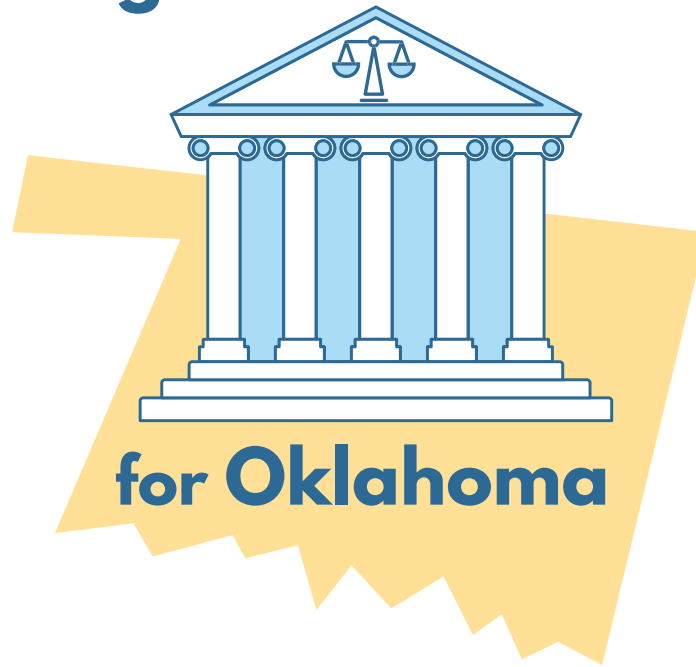


# Legal Information



Visit **Legal Information for Oklahoma** to find:

- Digital downloads of the legal resource sheets in this binder
- Online tutorials to help you with your legal research

[oklahoma.gov/libraries/legal-info](http://oklahoma.gov/libraries/legal-info)



The **Legal Information for Oklahoma** initiative seeks to **collect, organize, and promote access** to resources related to the Oklahoma legal system for the benefit of all Oklahomans.

Sponsored by

**Oklahoma Access to Justice Foundation** and the **Oklahoma Department of Libraries**  
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SERVICES**

# BANKRUPTCY

## Filing As an Individual

### CHAPTER SEVEN

Assets and property may be sold to pay debts; this process is often called "liquidating assets."

A trustee is appointed to oversee the repayment of debts owed.

The trustee immediately pays debts after assets and property are sold.

#### OTHER NOTES

Bankruptcy may not be right for everyone. Other options may include negotiating with creditors, consolidating loans, attending credit counseling, or disputing a debt. Filing fees for bankruptcy are around \$300. While it is possible for an individual to represent themselves in a bankruptcy proceeding, it is highly recommended to seek professional legal counsel.

### CHAPTER THIRTEEN

A payment plan is established to repay debts owed and a portion of the debtor's income is used to pay debts.

A trustee is appointed to oversee their payment of debts owed.

Either the person pays directly, or part of their wages are paid toward the debt.

SCAN TO LEARN MORE  
ABOUT BANKRUPTCY



For More Information  
[www.okbar.org/a2j/debt](http://www.okbar.org/a2j/debt)



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# BANKRUPTCY

## Filing As An Organization

### CHAPTER 11

Chapter 11 bankruptcy involves selling and reorganizing property and assets in order to pay debts. A trustee will not be assigned to oversee the sale of property and assets, unless a judge determines a trustee is necessary. While individuals may file Chapter 11 bankruptcy, it is most common among organizations and businesses.



### CHAPTER 12

Only a family farmer or a family fisherman can apply for this. The debtor agrees to send a part of all income to pay debts and a trustee handles all funds to determine how to pay the debts.



### Other Options

Bankruptcy may not be right for everyone. Other options may include negotiating with creditors, consolidating loans, attending credit counseling, or disputing a debt. It is best to seek legal representation when seeking bankruptcy.

For More Information  
[www.okbar.org/a2j/debt](http://www.okbar.org/a2j/debt)

SCAN TO LEARN MORE  
ABOUT BANKRUPTCY



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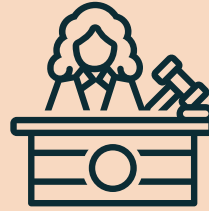
# Divorce

## Grounds for Divorce



The most common grounds for divorce in Oklahoma are incompatibility, abandonment for over a year, and long-term incarceration, though other grounds are also in the law.

