

LAW WEEK

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Does it Really Matter That Prince Died Without a Will?

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Prince died without a will. If he intended for all of his personal affairs to be public and for his assets to pass to children, if he has any, or to his siblings, then his goals are accomplished. If he did not want the public disclosure and exposure and if he had different ideas about who should inherit from him, then dying without a will may be a problem.

Estate planning is an interesting process. You have to consider a time when you are no longer able to manage your own affairs or you are no longer with us — your family, friends and adoring fans. The documents in your estate plan appoint people to manage your affairs in your best interests, if you are alive and disabled, or in the best interests of your beneficiaries after your death.

You don't know what the day will look like when you are unable to manage your own affairs or when you are no longer with us, but it will come. What you do know now is that you want your sister to manage your financial affairs because your brother parties like it is 1999. You have a little red Corvette that you want your responsible brother to have. You want Fido to live with your friend Apolonia and you want Apolonia to have some money to take care of Fido in a manner to which he is accustomed to living.

Estate planning is more than just drafting a will. Estate planning includes appointing agents in power of attorney instruments to act on your behalf during your lifetime. A trust can support this goal as well. A will and a trust provide clarity at your death and can also afford your family and loved ones some privacy. The ultimate goal



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of planning is to appoint trustworthy people and give them a broad range of powers to manage your affairs as they understand you would want them to do.

A will must be probated. It is a map for the court. Your will states who should be the personal representative and ultimately who should inherit and how they should inherit your probate estate — the assets you own in your individual name. Your will could say, "I give all of my assets to the trust I created." If you created that trust during your lifetime and transferred your assets to it, that trust estate, together with the assets transferred to the trust in the probate process, will be managed and distributed in accordance with a private trust agreement.

If you didn't prepare a will, the state legislature prepared one for you, which especially requires probate. The legislature has dictated priorities for the appointment of personal representatives and who the legal heirs are to inherit the assets you own in your individual name.

The probate procedure is a public process. Some records may be sealed, but others are available for the public. Just Google "wills of the rich and famous." The public does not necessarily see the inventories and accountings, but they can see the wills, the interested parties and some of the proceedings.

Prince died without a will. Is this a problem? There is no map for who the personal representative should be and the personal representative can only distribute the probate estate in accordance with the legal heirship configuration.

Addressing the public nature of the probate process, Carver County, Minnesota, established a landing page on its website for all of the public filings in the matter, *In re the Estate of Prince Rogers Nelson, Deceased*. We are readily aware that Prince's sister petitioned the court to open a formal probate and appoint Prince's bank as special administrator, a type of personal representative.

The petition named seven siblings, one who died before Prince. Subsequent filings indicate there was another brother who died before Prince. The deceased brother's daughter is Prince's niece and, by law, a legal heir to a share of Prince's probate estate. There is also a filing that Prince had a son. There are still more filings claiming that Prince owed money or that the filer owned Prince's music library. The court will review and determine the veracity of each claim. The result of Prince's dying without a will is an investigation/battle in the public eye.

However, just because Prince died without a will does not necessarily mean that his siblings, niece or son will inherit his fortune. Prince may have

set up a trust, or many trusts, to own all of his assets. A trust is a private arrangement, known only to the people named in the trust agreement as trustees and beneficiaries. Prince would have been the beneficiary during his lifetime, and the trust agreement provides specific direction for what happens after his death.

If Prince did set up a trust during his lifetime and transferred his assets to it, those assets are not subject to the probate proceeding. The personal representative does not distribute them. There is no court appointment of a trustee or successor trustee. The trustee or successor trustee continues to manage the trust's affairs and follows the management and distribution directions in the trust agreement.

Does it matter that Prince died without a will? The public process seems excessive and upsetting. However, Prince may have made an intentional choice to address the negatives of being a celebrity by inviting a probate process. We can predict that people would come out of the woodwork to claim inheritance rights or a debt owed by Prince. The probate court addresses these issues once and for all. Prince may have owned a limited amount of assets in his own name, which are subject to the probate proceeding. Prince may have set up trusts to own the bulk of his assets and the confidential provisions of the trust agreements will dictate who inherits, how they inherit and how his legacy will continue. If Prince did want the public disclosure and exposure to dispense with the predictable claims, that goal is accomplished by dying without a will. •

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