

The Intestacy Epidemic

Intestacy statutes govern the disposition of property when a person dies without a will. Many more individuals face intestacy than those whom it suits. Why do so few people actively control who will own their property after death? Why, for so many, is the final act of property transfer passive rather than active?

Why Avoid Intestacy?

- Intestacy statutes are a poor fit for today's diverse range of family structures.
- Intestacy statutes fail to fully encompass loved ones decedents may wish to benefit, particularly in cases of blended families, same-sex or domestic partners, and multi-generational families.
- Even among "traditional" family structures, default distributions under intestacy law are often inconsistent with what some individuals – or even the majority of individuals – want.
- When intestacy statutes operate, property passes only to relatives, never to charitable institutions (including that most noble institution, the law school).
- Intestacy statutes have been soundly criticized for failing to achieve their key objectives – generally, to simulate the estate plan the decedent would have chosen (the presumed will theory) and/or to provide support to dependents of the decedent (the duty theory).

Why are Rates of Testacy So Low?

- Past research has noted that reasons people fail to execute a will include: cost, fear of death, procrastination, laziness, and the belief that a will is unnecessary for them based on their assets or family situation.
- We posit that there is an additional contributing factor: poor marketing.
- Many of the reasons people give for failing to execute a will could be overcome with simple marketing techniques.
- When personal factors like procrastination and laziness are the key reasons for failing to make a purchase, a marketing message is likely to prompt a consumer to action.

The Intestacy Epidemic and the Marketing of Wills

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The Demographics of Intestacy

Whom does intestacy strike? Is it an equal opportunity ailment, or are lower-status groups disproportionately affected? To whom should wills be marketed?

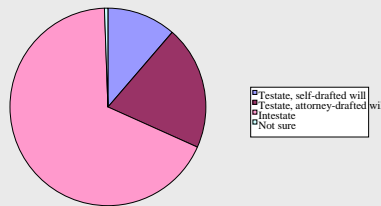
To answer these questions, 324 subjects from a nationally representative sample (obtained for a fee from a market research company) answered questions about their demographic background and whether they had a will.

Key findings:

Overall, only 31% of subjects had a will. Roughly a third of those subjects who had a will drafted their own. There are dramatic differences in rates of intestacy among various classes of subjects. The findings that follow are statistically significant to a level of $p < .05$ under a chi square analysis (most have better levels of significance).

- Men have a higher rate of testacy than women.
- Whites have a higher rate of testacy than non-whites.
- Higher income is associated with higher rates of testacy.
- Higher education is associated with higher rates of testacy.
- Increased age is associated with higher rates of testacy.
- Marital status is associated with testacy, with singles being least likely to have a will, married people more likely, and formerly-married (widowed or divorced) most likely to have a will.

Distribution of Intestacy



The Marketing of Wills

Might better informed marketing practices increase rates of testacy? Does the world of business have anything to offer legal intestacy scholarship? We believe it does.

In this interdisciplinary article, we applied business school models of marketing analysis to the estate planning sector. The analysis revealed several shortcomings in the way wills are marketed, and many opportunities for enhancing the efficacy of marketing wills.

Marketing of Wills: The Current Picture

- Current customers don't make informed decisions.
- Information is limited to those who seek it.
- Large sections of the population are underserved by the industry.
- Lack of differentiation among competitors.
- Not respecting threat of substitute goods.
- Lack of customer relationship building.

The Future of Marketing Wills

- Outsourcing marketing could allow efficient leveraging of talents.
- Reducing customers' learning costs will result in better informed customers who are more comfortable purchasing.
- Segmentation will allow for target marketing which will help to effectively communicate with underserved demographic base.
- Positioning firms with clear messages will allow customers to understand service differences.
- Differentiation will create switching costs which can aid firms in keeping customers loyal.
- CRM and other customer-centric strategies will allow for a longer-term relationship with the client.

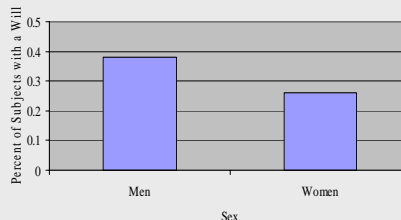
Conclusion

- Intestacy is a chronic ailment with many root causes. One cause is poor marketing.
- Intestacy statutes offer an increasingly poor alternative to wills, because stagnant statutes do not reflect the diverse range of family structures in modern society.
- Disadvantaged groups are even more susceptible to intestacy, in part due to lack of information.
- Better marketing strategies could result in a more fully informed public, across a wider demographic.
- When marketing of wills is more efficient and effective, more people will execute wills.

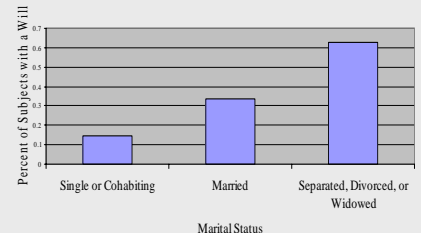
Percent of Testate Subjects by Race



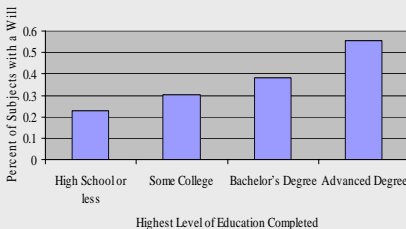
Percent of Testate Subjects by Sex



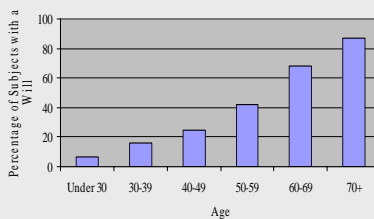
Percent of Testate Subjects by Marital Status



Percent of Testate Subjects by Educational Level



Percent of Testate Subjects by Age



Percent of Testate Subjects by Income

