

Preparing or Updating your Last Will and Testament Online

Summary of Nevada Estate Law
Dying Without a Will [intestate succession]
A Seminar Presented by Charles Johnson
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Community Property: Upon the death of either husband or wife:

- (a) An undivided one-half interest in the community property is the property of the surviving spouse and his or her sole separate property.
- (b) The remaining interest: is subject to the testamentary disposition of the decedent or, in the absence of such a testamentary disposition, goes to the surviving spouse. 123.250

Separate Property :

Descent and distribution. If a decedent dies intestate and has title to any estate which is the separate property of the decedent and which is not otherwise limited by contract, the estate descends and must be distributed, subject to the payment of the debts of the decedent, in the manner provided as follows:

Surviving spouse and issue.

1. If the decedent leaves a surviving spouse and only one child, or the lawful issue of one child, the estate goes one-half to the surviving spouse and one-half to the child or the issue of the child.
2. If the decedent leaves a surviving spouse and more than one child living, or a child and the lawful issue of one or more deceased children, the estate goes one-third to the surviving spouse and the remainder in equal shares to the children and the lawful issue of any deceased child by right of representation. NRS 134.040

Surviving spouse and no issue; no surviving spouse or issue but parent.

1. If the decedent leaves no issue, the estate goes one-half to the surviving spouse, one-fourth to the father of the decedent and one-fourth to the mother of the decedent, if both are living. If both parents are not living, one-half to either the father or the mother then living.
2. If the decedent leaves no issue, or father or mother, one-half of the separate property of the decedent goes to the surviving spouse and the other one-half goes in equal shares to the brothers and sisters of the decedent.

3. If the decedent leaves no issue or surviving spouse, the estate goes one-half to the father of the decedent and one-half to the mother of the decedent, if both are living. If both parents are not living, the whole estate goes to either the father or the mother then living.

4. If the decedent leaves no issue, father, mother, brother or sister, or children of any issue, all of the separate property of the decedent goes to the surviving spouse. 134.050

No issue, surviving spouse or parent but sibling.

If there is no issue, surviving spouse, or father or mother, then the estate goes in equal shares to the brothers and sisters of the decedent and to the children of any deceased brother or sister in equal shares, per capita. 134.060

No issue, surviving spouse or immediate family.

If the decedent leaves no issue, surviving spouse, or father or mother, and no brother or sister living at the time of death, the estate goes to the next of kin in equal degree, except that if there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestors are preferred to those who claim through ancestors more remote. 134.070

Unmarried minor decedent without issue or sibling but issue of sibling.

At the death of a child who is under age, who is without issue and who has not been married, all the other children of the parent being also dead, if any of the other children left issue, the estate that came to the child by inheritance from the parent descends to all the issue of the other children of the same parent, and if all the issue are in the same degree of kindred to the child, they are entitled to share

the estate equally; otherwise, they are entitled to take according to the right of representation. 134.080

Unmarried minor decedent without issue but sibling or issue of sibling.

If any person dies leaving several children, or leaving a child and issue of one or more children, and any such surviving child dies under age, without issue and not having been married, all the estate that came to the deceased child by inheritance from the deceased parent descends in equal shares to the other children of the same parent, and to the issue of any other children of the same parent who may have died, by right of representation. 134.085

No surviving spouse but issue.

If the decedent leaves no surviving spouse, but there is a child or children, the estate, if there is only one child, all goes to that child. If there is more than one child, the estate goes to all the children of the decedent, to share and share alike.134.090

No surviving spouse but issue and children of issue.

If the decedent leaves no surviving spouse, but there is a child or children and the lawful issue of a child or children, the estate goes to the child or children and lawful issue of the child or children by right of representation as follows: To the child or children, each a share and to the lawful issue of each deceased child, by right of representation, the same share that the parent would have received if the parent had been living at the time of the death of the decedent. 134.100.

No surviving spouse or issue but children of issue.

If the decedent leaves no surviving spouse, or child or children, but there is the lawful issue of a child or children, all the estate descends and must be distributed to the lawful issue of the child or children by right of representation, and this rule applies to the lawful issue of all such children, and to the lawful issue ad infinitum. 134.110

Escheat.

If the decedent leaves no surviving spouse or kindred, the estate escheats to the State for educational purposes. 134.120

Kindred of half blood.

