

Probate Records Research at the Nebraska State Historical Society (NSHS)

Probates are among the most useful documents for genealogical research. They often provide details of the subject's life, such as familial relationships of surviving heirs and interested parties. Assessments of property by the court-appointed administrators often reveal much about personal possessions, land and buildings owned by the deceased. To the novice researcher, probate research can appear to be a daunting task, and although the probate process often generates multiple documents, knowing which of the documents are most useful and how to go about finding them can make the search much easier.

Getting Started

The researcher first needs to determine where the probate record was filed. If the county in which the probate was filed is not known, the researcher should look in censuses for the deceased or close family members. Cemetery lists of transcribed graves can also be helpful, but the researcher usually needs to know the burial location before a search of these records is fruitful.

Be advised that the county of burial and the county where a will was filed are not always the same. The will may have been filed earlier in the subject's life at a previous residence, so knowledge of the deceased's previous residences can be helpful. If the date of death is known, but the place of death is not, search for obituaries in newspapers of communities wherein the deceased was a known resident. Often these will point to where the subject died, even if only a mention is given. If the residence of the deceased at the time of death cannot be determined, look in censuses, city directories or phone books for relatives and potential heirs who may have helped care for the deceased in his or her final years. If the year of death is known, and death occurred in the State of Nebraska after 1904, death certificates are available from the Nebraska Bureau of Vital Records - see <http://www.lhs.state.ne.us/ced/decert.htm>

Once a likely county is determined, find out where its probates are kept for the time period in question. Probates held by NSHS are grouped by the county that filed them. Many of Nebraska's counties have sent their older probate files to NSHS. Others retain these documents in the office of their county court.

NSHS HAS probate records for the following counties. Click on the link associated with each county to see an inventory. The inventory, available as a pdf file, will describe what records are available at NSHS and their format.

BLAINE: Probate records, 1889-1943. External index is available.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/blaine.pdf

BOONE: Estate books, 1873-1912; Probate bond record, 1873-1881.

http://nebraskahistory.org/lib-arch/research/public/county_finding_aids/boone.pdf

BUFFALO: 1872-1940 (no index – case number should be obtained from courthouse)

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/buffalo.pdf

BURT: - General index of probates 185 -1886. Some case files, 1873 1918.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/burt.pdf

CEDAR: Probate entry dockets, 1891-1900.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/cedar.pdf

DIXON: Probate judge's dockets, 1870-1873.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/dixon.pdf

DODGE: General index to probate, 1867-1902; probate docket, 1867-1883; probate calendars, 1902-1948.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/dodge.pdf

DOUGLAS: Probate records, 1857-1971. See page 42 of inventory for notices of restricted materials.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/douglas.pdf

FILLMORE: Probate records, 1871-1901.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/fillmore.pdf

FRONTIER: Probate records, 1872-1888; filmed on reel #1 of marriage record microfilm.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/frontier.pdf

GOSPER: Probate files, 1883-1935.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/gosper.pdf

HALL: Probate records, 1869-1932. Also, some scattered probates among justice of the peace documents, 1851-1871.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/hall.pdf

KEARNEY: Probate entry books. 1873-1917.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/kearney.pdf

KEYA PAHA: General index to probates, ca. 1885-1974.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/keya_paha.pdf

LANCASTER: Probates, 1867-1959. See page 68 of inventory for details. Some restrictions.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/lancaster.pdf

LINCOLN: Estate records, 1868-1912; probate dockets, 1868-1886 and 1911-1972. See page 50 of inventory. Some restrictions.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/lincoln.pdf

MADISON: Probate records on security microfilm, 1884-1988 – see Archivist.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/madison.pdf

NEMAHA: Probate case files on security microfilm – see Archivist. Probate court justice dockets, 1873-1876; and probate court civil case dockets, 1872-1903.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/nemaha.pdf

OTOE: Probate records inventory in progress – consult Archivist.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/otoe.pdf

PHELPS: Estate record, 1884-1891; probate dockets, 1882-1959.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/phelps.pdf

PLATTE: Entry and estate books, 1876-1893; probate dockets, 1857-1960; probate case files, 1857-current on security microfilm – consult Archivist.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/platte.pdf

RICHARDSON: Administrative dockets, 1859-1931; entry and estate records, 1872-1895; probate case files, 1860-1920.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/richardson.pdf

SAUNDERS: Probate records, 1866-1956. Some restrictions.

http://nebraskahistory.org/lib-arch/research/public/county_finding_aids/saunders.pdf

SEWARD: Probate records, 1872-1976; some restrictions.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/seward.pdf

