had descendants (children or grandchildren), the surviving spouse took only half the estate, and the descendants took the remaining half.
- If the decedent had no descendants, the surviving spouse took the first \$200,000, and then split the remainder with the decedent's heirs at law (blood relatives).

Under the new law, for intestate estates with surviving spouses:

- If the decedent is not survived by parents or descendants, the surviving spouse takes the entire estate. There is an exception, though: If the surviving spouse has descendants from a prior relationship (i.e., not of the decedent), the surviving spouse takes the first \$100,000 plus half the remaining estate, and the other half goes to the decedent's nearest heirs at law (blood relatives).

- If the decedent is survived by descendants, the surviving spouse takes the entire estate. The exception to this rule is: If any of the descendants are not common to the decedent and the surviving spouse (i.e., either the decedent or the surviving spouse has descendants from a prior relationship), the surviving spouse takes the first \$100,000 plus half the remaining estate, and the decedent's descendants take the other half.

Although the MUPC will not invalidate a current will, the new terminology, changes to the

Probate Changes

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scenarios (e.g., spouses with children from prior relationships) and change the inheritance rights of surviving spouses and children. Additionally, the law will alter the impact of marriage and divorce on existing wills, and substantially change legal terminology regarding wills and estates.

While existing wills will still be honored, the interpretation of certain will provisions may be affected. The second phase of the MUPC underscores the fact that estate planning is not

legal interpretation of certain will provisions and the new MUPC inheritance rules (for wills that point to default intestacy schemes, by way of example) may call for revisions to existing wills. Additionally, the new MUPC rules of how marriage and divorce affect existing wills may bring about unintended consequences. The bottom line is that if you're not sure whether or how you may be affected, have it reviewed by an estate planning attorney. At EPLO, we're pleased to conduct this analysis at no cost.

a one-size-fits-all process, and it reinforces the need to review your current estate plan documents to ensure they will still work as you intend. We encourage you to review the separate MUPC article (beginning on page one) and to call EPLO if you would like additional information about the law or clarification on any of the new rules.

To all of you, from all of us... best wishes for a successful 2012.

Updates

Brendan King is now licensed to practice law in New Hampshire.

Linda Cammuso has been appointed secretary of the Board of Directors for Girls Inc. in Worcester, MA

Melissa Gleick has been appointed a voting member of the Alliance for Resource Management Human Rights Committee, which meets in Fitchburg, MA