PART I — FIND THE ROAD

CHAPTER 1

How Property Passes at Death

Which road controls each asset?

The Stack on the Table

A family can gather the will, the deed, two bank statements, a retirement statement, an insurance policy, a car title, and a ring of keys on the same kitchen table. Because all of it belonged to the same person, it is natural to assume that all of it belongs to the same legal process. The papers are in one stack. The property must be in one estate. The will must tell everyone what happens next.

That is where many families take the wrong turn.

HOW CAN PROPERTY PASS AFTER DEATH?

Probate is one road. Most estates use more than one.

Start with each asset

Each home, account, plan, and belonging may travel a different road.

Four questions

1. How is it titled?
2. Is a beneficiary named?
3. Is it owned by a trust?
4. What does state law allow?

Court-supervised paths

1. Will + formal probate: The will guides the court. It does not avoid probate.
2. No will + intestate probate: State law identifies heirs and the court appoints a representative.
3. Simplified / small-estate procedure: Some qualifying estates may use a shorter process.

Common non-probate paths

4. Revocable living trust: Properly funded trust assets follow the trust.
5. Joint ownership with survivorship: A valid survivorship title passes to the surviving owner.
6. Beneficiary designations: Valid beneficiary forms control covered accounts or policies.
7. POD / TOD accounts: The named beneficiary claims the account.
8. Transfer-on-death deed: Where allowed, a valid deed transfers the real estate.

One family—different roads

House in trust → Trust administration
Retirement account → Named beneficiary
Joint checking → Surviving owner
Car in owner’s name alone → Probate or simplified procedure

An estate is not one suitcase traveling one road. Each asset carries its own ticket.

General education only. State law and individual facts control.

One person may leave several kinds of property, and each asset may come with its own instructions. The home may be owned by a trust. A checking account may be joint with survivorship. A retirement account may have a beneficiary form on file. A car may be titled in the deceased owner's name alone. The will matters, but it does not automatically control every item in the stack.

Before anyone decides where property goes, begin with a smaller question: **What controls this particular asset?**

That question turns one overwhelming estate into a series of records that can be found, checked, and discussed. It also keeps the family from spending three weeks arguing about the will when the answer to an account question may be sitting in the bank's ownership records.

Start with One Asset

Choose one asset and name it clearly. "The bank account" is usually not clear enough. A person may have a checking account in one bank, a savings account in another, and a certificate of deposit opened years earlier. Each one may be titled differently. Each one may have a different beneficiary or transfer feature. Treating them as

one account can hide the fact that they may follow different roads.

The same is true of real estate. “The house” may mean the family home, a rental property, and a vacant lot. One deed may show individual ownership. Another may show joint ownership. A third may have been transferred to a trust. The furniture inside the family home does not necessarily follow the deed to the building. The mortgage tells you who is owed money; it does not, by itself, tell you who owns the property.

Begin with the record that identifies the asset and its ownership. Write down the institution, account number or partial identifying number, property address, vehicle identification number, policy number, or other detail that separates this asset from every other one. Then place the relevant documents beside it. You are not deciding the final result yet. You are making sure everyone is talking about the same thing.

Families sometimes resist this asset-by-asset approach because it feels slow. The dining room table already looks like a branch office, and no one is eager to give each paper more attention. But careful sorting at the beginning often saves time later. It is easier to ask a bank one precise question

than to call and say, “We need to know what happens to everything.”

Four Questions Find the Road

Most assets can be given a preliminary road by asking four questions. These questions do not replace the institution’s records, the controlling documents, state law, or qualified advice. They tell you what to look for and where the uncertainty remains.

1. How is the asset titled?

Title is the legal form of ownership shown in the controlling record. For real estate, that usually means the current deed and applicable land records. For a bank or investment account, it means the institution’s ownership record. For a vehicle, it may mean the certificate of title. Personal belongings may require a different kind of proof because a couch, a camera, or a set of tools does not arrive with an account agreement attached.

Do not rely on who used the property, who paid the last bill, or who has the keys. Those facts may matter for other reasons, but they do not automatically establish ownership. The son who drove his father’s truck every week may know the

truck better than anyone. The title still needs to be checked.

Exact wording matters. “Joint” does not always tell you what happens at death. The record may include a survivorship feature, or it may describe a form of co-ownership that sends the deceased owner’s interest into the estate. Real-estate language and marital-property rules vary by state. Write down the words you find instead of translating them into what the family thinks they mean.

2. Is a beneficiary named?

Some accounts and policies allow the owner to name who should receive the benefit at death. Retirement accounts, life insurance policies, annuities, and certain financial accounts often use beneficiary forms or contractual transfer instructions. If the form is valid and applies, the institution may pay the benefit under that contract rather than under the will.