THURSTON: Probate dockets, 1895-1977, not indexed - contact County Court for citations

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/otoe.pdf

WASHINGTON: Entry and estate record, 1855-1896; probate record, 1870-1900

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/washington.pdf

York. General probate index, 1870-1962; probate dockets, 1870-1960.

http://www.nebraskahistory.org/lib-arch/research/public/county_finding_aids/york.pdf

The following are counties for which NSHS DOES NOT HAVE probate records:

Adams, Antelope, Arthur, Banner, Box Butte, Boyd, Buffalo Burt, Butler, Cass, Chase, Cherry, Cheyenne, Clay, Colfax, Custer, Dawes, Deuel, Dundy, Franklin, Furnas, Gage, Garden, Garfield, Grant, Greely, Hamilton, Harlan, Hayes, Holt, Hooker, Howard, Jefferson, Johnson, Keith, Kimball, Logan, Loup, McPherson, Merrick, Morrill, Nance, Nuckolls, Pawnee, Perkins, Pierce, Polk, Red Willow, Rock, Saline, Sarpy, Scottsbluff, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Valley, Wayne, Webster and Wheeler

If NSHS does not hold the probate records for the county you are seeking, contact information for all Nebraska County Courts can be viewed at

http://www.nebraskahistory.org/lib-arch/services/refrence/la_pubs/cthos10.htm

Additionally, most county governments and their courts will have their own websites that provide email addresses.

Researching The Records

Once you have determined which facility holds the probates you need to search, arrange a visit. Whether planning to visit NSHS or another facility, be sure to email or call ahead to make sure it is open and what its hours are the day of your visit. If a visit is not possible, find out if the facility's staff can find, copy, and mail the probate document copies to you.

NSHS reference staff can search our holdings, reproduce, and send copies for a fee. The NSHS Reference Services fee schedule can be found at

http://www.nebraskahistory.org/lib-arch/services/refrence/fees_duplication_access.pdf.

Similarly, most courts holding probate records will provide copies upon request.

If the facility that holds probates does not perform this service, try contacting a local genealogical society to see if volunteers from that organization or known researchers-for-hire can assist with the research. For a list of researchers-for-hire who are knowledgeable about genealogical research in Nebraska, see http://www.nebraskahistory.org/lib-arch/services/refrence/la_pubs/researcher11.htm.

If the county in question had a designated probate court, the researcher should begin with those records. In a few counties probates are filed in District Court.

In the probate index, the volume and page number will be given for the will's location. If the probate case is filed in district court, the district court index should be used. The index will give the name of the deceased, often the date of death, and the case number. The index will point to several different sets of chronologically arranged volumes – wills, notices of publication, guardianships, administrator's list of and valuation of properties, and liens and debts against the estate filed. Even previous wills filed by the testator may be included. Remember to record the case number, as in some cases the papers or "dockets" will be grouped numerically by case numbers.

One often overlooked resource that can make gathering the disparate probate documents easier is to use the Administration Index and Fee Book. As each document in a given probate was filed, its description, location and the cost for filing would be noted there. Transcribe or photocopy the administrative fee book information to use as a checklist for all of the documents filed in the case.

Commonly found probate documents are:

Wills:

The will is the testator's (i.e. deceased's) legal mandate as to how his or her estate was to be divided. This is usually the source of most genealogically significant material. Lists of heirs and a description of their relationship to the testator are given, as well as points of identification for the heirs. An early decree might read "to my nephew Horace Bloom, age 19 of Argo, Nebraska, first-born son of my sister, Agnes Petty, I bequeath the two bay mares I bought of Cleve Morrison in Decatur, Iowa, buggy and harness for same"; or, "To my eldest surviving son of my first marriage, Samuel, I bequeath the 80 acres and homestead formerly occupied by me, NW _ sec 11, twp 21 N, R 18 W. " As can be seen, in either of these decrees, there are many clues leading to further avenues of research. More recent wills, if not as colorful in description, will nonetheless usually offer a list of heirs' names, their relationship to the deceased, their ages and their addresses. It is occasionally the case that "long lost," forgotten or estranged relatives are described therein.

Wills are sometimes indexed separately, and any indexes of them will usually be arranged alphabetically by surname. Note that not all probate files necessarily have a will. Those who died and left a will to be probated – "tested" for authenticity by the court

– are called testate or testators. Probates filed without a will are called intestate. While wills are among the first documents sought by researchers, the administration papers filed intestate can be useful, too.

