

Trusts and Estates Syllabus

Spring 2026

Monday, Wednesday 6:30-7:45

Online

LAW 531

Professor David English

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Current as of 1/7/26

Overview

Wills and Trusts is a three-hour elective that will teach the law of wills, trusts and related concepts within a law practice context.

Course Materials

1. William M. McGovern, Sheldon F. Kurtz & David M. English, Principles of Wills, Trusts & Estates (2d ed. 2012), ISBN 978-0314273574 [required]
2. Cases, problems and other materials posted on D2L
3. PowerPoint Slides posted on D2L

Learning Objectives

Students will:

1. Acquire a substantive law background for practice in the fields of estate planning, estate and trust administration, and fiduciary litigation.
2. Gain knowledge useful for the wills and trusts questions on the bar exam.
3. Become familiar with the more common estate planning documents.
4. Learn how to analyze estate and trust statutes and the policy reasons behind the provisions.

Course Requirements

The 3-hour final exam will count as 100% of the course grade. The exam will be open-book.

Attendance and Participation

Students should complete the assigned reading material before each class session and take part actively in class. Regular punctual attendance is required of all students. The maximum number of absences is six. For students who accumulate over six absences, the professor may recommend

that (1) the student receive the lowest possible grade, (2) the student receive a “W,” or (3) the student continue in the course but with a grade reduction.

Writing Assignment

To comply with the law school’s writing across the curriculum requirement, you must complete and hand in an answer to a sample bar exam question. You must complete the writing assignment without using AI. Completion of the writing assignment is a prerequisite to taking the final exam. The professor will announce the assignment details later.

Expected Workload

Under ABA Standard 310, students are expected to spend at least two hours outside class preparing for each hour spent in class.

Plagiarism

Plagiarizing another’s work, in whole or in part, violates the Honor Code and can lead to serious penalties, including expulsion. The Bar Examiners must be informed of an Honor Code investigation, even if the investigation clears you of the violation. The Honor Code defines plagiarism as:

passing off another’s ideas, words, or work as one’s own, including written, oral, multimedia, or other work, either word for word or in substance, unless the student author credits the original author and identifies the original author’s work with quotation marks, footnotes, or other appropriate designations in such a way as to make clear the true author of the work.

Recording

I will attempt to record each class and make the recordings available.

Other Policies

Attachments incorporated by this reference: SIU School of Law Syllabus Attachment and the University Syllabus Attachment.

Instructor

I am the W.F. Fratcher Professor of Law at the University of Missouri at Columbia, where I have taught Property, Trusts and Estates, Estate Planning, Federal Income Tax and Elder Law. Before becoming a law teacher, I was an associate in the estate planning and probate department at the Chicago law firm of McDermott, Will and Emery, and an estate planning and tax associate and later partner at the Chicago law firm of D=Ancona and Pflaum. I am best known for my work with

the Uniform Law Commission. I was the Reporter (principal drafter) of the Uniform Trust Code, the Uniform Health-Care Decisions Act, and the Uniform Adult Guardianship Jurisdiction Act. In addition to my activities with the Uniform Law Commission, I am a past Chair of the ABA Section of Real Property Trust and Estate Law and a past Chair of the ABA Commission on Law and Aging.

In addition to writing many articles, I am the author or co-author of seven treatises: Tax, Estate & Financial Planning for the Elderly, and Tax, Estate & Financial Planning for the Elderly: Forms and Practice, published by LEXIS; Wills, Trusts & Estates and Principles of Wills, Trusts & Estates, published by West Academic; Missouri Probate Law & Practice, and Missouri Surrogates Manual, published by Thompson; and Fiduciary Accounting and Trust Administration Guide, published by ALI Books.

Schedule of Assignments Attached

The attached schedule of assignments is currently the best guess on what we will cover in the course. I will announce any changes in class and update the schedule of assignments to reflect these changes.

**Trusts and Estates
SIU Law School
Professor David M. English
Spring 2026**

**SCHEDULE OF ASSIGNMENTS
(current as of 1/7/26)**

Key to Assignments:

| | |
|-----------|---|
| Book: | Readings in Wills, Trusts & Estates |
| Readings: | Articles posted on D2L |
| Cases: | Cases posted on D2L |
| Statute: | Statutes posted on D2L |
| Forms: | IICLE Estate Planning Forms posted on D2L |

Key to statutes:

| | |
|-----|-----------------------|
| IPC | Illinois Probate Code |
| ITC | Illinois Trust Code |

1. PROBATE PROCESS

Assignments 1-3 BIntroduction/Overview of Probate Process

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|-----------|------------------------------|
| Book: | 1.1, 13.1, 13.2, 13.5 |
| Readings: | Questions on Estate Planning |
| Cases: | Tulsa v. Pope |
| Statute: | IPC 5/18-3, 18-12 |

2. INTESTATE SUCCESSION

Assignments 4-6--Basic Rules

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|----------|-----------|
| Book: | 2.1-2.3 |
| Statute: | IPC 5/2-1 |

Assignment 7BAdvancements/Slayers

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|----------|-------------------------------------|
| Book: | 2.6-2.7 |
| Cases: | Estate of Mahoney |
| Statute: | IPC 5/2-5, 2-6, 2-6-2, 2-6.5, 2-6.6 |

Assignment 8B Children Born Out of Wedlock

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|-------|-----|
| Book: | 2.9 |
|-------|-----|