The family copy is useful, but it may not be the controlling record. The owner may have changed the beneficiary later, named a contingent beneficiary, or completed a form that the institution did not accept. A named person may have died before the owner. A minor or a trust may be named. Spousal or other rights may affect what

the institution can do. Ask the plan administrator, insurer, or financial institution what it has on file and what it requires before a claim is made.

3. Is the asset owned by a trust?

A revocable living trust can control property that is actually owned by the trust or otherwise properly connected to it under applicable law. Signing a trust document does not automatically move the house, the bank account, the vehicle, and everything else into the trust. The deed, account title, assignment, or other ownership record still matters.

This is one of the most common places where a family's memory and the documents part company. Everyone may remember that their mother "had a trust." That tells you a trust document may exist. It does not yet tell you whether a particular asset was funded into it. Find the trust, then find the ownership record for the asset. Read them together.

4. What procedure does applicable law allow or require?

Once ownership and transfer instructions are understood, the remaining road may depend on state law and the type or value of the property. Some property may require a formal court-

supervised probate. Some estates may qualify for a shorter affidavit or simplified procedure. Real estate, vehicles, small accounts, unpaid wages, personal property, and property located in another state can be treated differently.

This is where a chart should stop pretending it can finish the job. Thresholds, waiting periods, forms, eligible people, required notices, and court involvement vary. The useful question is not, “Can we use the express lane?” It is, “Who can confirm whether this asset and this estate qualify for the procedure available here?”

Court-Supervised Roads

When property is titled in the deceased person’s name alone and no valid non-probate transfer instruction applies, it will often need a court-supervised or state-authorized estate procedure. The exact process depends on the property, the estate, and applicable law.

If there is a valid will, the will generally provides instructions for probate property, names the preferred representative, and explains who should receive what remains. The court process may still be needed to recognize authority, address claims, account for the property, and approve or document

the transfer. A will guides probate property. It does not, by itself, keep property out of probate.

If there is no valid will, state intestacy law generally supplies the inheritance rules for probate property, and a court may appoint an administrator or other personal representative. That does not mean the state "takes everything." It means state law identifies the people who inherit and the procedure for administering the estate. Family structure, marital rights, descendants, and other facts can change the result.

Some estates or assets may qualify for a simplified procedure. That can reduce time, cost, or formality, but "small estate" is a legal category, not a family description of the amount involved. A family may consider an estate modest and still find that real estate, timing, debt, or another requirement affects eligibility. Use the procedure only after the requirements have been checked.

Common Non-Probate Roads

Property may pass outside formal probate when a valid ownership arrangement, contract, trust, beneficiary designation, or transfer feature controls it. "Outside probate" does not mean "outside every rule." The person receiving the property may still need documents, may face taxes

or creditor questions, and may have to work with an institution or trustee before the transfer is complete.

A funded revocable living trust is one common road. The successor trustee administers property the trust actually owns under the trust terms and applicable law. If an account or house was never transferred to the trust, the trust document may not be enough to control it.

Valid joint ownership with survivorship is another possible road. When the title includes an effective survivorship feature, the surviving owner may receive the deceased owner's interest by operation of the ownership arrangement. Do not assume every joint account or deed includes survivorship. The exact title and applicable law control.

Beneficiary designations often control retirement accounts, life insurance, annuities, and other covered benefits. Payable-on-death and transfer-on-death features may do similar work for eligible accounts or securities. Where state law authorizes it, a transfer-on-death deed may direct real estate to a named beneficiary. In every case, the institution or recording system will require proof and its own process. The family should

confirm the current form instead of relying on an old copy found in a folder.

One Family, Four Roads

Consider one illustrative household with four familiar assets. The family has a home, a retirement account, a joint checking account, and a car. They also have a will, which is the first document everyone places in the center of the table.

The current deed shows that the home is owned by a revocable living trust. The trust document names a successor trustee, and the ownership record supports the transfer into the trust. The home will likely be administered under the trust rather than as an individually owned probate asset, subject to the trust terms, applicable law, debt, and other facts.

The retirement account has a beneficiary designation naming the owner's adult daughter. The plan administrator confirms the designation and provides its claim procedure. The daughter's claim follows the plan documents and beneficiary form, not the gift provisions in the will.

The checking account is jointly owned by the deceased person and a surviving spouse. The bank's record includes a survivorship feature. The

bank explains what proof it needs to update the account. The family does not decide the result by taking a vote; the account agreement and applicable law do that work.

The car is titled only in the deceased owner's name. No transfer-on-death feature appears on the title. The family now needs to determine whether the car belongs in probate or qualifies for a state procedure that allows a shorter transfer. The will may tell the representative who should receive the car, but authority and transfer paperwork still have to be handled correctly.

Four assets. Four records. Four roads. The family can now explain why the will matters without expecting it to control property governed by a trust, a beneficiary form, or a survivorship title.