Notices of Publication:

When a testate will is probated, the court requires that public announcement be made, usually in a newspaper published in the deceased's former residence. As any and all debts the deceased owed at the time of death must be paid prior to dividing the estate, notice is given to parties who are entitled to payment. Heirs and other interested parties who, for whatever reason have not been notified, are given a public notification through a Notice of Publication, that the estate is now being probated. Usually the Notice of Publication serves as proof that an attempt to notify all interested parties was made. If the more substantial documents of a probate are found, procuring a copy of the Notice of Publication is probably not of vital importance to the researcher. However, when the researcher has found an obituary, but not yet determined if there is a probate, the notices appearing in the newspaper in the following weeks can point to it and even give the case number.

Assessments:

Often, whether the deceased died testate or intestate, a list of his or her properties is made, and a monetary value assigned to each item. The total estimate of worth can then be weighed against liens or expenses that require payment. The list can include real property, buildings, crops, timber, automobiles, animals, sleighs, wagons, household articles, furniture, clothing – anything determined as being of value.

Guardianships:

Probate courts often were responsible for deciding custody of orphans and of people who could not take care of themselves. Some probate courts restrict these documents – even though they may be many years old – to protect the privacy of those involved. If this is the case, searching newspapers that published these details may provide additional family connections.

Contests:

In some probate cases, heirs may dispute the will and contend for an additional share of the estate, or contestants not named as heirs may file their arguments for their entitlement in the estate.

Useful Terminology: Many of the terms used in a probate are seldom used in everyday speech. Some are defined here for the researcher's convenience.

Administrator: A person appointed by the court to manage and take charge of the assets and liabilities of the decedent who has died without making a valid will.

Ancillary: A probate case that takes place in a state other than the home state of the decedent. This occurs often when land is owned in several states by the deceased.

Beneficiary: A person who is entitled to receive a distribution of money or other property. For example, the beneficiary of a trust receives money from the trust. The word "beneficiary" is also used to mean someone who inherits under a will, even though the formal legal term for that is "devisee."

Codicil: An amendment to a will.

Creditors: People or businesses who are owed money. If a person died owing money to anyone, the person who was owed money becomes a creditor of the estate, and can demand to be paid from the assets of the person who died.

Decedent: The person who has died.

Domiciliary: A probate case that takes place in the home state of the person who died.

Elective Share: This is an option for a surviving spouse. If a surviving spouse is not satisfied with the inheritance left by a husband or wife, the surviving spouse can choose instead to take an "elective share." The amount of that share depends on how long the couple was married. A claim for an elective share must be made within nine months after death. Rules for the elective share are complicated.

Estate: The assets and debts left by a person who died. If there is a probate, the estate is called the "probate estate." If the person had a trust, the estate is called the "trust estate."

Executor: Person named by the decedent to manage the assets and liabilities of the decedent.

Foreign Documents: Documents pertaining to the probate case that were filed in courts other than the one in which the case is being probated.

Heir: A person who is entitled to inherit the property of a decedent.

Homestead Allowance: The homestead allowance protects a portion or all of a decedent's family residence. This prevents the residence from being used to pay creditors.

Intestate: When a person dies intestate, this means that he or she died without creating a valid will.

Legator: A person who gives a legacy or bequest. The Legatee, also known as the beneficiary, is the person to whom the property is bequeathed.

Joint Tenants: A way for two or more people to own an asset together. When one owner dies, the asset goes automatically to the other owner(s) without probate, regardless of what the will says.

Personal Representative: The person appointed by the court in a probate case to handle an estate. This person is often referred to as the "PR" and in some states is called the "executor". The deceased's will can name the PR, but the PR generally does not have the authority to act until appointed by the court.

Petition: A written request to the court for an order.

Probate: The formal court process that allows collection of a decedent's assets, payment of bills and taxes, and distribution of property to the heirs or devisees.

Tenants by the Entirety: A way for a married couple to own an asset together. Neither can sell his or her half without the consent of the other. If one is sued, a creditor cannot take away the property. If one dies, the property goes to the other without probate.

Tenants in Common: A way for two or more people to own property together. If one dies, that person's share does not go automatically to the other owner(s), but instead is bequeathed according to that person's will.

Testate: This means dying with a valid will. Property will go to the people (called "devisees") who are named in the will.

Testator: The person who signs a will.

Trust: An arrangement in which one person (the "Settlor" or "Grantor") transfers property to another person (the "Trustee") to be held for the benefit of others (the "Beneficiaries.")

Trustee: The person who holds legal title to the assets of a trust. The trustee is responsible for managing and investing the assets of the trust and makes distributions to the beneficiaries. The trustee must follow the instructions in the trust document.

Will: A legal document that states who will inherit assets.

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