Cases: Cody v. Johnson
Statute: Illinois Parentage Act 201-204, IPC 5/2-2

Assignment 9BAdoption

Book: 2.10
Statute: IPC 5/2-4

Assignment 10--The New Biology

Book: 2.11
Readings: Surrogacy Contracts are an ART Form

3. CLIENT COUNSELING

Assignment 11BInterviewing the Client

Readings: Getting Ready for Your Appointment
Estate Planning for Digital Assets
My Estate Plan is CompleteBWhat Next?
Other: Movie on Counseling the Client
Client Questionnaire
Engagement Letter
Statute: Uniform Fiduciary Access to Digital Assets Act [skim]

4. LAW OF WILLS

Assignments 12-13--Will Execution

Book: 4.1-4.3
Cases: In re Estate of Latek
In re Estate of Parsons
Forms: Illinois Will Execution Affidavit
Statute: IPC 5/4-1, 4-3, 4-6(a), 6-4, 7-1

Assignments 14 and 15--Will Revocation

Book: 5.1-5.3
Cases: McGill=s Will
Thompson v. Royal
Boysen
Forms: Will Form Exordium Clause [IICLE 17.51 first page],
Codicil Form
Statute: IPC 5/4-7, 6-1

Assignment 16B Interpretation

Book: 6.1 (pp. 313-324 only)
Cases: Estate of Gibson
Hays v. Illinois Industrial Home

Assignment 17--Components of Wills

Book: 6.2
Cases: Simon v. Grayson

Assignments 18 and 19B Contest for Lack of Capacity

Book: 7.1, 13.3
Readings: Doctors Note for Will Signings
Cases: Estate of Getty
Malone v. Malone
In re Honigman's Will
Statute: IPC 5/8-1

Assignments 20B Contest for Undue Influence

Book: 7.3
Cases: Swenson v. Winterkorn
Forms: IICLE 17.21 Art. 1.1

Assignment 21—Divorce

Book: 5.4
Statute: IPC 5/4-7(b)

Assignment 22B Changes in Property

Book: 8.1-8.3
Cases: Estate of Swoyer
Statute: IPC 5/20-19, 24-3

Assignments 23B Death and Lapse

Book: 8.5
Cases: Janus v. Tarasewicz
Statute: IPC 5/4-11

Assignment 24—Drafting the Will/Rule of Construction Problems

Forms: IICLE 17.21
Statute: IPC 5/9-3(a), 11-5(a-1), 24-3, 28-3
Readings: Choosing a Guardian

5. TRUST LAW

Assignments 25-26B Creation of Trusts

Book: 9.1-9.3
 Cases: Farkas v. Williams
 Readings: Sources of American Trust Law
 Primer on American Trust Law--Overview and Types of Trusts, Trust Creation,
 (pts. 1-3)
 Uses of Trusts in Family Estate Planning in the US
 Statute: ITC 3/101, 102, 105, 106, 401-404, 406-409, 601

Assignments 27-28B The Revocable Trust

Book: 9.4
 Readings: Primer on American Trust Law, Revocable Trusts (pt.4)
 Creation and Use of Revocable Trusts in the US
 Forms: Revocable Trust Married Couple, IICLE 17-19;
 Pourover Will, IICLE 17-51
 Statute: IPC 5/4-4; ITC 3/602-604

Assignments 29-30--Drafting Dispositive Provisions

Book: 9.7
 Readings: Choosing a Guardian
 Cases: Old Colony v. Rodd
 Forms: IICLE 17.21 Will Contingent Trust Married Minor Children
 Statute: ITC 3/803, 814(a), 1004

Assignment 31--Avoiding Creditors

Book: 9.8
 Readings: Primer on American Trust Law, Trust Distribution (pt. 5)
 Cases: Shelley v. Shelley
 Statute: ITC 3/501-505, 509

Assignments 32B Trust Modification and Termination

Book: 9.9
 Readings: Primer on American Trust Law--Revocation and Modification of Trusts (pt. 6)
 Cases: In re Estate of Brown
 Statute: ITC 3/111, 301, 303-305, 410-412, 414-417, 706, 817

Assignments 33--Charitable Giving

Book: 9.10
 Readings: Primer on American Trust Law, Charitable Trusts (pt. 7)
 Cases: Estate of Tomlinson

Statute: ITC 3/405, 413

Assignment 34--The Duties of Loyalty and Due Care

Book: 12.1
Readings: Primer on American Trust Law--Duties of Trustee (pts.8-9)
Cases: Estate of Rothko
Statute: ITC 706, 801-802, 804, 1001-1002, 1005

Assignment 35—Duty to Invest

Book: 12.2, 12.4 (pp. 585-589 only)
Readings: Primer on American Trust Law (pt. 9)
Statute: ITC 901-903

6. NONPROBATE TRANSFERS

Assignments 36 and 37BPOD Arrangements/Joint Accounts

Book: 4.7-4.8
Readings: The Beneficiary Designation
Cases: Henkle v. Henkle
Franklin v. Anna National Bank
Statute: (1) Illinois Residential Real Property Act
(2) Third Party Beneficiary Contract
(3) Joint Tenancy Act
(4) Uniform TOD Security Registration Act

67. PLANNING FOR INCAPACITY

Assignments 38-39--Planning for Incapacity

Book: 14.1-14.5
Readings: Durable Power of Attorney
Forms: Illinois Power of Attorney for Property
Illinois Power of Attorney for Health Care
Living Will Form

8. FAMILY PROTECTION

Assignment 40--Omitted Children

Book: 3.5-3.6
Cases: Azcunce v. Estate of Azcunce
Espinosa v. Sparber, et al.
Forms: 17.21, 1.1
Statute: IPC 3/4-10

Assignment 41--Marital Property Systems

Book: 3.7

Assignment 42 Illinois Marital Property

Cases: Johnson v. La Grange State Bank
Statute: IPC 2-8, 15-1 to 15-4