## Role of the Court



The Court will fairly divide property and debt from the marriage; determine child custody, visitation, and support; and grant the divorce. The Court can award alimony, but it does not always do so.

## Length of Time



If both parties agree to the divorce and there aren't any children, a divorce can be granted within 10 days of filing. If there are minor children, there is a 90 day waiting period. If there is argument about the divorce, the dividing of items, or if lawyers are involved it can take longer than 90 days.

## When Is It Final?



The divorce is official the day the judge grants the divorce and the petitioner files the final decree with the court clerk. You cannot remarry or cohabitate with another person, other than your ex-spouse, for six months in Oklahoma.

## Additional Notes



Lawyers are not required for divorces, but many do use them to better negotiate outcomes. Divorces are decided by judges—a jury will never hear a case for divorce. There are standard visitation schedules for children, however, parents can make their own or consult with a judge to help make one.

SCAN TO LEARN MORE  
ABOUT DIVORCE



For More Information [www.okbar.org/a2j/familylaw](http://www.okbar.org/a2j/familylaw)



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# ALL ABOUT GUARDIANSHIP

Minor guardianship is taking temporary custody of a child who loses a parent, is in physical danger, or when the child's parent appoints you to do so.

## WHO CAN BE A GUARDIAN



A parent, a grandparent, a person nominated by a deceased parent to be guardian, a relative of a parent, or any person the child has lived with, as long as they are approved by the court.

## WHAT THE CHILD IS OWED



The guardian must act in the child's best interest. If the court finds that a guardian did not act in the child's best interest or wasted the child's money, the guardian can face criminal and civil charges.

## LAWYERS



Lawyers are not required in guardianship cases, but can be helpful because of how complex the cases can be. If you have any questions, it is better to reach out to a lawyer than not.

## WHAT THE COURT REQUIRES



If you become a guardian, the court requires you to submit an application, a plan for guardianship, a list of the child's property, an annual report of the child's property, an annual report of the child's mental and physical wellbeing, and a form to move the child. Guardians must go through a background check.

# ADULT GUARDIANSHIP

## Who needs a guardian?

A guardian may be needed if someone is incapacitated, which means that they are significantly impacted by:

- Mental illness,
- Physical illness or disability,
- Substance dependency, or
- Something similar that prevents them from caring for themselves.

## Who can be a guardian?

Anyone interested in the wellbeing of the incapacitated person may apply to be a guardian. If a person is at least 18, of sound mind, acting independently, voluntarily, and not being inappropriately influenced, they may recommend their own guardian.

## What do guardians do?

Guardians have the power to make decisions for an adult who cannot make decisions for themselves. They are responsible for the health and safety and/or management of finances of the adult in their care.

## What is the process?

To become a guardian, a person must submit an application called a petition to the court for review. Templates with more information are available at the link below. Lawyers are not required in guardianship cases, but can be helpful because of how complex the cases can be.



# ADULT GUARDIANSHIP TIMELINE



Forms Available  
Here

1 Go to <https://www.okbar.org/a2j/guardian> and open the 'Checklist and Forms' document to see forms and instructions. Fill out the necessary forms and take them to court to be filed.

2 Once you have filled out and filed your documents, you must send certain people a copy of those documents. This is known as 'service.' A full list of the people you must serve is included in the checklist.

## NON-EMERGENCY

3 Within 30 days, you will be scheduled for a hearing at the courthouse. At that hearing, you will tell the judge why you should be the incapacitated person's guardian.

4 If the judge agrees, you will immediately become the guardian for that individual.

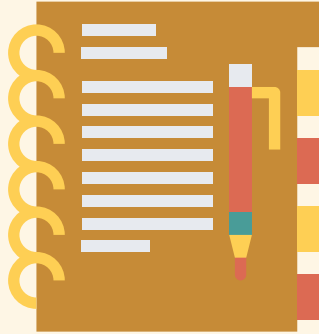
5 You must submit an annual report for every year you serve as a guardian. The report includes an update about the incapacitated person's health, where they live, and information about their assets. You can use the templates in the checklist mentioned above.

