

**Statute of Limitations
GENERAL RULE**

The general rule is that probate cases must be commenced (i.e. "filed") **within 3 years** of a decedent's death.



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**Statute of Limitations
APPLICATION**

This SOL does NOT apply to:

- Voluntary Administrations
- Actions to Construe a Probated Will
- Determination of Heirs
- Actions by Foreign Fiduciaries

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**Statute of Limitations
GENERAL RULE**

After 3 years from decedent's death:
– No one may seek the appointment of a PR

AND

– If a will was not offered for probate in this time, there is an assumption of intestacy which is final

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**Statute of Limitations
EXCEPTIONS**

There are 4 exceptions to the general
"3 year" rule applying to original
proceedings.

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**Statute of Limitations
EXCEPTIONS**

1. If a previous formal proceeding was
dismissed because of doubt about the
fact of the decedent's death an **informal
or formal** proceeding may be
commenced at any time if it is proved
that the death occurred before the
dismissal of the prior proceeding with
no unreasonable delay in commencing
the second proceeding.

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**Statute of Limitations
EXCEPTIONS**

2. If the estate is of an absentee,
disappeared or missing person an
informal or formal proceeding may
be commenced within 3 years from
the date the date of death was
established (NOT from the date of
death).

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**Statute of Limitations
EXCEPTIONS**

3. If there is a **formal** proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment, it may be brought within the later of 12 months from the allowance of the informal or 3 years from the date of death.

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**Statute of Limitations
EXCEPTIONS**

4. A **formal** testacy proceeding may be commenced at any time for the sole purpose of establishing a devise of property IF no proceeding concerning the succession or administration of the estate has occurred within 3 years after decedent's death.

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**Statute of Limitations
SUBSEQUENT PETITIONS**

1. A devisee or heir who was omitted from, or not given notice of, a previous formal proceeding may file a Petition for Order of Complete Settlement at any time to be named (included as) a devisee or heir.
2. A devisee or heir who was omitted from, or not given notice of, a previous formal proceeding may file a Petition to Vacate the previous determination of testacy (if will) or heirs (if no will) but only if certain conditions are met and only within a potentially SHORTENED statute of limitations .

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FRAUD EXCEPTION

When fraud has occurred, a proceeding for damages may be commenced within 2 years after the fraud is discovered BUT not later than 5 years after the fraud is committed.

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