When the Road Is Not Clear

Not every folder contains the document the family hoped to find. A deed may use unfamiliar language. A beneficiary form may be missing. The trust may list the house on a schedule while the recorded deed remains in the owner's individual name. A bank employee may say an account is joint without answering whether it includes survivorship. These are not reasons to guess. They are entries for an unresolved-fact list.

Write down the asset, the document you reviewed, the exact question, and the person or institution that can answer it. “Trust issue” is hard to act on. “Was the Oak Street deed recorded in the name of the Palmer Family Trust?” can be assigned to someone and checked. “What happens to Mom’s IRA?” is broad. “Who is the current primary beneficiary shown in the plan administrator’s record, and what claim documents are required?” is a working question.

The same discipline helps family conversations. Instead of telling a brother that the checking account is “obviously” his stepmother’s, the representative can say that the bank is reviewing the title and survivorship terms. Instead of promising that a small-estate form will work, the family can record who is checking the requirements and when an answer is expected.

Build an Asset Path Record

Use one line for each significant asset. Begin with a description precise enough that no one confuses it with another account or item. Add the ownership record, beneficiary or contract, trust connection, possible transfer path, authority required, unresolved fact, confirming source, responsible person, and checkpoint.

Oak Street home	**Ownership record:** Recorded deed **Other instruction:** Trust schedule may list home **Preliminary path:** Trust or probate review needed **Unresolved fact:** Does current deed show trust ownership? **Confirm with:** County record and qualified counsel
Employer retirement plan	**Ownership record:** Plan account record **Other instruction:** Beneficiary form **Preliminary path:** Beneficiary claim may apply **Unresolved fact:** Who is currently named? **Confirm with:** Plan administrator
Blue sedan	**Ownership record:** Certificate of title **Other instruction:** No form located **Preliminary path:** Probate or authorized transfer procedure **Unresolved fact:** Is there a lien or transfer feature? **Confirm with:** Motor-vehicle authority and lender

The words **preliminary path** protect the record from sounding more certain than the documents allow. When the institution or professional confirms the answer, update the line with the source and date. Do not erase the earlier question. The trail shows how the family reached the result.

One Asset Can Create Several Files

The home may require a deed file, mortgage file, insurance file, tax file, occupancy record, condition photographs, appraisal, and decision record. Those are not seven assets. They are records connected to

one asset. Give them the same asset name or identification number so the documents, money, and outcome stay linked.

The same applies to an account. A statement identifies the asset. A beneficiary form may control transfer. A loan or pledge may affect value. The institution's claim packet supplies a procedure. Tax records may affect later reporting. Keeping those pages together prevents one convenient document from being mistaken for the whole answer.

What the Will Can and Cannot Tell You

When relatives read a will first, they may circle the name of a beneficiary and assume the property question is finished. The will can show an instruction for probate property. It may also reveal a preferred representative, backup plan, special gift, trust at death, or residuary distribution. It usually cannot confirm the current title of a bank account, the beneficiary on file with a retirement plan, or whether a house was later deeded to a trust.

Read the will and the asset record as two witnesses answering different questions. If they point in the same direction, record that. If they do not, do not choose one by family vote. Mark the conflict for qualified review.

The Cost of Choosing the Road Too Soon

An early mistake can spread. If a family treats a beneficiary account as probate property, it may promise money the estate does not control. If it treats an individually titled asset as trust property, the successor trustee may try to act without the correct authority. If it assumes survivorship without checking title, it may exclude an asset from the inventory too soon.

The preliminary sort is meant to organize the investigation, not authorize a transfer. Protect the property, preserve the documents, and wait for the controlling answer before selling, distributing, retitling, or promising it.

Put the Next Question in Writing

For each asset, record the exact title, any beneficiary or contractual transfer feature, any trust ownership evidence, the possible road, and the fact still missing. Add the institution or professional who should confirm it, the person responsible for following up, and a checkpoint date.

That short record does more than organize paper. It keeps a preliminary sort from hardening into a family promise. It shows why two assets associated with the same person may be handled

differently. It gives an attorney, trustee, banker, plan administrator, insurer, or title professional a question that can be answered without first untangling the family's entire history.

The Companion Field Guide's preliminary property-path worksheet and Asset Ownership and Path Sorter provide room for the fuller record. Begin with one asset. Follow the documents attached to it. When the road is uncertain, record the missing fact instead of filling the blank with confidence.

The estate may be one responsibility, but its property does not travel as one package. Each asset carries its own instructions, and those instructions deserve to be read before anyone starts moving it down the road.

General educational caution: This chapter provides general educational information, not legal, tax, financial, insurance, valuation, or real-estate advice. Ownership, trust funding, beneficiary rules, survivorship, marital and creditor rights, taxes, small-estate procedures, transfer-on-death features, and required documents vary by state, institution, asset, and individual facts. Confirm authority and the controlling procedure with the appropriate

institution and qualified professional before transferring property.