## EMERGENCY

3 You will see a judge the same day as filing the documents, and, if approved, you will immediately become the temporary guardian.

4 Within 10 days, you will be scheduled for a hearing at the courthouse. At that time, the judge will decide if you should remain the person's guardian.

## OTHER NOTES



If the child is 14 or older they can nominate their own guardian, but the court still has to approve the selection.

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**SCAN TO LEARN  
MORE ABOUT  
GUARDIANSHIP**



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For More Information  
[www.okbar.org/a2j/guardian](http://www.okbar.org/a2j/guardian)



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Disclaimer: All the information on this page is general information, not legal advice. Consult a licensed attorney to address your specific circumstances.







# PROBATE COURT

## WHAT IS PROBATE ESTATE?

PROBATE ESTATE IS ANY PROPERTY OWNED BY SOMEONE WHO HAS DIED HAVING NO NAMED BENEFICIARY.

## WHAT DOES PROBATE COURT DO?

The court looks at probate property to determine value, pay debts, and distribute to those listed in a will or trust, or to heirs if there is no will.



## CAN IT BE AVOIDED?

If the value of the property is less than \$50,000 it can be claimed with a small estates affidavit.



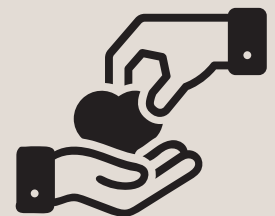
## HOW LONG DOES IT TAKE?

It is hard to estimate, but most take six to twelve months to settle. However, some larger estates can take longer.



## HOW IS PROPERTY GIVEN OUT?

If there was a will or trust, property is given out according to that plan. If there was not a will, Oklahoma laws will determine who gets the property.



SCAN TO LEARN MORE  
ABOUT ESTATE PLANNING



For More Information  
[www.okbar.org/a2j/estateplanning](http://www.okbar.org/a2j/estateplanning)



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# Resolution Options

Going to court is not the only option—  
negotiation, mediation, and arbitration can be great ways to solve conflict.



## Negotiation

A voluntary way to quickly and informally come to a solution through talking and negotiating with the other person. There is no deciding person-- those in conflict must come to a solution themselves. Lawyers are not needed, but can be used to help negotiate. Negotiations can be private and confidential, fully controlled by those negotiating, and may be enforceable in court at a later time if needed and in writing.

## Mediation

A voluntary way to come to a mutually-agreeable solution by talking with the other person in the presence of a mediator, who will not make a decision, but will instead make sure things stay calm and negotiations go smoothly. Mediators are generally paid for their work, though the Early Settlement Mediation Program is free. Mediations are private and confidential and are a good way to preserve relationships between those in conflict. Lawyers are not necessary, but may be helpful.

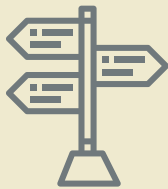


## Arbitration

The dispute is sent to an arbitrator, a third person that is impartial, who makes the final decision on what the solution should be. Lawyers are generally involved in representing issues to the arbitrator. A lot of contracts require arbitration as the first way to solve disputes arising under the contract. Arbitration is private, quicker than going to court, and the arbitrator's decision can be enforced in court.

## Litigation (Going to Court)

This process is involuntary—if someone is sued in court, they must reply. This process is highly structured and formal and is not private. Decisions will be made by either a judge or a jury and are based on the law. These decisions can be appealed for review by another judge or jury, but that can only happen so many times and does not guarantee a different outcome. Lawyers are not required but are usually used.



## How to Choose

Consider what is best for your situation: level of privacy, level of formality, level of personal control over solutions, amount of time, cost, and enforceability in court. There are times that going to court may be the best option, but other times negotiation, mediation, or arbitration will be better.

**SCAN TO LEARN MORE  
ABOUT CONFLICT AND  
DISPUTE RESOLUTION  
OPTIONS**



For More Information [www.okbar.org/a2j/disputes](http://www.okbar.org/a2j/disputes)



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# ALL ABOUT SMALL CLAIMS COURT

Learn about Small Claims Court and how it can be useful to you!