Kindred of the half blood inherit equally with those of the whole blood in the same degree, unless the inheritance comes to the decedent by descent or devise from an ancestor, in which case all those who are not of the blood of the ancestor are excluded from the inheritance. 134.160

Adopted child.

An adopted child and his adoptive parents or their relatives shall inherit as provided in [NRS 127.160](#).

Vesting of estate if both spouses die intestate.

Whenever one spouse dies intestate, leaving heirs, if the other spouse dies intestate after the first spouse, without heirs, leaving property, the estate of the second spouse to die vests in the heirs of the first spouse to die, subject to expenses of administration and payment of legal debts against the estate. 134.210

TESTACY
[Dying with a will]
Anatomy of a Will

I. Introduction

II. Marriage and Children

III. Debts and Expenses

IV. Specific Bequests of Real and/or Personal Property

V. Homestead or Primary Residence

VI. All Remaining Property – Residuary Clause

VII. Contingent - All Remaining Property – Residuary Clause

VIII. Appointment of Personal Representative, Executor or Executrix

IX. Waiver of Bond, Inventory, Accounting, Reporting and Approval

X. Powers of Personal Representative, Executor and Executrix

XI. Construction Intentions

XII. Misc. Provisions

XIII. Signature Clause

XIV. Witness Clause

Summary of Nevada Law

Wills

Who may make a will:

Every person of sound mind, over the age of 18 years, may, by last will, dispose of all his or her estate, real and personal, the same being chargeable with the payment of the testator's debts. 133.020

Valid wills:

A will shall be in writing and signed by the testator, and attested by at least two competent witnesses who subscribe their names to the will in the presence of the testator. 133.040

Disposition of certain tangible personal property by reference to list or statement; requirements: [see sample below]

1. Whether or not the provisions relating to holographic wills apply, a will may refer to a written statement or list to dispose of items of tangible personal property not otherwise

specifically disposed of by the will, other than money, evidences of indebtedness, documents of title, securities and property used in a trade or business.

2. To be admissible as evidence of the intended disposition, the statement or list must contain:

- (a) The date of its execution.
- (b) A title indicating its purpose.
- (c) A reference to the will to which it relates.
- (d) A reasonably certain description of the items to be disposed of and the names of the devisees.
- (e) The testator's signature.

3. The statement or list may be:

- (a) Referred to as a writing to be in existence at the time of the testator's death.
- (b) Prepared before or after the execution of the will.
- (c) Altered by the testator after its preparation.
- (d) A writing which has no significance apart from its effect upon the dispositions made by the will. 133.045

Attesting witnesses may sign self-proving affidavits to be attached to will: Any or all of the attesting witnesses to any will may sign an affidavit before any person authorized to administer oaths in or out of the state, stating such facts as they would be required to testify to in court to prove the will. The affidavit must be written on the will or, if that is impracticable, on some paper attached thereto. The sworn statement of any witness so taken must be accepted by the court as if it had been taken before the court. The form you have found contains the approved affidavit. 133.050

Devise to subscribing witness: All devises in a will to a subscribing witness are void unless there are two other competent subscribing witnesses to the will. 133.060

Creditors as witnesses: A mere charge on the estate of the testator for the payment of debts shall not prevent his creditors from being competent witnesses to his will. 133.070

Foreign execution:

1. If in writing and subscribed by the testator, a last will and testament executed outside this state in the manner prescribed by the law, either of the state where executed or of the testator's domicile, shall be deemed to be legally executed, and is of the same force and effect as if executed in the manner prescribed by the law of this state.

2. This section must be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. 133.080

Revocation by marriage; effect upon rights of surviving spouse: If a person marries after making a will and the spouse survives the maker, the will is revoked as to the spouse, unless provision has been made for the spouse by marriage contract, or unless the spouse is provided for in the will, or in such a way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of revocation shall be received. 133.110

Revocation of provisions in favor of former spouse on divorce or annulment; exceptions: Divorce or annulment of the marriage of the testator revokes every devise, beneficial interest or designation to serve as personal representative given to the testator's former spouse in a will executed before the entry of the decree of divorce or annulment unless otherwise:

1. Provided in a property or separation agreement which is approved by the court in the divorce or annulment proceedings; or
2. Ordered by the court in the divorce or annulment proceedings, and the will takes effect in the same manner as if the former spouse had died before the testator. 133.115

Other means of revocation:

1 .A written will may only be revoked by:

- (a) Burning, tearing, canceling or obliterating the will, with the intention of revoking it, by the testator, or by some person in the presence and at the direction of the testator; or
- (b) Another will or codicil in writing, executed as prescribed in this chapter.

