

## What Does *That* Mean?

Many words and terms used in wills can be confusing. An attorney will be able to explain any terms that you do not know, so don't be afraid to ask lots of questions!

**Decedent** – The person who has died and whose will is being carried out.

**Devisee** – A person who receives property under a will, sometimes called a "beneficiary" or "heir."

**Execute** – The act of signing a will in the presence of witnesses and a notary public, making the will a legally enforceable document.

**Testator** – The person who has made the Will. Men are referred to as a "testator" and women are referred to as a "testatrix."

## Who are "Witnesses" and What Do They Do?

The Law requires two people, who are not included in your Will or related to you by blood or marriage, to watch you sign your will. The witnesses swear that you were not unduly influenced by anyone and that you signed your Will of your own free will.

## What is "Probate?"

Probate is a legal process where a judge determines who will receive your property upon your death.

## Call for an appointment with your local Dakota Plains Legal Services office to learn more about making a Will:

### Mission Branch Office

Phone: 605.856.4444  
Toll Free: 800.658.2297

### Fort Thompson Branch Office

Phone: 605.245.2341

### Fort Yates Branch Office

Phone: 701.854.7204

### Eagle Butte Branch Office

Phone: 605.964.2175

### Pine Ridge Branch Office

Phone: 605.867.1020

### Sisseton Office

Phone: 605.698.3971

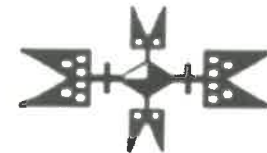
### Rapid City Branch Office

Phone: 605.342.7171  
Toll Free: 800.742.8602



FREQUENTLY ASKED  
QUESTIONS ABOUT

## INDIAN WILLS & ESTATE PLANNING



Dakota Plains  
Legal Services

## What Is a Will?

A will is a legal document that allows you to say how and to whom you want your land and personal property left when you pass away. A will can also be used to direct your loved ones in fulfilling any last wishes you may have related to your property or burial.

## Who Can Help Me Make a Will?

It is best to get the help of a legal professional in preparing a Will. A will can be complicated and may be challenged in court.

An attorney can answer questions you may have and make sure that your Will reflects your wishes.

## Who Inherits My Property if I Die Without a Will?

If your Tribe does not have a probate law concerning trust lands, the American Indian Probate Reform Act (AIPRA) will determine the way your trust land will be distributed to your eligible heirs. Tribal and state probate codes will determine how your other property located on and off the reservation will be distributed.

To make sure your property is given to who you want, you should make a Will.

## What is “Trust” or “Restricted Indian Land?”

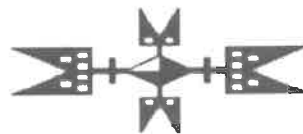
Trust or restricted land is land held in trust for you by the federal government. Title to trust land owned by Tribes or individuals cannot be transferred without the consent of the Department of the Interior.

## If My Property is in My Name and My Spouse’s name, Should I Still Make a Will?

Yes! Even though your spouse will get your jointly held property when you die, it is always a good idea to have a will in the event that your spouse predeceases you. Death is uncertain and many unique situations can arise, so it is always a good idea to make your wishes known through a will.

## Can I Disinherit People in My Will?

You can disinherit, or leave out, many individuals from inheriting your property. If you wish to disinherit someone, it is best to mention this in your will. The AIPRA and many state laws may limit the ability to disinherit a spouse completely.



## What if My Spouse is a Non-Indian?

If your spouse is a non-Indian, you may consider giving him or her a life estate for trust property. This gives your spouse the right to use the property or receive income from it throughout his or her life. Upon the death of your spouse, another person named by you in a will can receive that property.

Federal and tribal probate laws may affect how trust land can be inherited by non-Indians or non-members, so be sure you specify if any of your heirs are non-Indian or non-members.

## What Happens to My Will Once It Has Been Written?

The original of your will should be stored in a secure place. DPLS will store your original signed will in a fireproof, waterproof safe. Another option is to store your will in a bank safety deposit box.

You should keep a copy of your Will with your other important papers. It is a good idea to make sure that your personal representative or administrator of your will knows the location of your original will.

## Once Made, Can I Change My Will?

As long as you are mentally and physically capable, you may change your will by making a new Will or by legally amending your old will (called a codicil). Your will is a reflection of your wishes and can be changed to mirror your preferences.