## WHAT IS SMALL CLAIMS COURT?

Small Claims Court is a court that hears cases that can be solved with less than \$10,000. It is typically faster than other courts. Anyone can use Small Claims Court, but it is generally used for breach of contract, evictions, personal injury, and property claims. It is not for libel and slander, family, or probate matters.

## LAWYERS



People can choose to be represented by lawyers in Small Claims Court, but it is not required. Small Claims Court is generally less formal than other courts and is meant for those that represent themselves.

## DIFFICULTIES



People in Small Claims Court, even those without lawyers, must follow rules for what evidence they can bring. To avoid having important evidence excluded, make sure every person that is involved, from mechanics that gave price estimates to witnesses that gave witness statements, is physically in the courtroom to testify.

## COUNTERCLAIMS



The person being sued (defendant) can file claims against the person suing them, usually saying the person suing (plaintiff) is at fault in some way and owes the defendant money. The counterclaim must be filed at least 72 hours before the court date.

## ADDITIONAL NOTES

Cases in Small Claims Court are usually decided by a judge, but a jury can be requested for cases over \$1,500. To request a jury, the request must be made in writing more than two days before the court date. If the person being sued does not show up for the court date, the person doing the suing automatically wins and gets the amount they requested, including court costs and fees.



**SCAN TO LEARN  
MORE ABOUT  
SMALL CLAIMS COURT**



For More Information  
[www.okbar.org/a2j/disputes](http://www.okbar.org/a2j/disputes)



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# EVICTIION PROCESS

## NOTICE

The landlord must give you written notice before filing for eviction. After giving you the notice, you may have a limited time to move out, pay rent owed, or fix a problem. The landlord may send written notice in two ways:

1. Post the notice on your door AND send you a copy by certified mail.
2. The landlord, a process server (a person hired to give you the notice), or the sheriff can give you or a person in your home the notice in person.

## SUMMONS

The landlord must give you official notice of when you have to go to court. This is called the "summons." The summons tells you when and where the hearing will take place.

## AT THE COURTHOUSE

Before you speak to the judge, you may have a chance to talk to the landlord or their representative and work out an agreement. If you cannot make an agreement or would prefer to talk to the judge, you may ask for a hearing. The judge will listen to the landlord first, then you before coming to a decision.

## DECISION

If the judge rules against you, you must follow the judge's directions. You may have only 48 hours to move out. If you do not move in time, the landlord can ask the sheriff to post a 48-hour notice on your door. After 48 hours, the sheriff will return to remove you and lock you out.

**You MUST go to court or you will get a "default judgment." That means the landlord automatically wins the eviction and you will be evicted.**



# LANDLORD-TENANT RIGHTS

If your landlord does not keep the property safe & livable, you can:



**Repair & Stay:** Give the landlord written notice. If they don't fix it within two weeks, you can fix it and deduct the cost up to one month of rent. You must give your landlord an itemized bill.

**Move Out:** You must give written notice that if the repair is not made within two weeks, you will move out within a month of when you told them about the issue.

**Essential Services:** Your landlord must provide some essential services like heat and water. If they do not, there are other steps you can take and you can learn more about them at [bit.ly/RequiredServices](https://bit.ly/RequiredServices)

## Landlord Right of Entry

The landlord must give you 24 hours' notice before entering your home, and can only enter during reasonable hours (unless in an emergency). Tenants must let the landlord in for usual inspections and repairs.



## If you leave anything behind after you move out:

If the landlord thinks the property has no value, they may throw it away. If the landlord thinks the property is worth something, they must hold it for 30 days and you may either pick up your property and pay anything you owe, or the landlord may sell the property and use that money to pay anything you still owe after that time.



# RESOURCES



[OKLAW.ORG/ISSUES/HOUSING/EVICTIONS](https://oklaw.org/issues/housing/evictions)



[TULSALTRC.ORG/RENTING-TENANT/](https://tulsaltrc.org/renting-tenant/)



[WWW.SHELTERWELL.ORG](https://www.shelterwell.org)



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# Victim Protection Orders

Information from LegalAidOK.org



## What is a Protective Order?

A legal order that helps protect you and your children from harassment and abuse by limiting what the abuser can do, including limiting communication on social media and over the phone and prohibiting in-person contact. If the order is violated, the abuser can be arrested and punished.