2.This section does not prevent the revocation implied by law from subsequent changes in the condition or circumstances of the testator. 133.120

Omission of child or grandchild presumed intentional; rights of child or grandchild if omission found unintentional. When the child of a testator or the issue of a deceased child of a testator is omitted from the testator's will, it must be presumed that the omission was intentional. Should the court find that the omission was unintentional, the child, or the issue of the deceased child, is entitled to the same share in the estate of the testator as if the testator had died intestate. NRS 133.170

Death of devisee: When any estate is devised to any child or other relation of the testator, and the devisee dies before the testator, leaving lineal descendants, those descendants, in the absence of a provision in the will to the contrary, take the estate so

given by the will in the same manner as the devisee would have done if the devisee had survived the testator. NRS 133.200

Other Sections of interest:

Vesting upon death of spouse; applicability of chapter only to separate property. If a decedent leaves a surviving spouse:

1. Community property with right of survivorship vests in accordance with the right of survivorship;
2. All other community property vests as provided in NRS 123.250; and
3. The provisions of this chapter apply only to the separate property of the decedent. 134.010

Applicability of chapter as between spouses with premarital agreement: The provisions of this chapter (intestate succession and other spouse rights provisions of law) do not apply to the extent that they are inconsistent with the provisions of a premarital agreement which was executed by the decedent and the surviving spouse of the decedent and which is enforceable pursuant to Nevada Law. 134.005

[Sample statement for disposition of tangible personal property, NRS 133.045]

Statement Disposing of Tangible Personal Property Under Will

The purpose of this statement is to dispose of certain items of tangible personal under the will of _____ [name of testator], dated _____ [date of will].

The items disposed of and the persons receiving them are as follows:

1. Grandfather clock to my son, _____ [name of recipient]
2. My wedding and engagement rings to my daughter _____ [name of recipient]
3. My genealogy records to my sister _____ [name of recipient]
4. [etc.]
5. [etc.]

Dated and signed this ___ day of _____, 20__.

Testator

Advance Directive for Medical Care

Healthcare Power of Attorney

Outline

1. DESIGNATION OF HEALTH CARE AGENT.
2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.
3. GENERAL STATEMENT OF AUTHORITY GRANTED.
4. SPECIAL PROVISIONS AND LIMITATIONS.
5. DURATION.
6. STATEMENT OF DESIRES.
7. DESIGNATION OF ALTERNATE ATTORNEY-IN-FACT.
8. PRIOR DESIGNATIONS REVOKED
9. SIGNATURE AND WITNESS CLAUSES

DURABLE POWER OF ATTORNEY

FOR HEALTH CARE DECISIONS

Nevada Revised Statutes, 449.535 to 449.690

WARNING TO PERSON EXECUTING THIS DOCUMENT:

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR HEALTH CARE. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR ATTORNEY-IN-FACT THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. THIS POWER IS SUBJECT TO ANY LIMITATIONS OR STATEMENT OF YOUR DESIRES THAT YOU INCLUDE IN THIS DOCUMENT. THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU

MAY INCLUDE CONSENT, REFUSAL OF CONSENT, OR WITHDRAWAL OF CONSENT TO ANY CARE, TREATMENT, SERVICE, OR PROCEDURE TO MAINTAIN, DIAGNOSE, OR TREAT A PHYSICAL OR MENTAL CONDITION. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT OR PLACEMENTS THAT YOU DO NOT DESIRE.

THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THE POWER OF THE PERSON YOU DESIGNATE TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE THE POWER TO CONSENT TO YOUR DOCTOR NOT GIVING TREATMENT OR STOPPING TREATMENT WHICH WOULD KEEP YOU ALIVE.

UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST INDEFINITELY FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT PERSON OF THE REVOCATION ORALLY OR IN WRITING.

YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THE TREATING PHYSICIAN, HOSPITAL, OR OTHER PROVIDER OF HEALTH CARE ORALLY OR IN WRITING.

THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO EXAMINE YOUR

MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.