

Without a Will in Indiana

David A. Evans, Ph.D., Extension Specialist in Family Resource Management

Do you have a will? If not, do you know what would happen to your belongings if you die without one?

A will is a legal document that describes who will get your property when you die. By having a will, you can control how your estate — the real and personal property that you own at the time of your death — will be distributed to others.

Some people think that only wealthy or elderly people need wills, but this is not true. Serious problems may arise with how a person's property is distributed if he or she dies without a will — or intestate — even if that person dies at an early age or with only a small estate.

Property Distribution Without a Will

In some cases, property can be distributed even without a will if there is a will contract. Inheritance that is determined by a will contract is usually in the form of insurance, such as a life insurance policy. If an individual dies without a will, the proceeds of the policy would still go to a named beneficiary. Other examples of will contracts include trusts, pension plans, joint ownership with rights to survivorship, or other assets with a beneficiary form, such as payable on death and transfer on death contracts.

For property not covered by will contracts, Indiana law determines how it will be distributed in the absence of a will. There may be disadvantages to allowing these inheritance laws, known as the Laws of Descent, to operate. These include:

- Property may be transferred or distributed in a different way than you would have preferred.
- Relatives you hardly know could share in your estate. Many individuals with no relatives or only a few distant ones would rather name a favorite charity to receive their estate.
- Small pieces of your property could be sold and divided.
- If any of the heirs are minors, guardians may have to be appointed, and those guardians may not necessarily be the surviving parent.



At a Glance

- A will ensures that your property will be distributed as you wish at the time of your death.
- If you don't have a will when you die, the state of Indiana determines who will inherit your property.
- There may be disadvantages in allowing the Indiana inheritance laws to determine how property is distributed rather than making the decision yourself.

- Taxes frequently are much higher when property is transferred without a will. All property transferred (less deductions and exemptions) is subject to federal estate taxes, but the rates vary based on the situation.
- In some cases, the state of Indiana might get all of your property.

Who Will Inherit?

Table 1 on page 2 provides an overview of how Indiana inheritance laws determine property distribution in the absence of a will.

Preparing a Will

Because there are many potential problems and financial considerations, having a will is a way to control the decisions about your estate. There are several ways to prepare one:

- *By consulting your attorney.* A few dollars spent preparing your will may save your family expense and trouble, and ensure that your property is distributed at your death in the way you desire.

Table 1. Indiana Inheritance Procedures in the Absence of a Will

If you do not make a will, your heirs will be . . .

For an unmarried person	Distribution of Estate
. . . with child/children or issue of deceased child/children OR	• Child/children and/or grandchild/grandchildren: equal shares
. . . without surviving children	• Per parent: 1/4 of estate • Siblings and nieces/nephews: remaining estate
. . . and with no parents or siblings	• Nieces/nephews: equal shares
. . . and with no nieces or nephews	• Grandparents: equal shares
. . . and with no grandparents OR	• Aunts, uncles, and cousins: equal shares
. . . with none of the above	• State of Indiana
For a married person	Distribution of Estate
. . . with one or more living child and/or issue of deceased child (e.g., wife dies and is survived by husband and child of deceased son) OR	• Spouse: 1/2 of estate • Child/children and/or grandchild/grandchildren: 1/2 estate
. . . with no surviving issue (e.g., child) but with living parents OR	• Spouse: 3/4 of estate • Parents: 1/4 of estate
. . . with no surviving issue or parents OR	• Spouse
. . . with a second or subsequent spouse, and with surviving child/ children of deceased child/children (e.g., husband dies and is survived by second wife and child from first marriage) OR	• Spouse: 1/2 of personal property and 1/4 value of real estate property • Child/children and/or grandchild/grandchildren: equal share of remaining personal property and real estate property
. . . with none of the above	• State of Indiana

Note: The term “issue” simply means someone descended from someone else, such as a daughter or granddaughter.

The term “personal property” in these diagrams refers to those items that have immeasurable or intrinsic value, such as an old piano or a collection of personal journals. Bank accounts, pensions, real estate, life insurance, and other financially measurable assets are included in the overall definition of the “estate.”

- By using online legal services providers or consumer advocacy groups. These options may offer low-cost options for creating a will.
- By consulting a legal services organization. Depending on your situation, you may be eligible for legal services at no cost.

Here are some trusted, Indiana-specific resources that may be of interest as you prepare your will:

Lawyer Referral Services

- Allen County Bar Association Lawyer Referral Service, ph. 260-423-2358
- Indianapolis Bar Association Lawyer Referral Service, ph. 317-269-2222
- Lake County Bar Association Lawyer Referral Service, ph. 219-738-1905
- St. Joseph County Bar Association Lawyer Referral Service, ph. 574-235-9657

Indiana Legal Resources

- American Bar Association Division for Legal Services, findlegalhelp.org—This website was created to help people find legal services providers.
- Indiana Legal Services/Justice Center, www.indianalegalservices.org, ph. 317-632-5764, 800-869-0212 (toll free)—This organization provides free civil legal assistance to eligible low-income people in Indiana.
- Indiana Pro Bono Commission, State of Indiana Judicial Branch, www.in.gov/judiciary/probono/2343.htm—This website offers resources for finding legal services for low-income clients.
- Indiana Pro Se Directory, www.in.gov/judiciary/probono/files/prose-directory-0608.pdf (PDF, 123 KB)—This is a directory of legal services providers for those who wish to resolve their legal issues without an attorney.

- Indiana State Bar Association, www.inbar.org—This website offers general information about Indiana attorneys and the local bar association.
- Indianapolis Legal Aid Society, www.indylas.org, ph. 317-635-9538—This organization helps provide access to legal services to low-income clients in central Indiana.
- Neighborhood Christian Legal Clinic, www.nclegalclinic.org, ph. 317-429-4131—This organization provides access to legal services and education to low-income clients in the Indianapolis metro area and Ft. Wayne.

Indiana Law Schools

Some law schools offer clinical hours where students work with a supervising attorney to provide free legal advice to low-income, qualifying households. Use the resources below to check services offered by individual schools.

- Indiana University, Maurer School of Law, Bloomington, law.indiana.edu/about/outreach/community.shtml; ph. 812-855-9229
- Indiana University–Purdue University Indianapolis, Robert H. McKinney School of Law, Indianapolis, mckinneylaw.iu.edu/practice/clinics/index.html
- Valparaiso University School of Law, Valparaiso, Indiana, www.valpo.edu/law/current-students/law-clinic, ph. 219-465-7903

Oct. 2014

It is the policy of the Purdue University Cooperative Extension Service that all persons have equal opportunity and access to its educational programs, services, activities, and facilities without regard to race, religion, color, sex, age, national origin or ancestry, marital status, parental status, sexual orientation, disability or status as a veteran.

Purdue University is an Affirmative Action institution. This material may be available in alternative formats.