

INDIANA ESTATE PLANNING CHECKLIST

Indiana residents can follow the instructions provided below to ensure that they have prepared all of the legal instruments necessary to plan how they wish their affairs to be handled in the event of an emergency or their death. Planning for end-of-life medical treatment and the distribution of an individual's estate can be very stressful and difficult to approach. By following this step by step guide, individuals can compile and complete the necessary forms. It is strongly recommended that residents engage the services of a professional attorney when executing these legal instruments.

Step 1 – Select a Health Care Agent

To ensure that their wishes will be upheld regarding medical treatment, the individual should appoint a **Health Care Agent**. The individual should relay any intentions regarding end-of-life treatment to the Agent, who will act as the individual's representative regarding medical decisions should the need arise. In the event that the individual enters into a coma or is otherwise unable to make decisions for themselves, the Health Care Agent will be authorized to make these decisions in their stead.

[Appointment of Health Care Representative and Power of Attorney Form](#) – Using this form, an individual (the Appointor) can appoint another individual to act as their Health Care Agent.

- **Signing Requirements** ([§ 16-36-1](#)) – This form requires the signatures of the Principal (Appointor), the Representative (Health Care Agent), and at least one (1) Adult Witness.

Step 2 – Select a Financial Agent

The **Financial Agent** is authorized by an individual (the Principal) to represent them in making financial decisions in the event that they become unable to make decisions on their own. The Principal should inform the Financial Agent beforehand on how they wish their finances to be managed.

[Indiana Durable Power of Attorney Form](#) – Gives an individual the power of attorney to make financial decisions and execute certain legal documents as the Principal's representative.

- **Signing Requirements** ([§ 30-5-4-1](#)) – Must be signed by the Principal in the presence of a Notary Public, who is also required to sign.

Financial Powers Allowed:

- Real estate transaction;
- Transactions involving tangible personal property, chattels, and goods;
- Bonds, shares, and commodities transactions;
- Banking transactions;
- Business operating transactions;

- Insurance transactions;
- Estate transactions;
- Gift transactions;
- Claims and litigation;
- Personal relationships and affairs;
- Benefits from government programs and military service;
- Records, reports, and statements;
- Delegation;
- Voter registration and absentee ballot requests; and
- and other requests as allowed within the State by the Principal.

Step 3 – Make a List of All Estate Items

A [Current Assets List](#) can be used when planning the distribution of an individual's estate. This list should include any real estate, financial holdings, banking accounts, and personal property in the individual's possession. By making an organized list of all of the individual's property, it will be much easier to decide how to divide their assets amongst their beneficiaries.

Step 4 – Select Beneficiaries

After completing the Current Assets List, the individual will need to designate who their beneficiaries will be and how the individual's estate will be divided between them. Specifically listing their beneficiaries and how their property will be distributed amongst them helps to avoid conflicts when the estate is divided after the individual's death.

Step 5 – Decide How to Transfer the Estate

Now that the individual has made a list of their current assets and decided who their beneficiaries will be, they will need to execute a legal instrument that ensures that their estate will be distributed in accordance with their wishes. There are two main (2) types of instruments that an individual can use to distribute their estate.

[Last Will and Testament](#) – Individuals can use this legal instrument to leave instructions on how their property should be administered when they die.

- **Signing Requirements** ([§ 29-1-5-3](#)) – Required to be signed with at least two (2) witnesses present.

[Revocable Living Trust](#) – A Living Trust allows an individual to put their assets into a Trust; all assets in the Trust will bypass probate when they are distributed after the individual's death.

- **Signing Requirements** ([§ 30-4-2-1.5](#) and [§ 30-4-2-2](#)) A Living Trust must be signed by the Principal (Settlor) or the Settlor's Attorney in Fact. Furthermore, the Trustee(s) can also sign in acceptance of the Trust, although this is not required.

Step 6 – Keep the Documents Safe

The original documents and copies thereof must be kept safely by the Principal and can also be sent to the Agent(s), Attorney-in-Fact(s), and Trustee(s) named within. It is vitally important that these documents are preserved so that they may be proved in the event that the Principal dies or befalls some medical emergency.

Indiana Estate Planning Laws

- **Advance Health Care Directive** – [§ 16-36-1](#)
- **Durable Power of Attorney** – [§ 30-5-4-2](#)
- **Last Will and Testament** – [§ 29-1-6-1](#)
- **Living Trust (Revocable)** – [§ 30-4-2-1.5](#)