## Who Can Get a VPO?

Anyone who has experienced domestic abuse or violence by an intimate partner or a family/household member or anyone whose minor child was a victim of a violent crime.



## Who is it Against?

Any person related to you by blood or marriage, anyone you have had a dating or sexual relationship with, anyone you have a child with, adoptive or foster parents, or any family of your minor child that has committed an act of rape, sex offense, assault, battery, kidnapping, or stalking.



## Where to Get One?



You can get one in the District Court in the county where you live, the county where the abuser lives, or the county where the abuse happened. You will fill out a Petition for Order of Protection where a judge is told everything that has happened to make you want protection.

## What to Include in the Petition

Specific history of abuse, description of injuries, why the abuse is likely to happen again, physical description of abuser, address or workplace of abuser and times abuser will be there, if the abuser has knives, guns, or other weapons. This can be included on a separate piece of paper.



SCAN TO LEARN  
MORE ABOUT  
VICTIM PROTECTION ORDERS



For More Information  
[www.okbar.org/azj/vpo](http://www.okbar.org/azj/vpo)



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# ALL ABOUT WILLS AND TRUSTS

## What You Need to Know

### The Difference in Wills and Trusts



A will is a legal document that says what to do with your property when you die. A trust allows someone to give a trustee the right to own title in their property or assets to benefit a third party.

### How to Make a Will



It is highly recommended to get legal advice and help when creating your will or trust so it is within the bounds of the law and includes everything necessary. A will can be completely handwritten, dated and signed in your own handwriting as long as it has no typed or printed parts.

### What Happens Without a Will



Oklahoma law governs what happens to your property when you die without a will or trust. This can be complicated based on your family structure, so it is recommended to consult with a legal advisor.

### Other Documents



A revocable trust allows you to manage your property while you are still alive, and once you die elects a trustee to finish distributing the property. A Transfer on Death Deed transfers real property (like a house) outside of the probate process, through a deed, effective when you die.

### What is a will or trust?

Trusts and wills are written documents that say what to do with your property when you die. Having a will or trust lets you decide what happens to your property instead of having state law decide for you. Both let you choose your manager, and without it the state could choose someone you don't like to make those decisions.

SCAN TO LEARN  
MORE ABOUT  
WILLS & TRUSTS



For More Information  
[www.okbar.org/a2j/estateplanning](http://www.okbar.org/a2j/estateplanning)



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# COURT FORMS

.....  
**Petition for Protective Order** OSCN forms



 **Guardianship** step-by-step checklist for obtaining guardianship of a minor

.....  
**Civil Cover Sheet** OSCN forms used for small claims, family, and domestic law (including divorce and probate)



 **Other Legal Forms** links to Legal Aid services and their collection of legal forms

.....  
**Garnishment** OSCN forms—affidavits and continuing calculations ■■■ Legal Aid resources—information about garnishment



.....  
**Child Support** forms from Oklahoma Human Services—acknowledgment of parentage, and application for child support services



 **Juvenile Deprived** OSCN forms—including emergency custody forms, and declaration of kinship persons

.....  
**Workers Compensation**



# Law Libraries in Oklahoma

There are public law libraries in each of the 77 Oklahoma counties, typically located in the courthouse. Some have staff to help, but many do not.

The following are Oklahoma law libraries with staff to assist the public:

## Oklahoma County Law Library

321 Park Avenue, #247

Oklahoma City, OK 73102

(405) 713-1353

[www.oklahomacounty.org/County-Information/Quick-Links](http://www.oklahomacounty.org/County-Information/Quick-Links)

## Tulsa County Law Library

500 S. Denver Avenue, #242

Tulsa, OK 74103

(918) 596-5404

[www.tulsacountydistrictcourt.org/lawlibrary.html](http://www.tulsacountydistrictcourt.org/lawlibrary.html)

## Oklahoma City University

800 N. Harvey Avenue

Oklahoma City, OK 73102

(405) 208-5271

[law.okcu.edu/law-library](http://law.okcu.edu/law-library)

## University of Oklahoma Law Library

Donald E. Pray Law Library

300 Timberdell Road

Norman, OK 73019

(405) 325-4311

[www.law.ou.edu/law-library](http://www.law.ou.edu/law-library)