



THE UNIVERSITY OF
TENNESSEE
KNOXVILLE

APPALACHIAN JUSTICE
RESEARCH CENTER

Heirs' Property in Tennessee: A Guide



An Heirs' Property Story

Campbell County, Tennessee. Mikaela Smith is 26 years old. She lives with her two kids and her mom, JoAnn Smith, on 25.4 acres of land that has been in her family since JoAnn's grandfather, Andrew Smith Sr., bought the land in 1931. They live in a trailer home. They pay property taxes every year.

Two years ago, Mikaela and JoAnn received a notice—Five Day Notice of Intent to File Complaint for Partition by Sale. Mikaela and JoAnn recognized some of the people listed on the document as distant second cousins.



Mikaela and JoAnn's interest in the property is what is known as **Heirs' Property**.

With Heirs' Property, Distant Relatives Can End Up Owning Property Together

Legally, Andrew Smith Sr.'s children, grandchildren, and great-grandchildren, despite never having lived on the land, own an interest in the land. Distant relatives owning an interest in the same property often happens when people who own land die without a will. The result is that many different people, all distantly related, can end up owning a small percentage of the same property. Each person with an interest in the property can ask the court to order its sale.

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In this story, three of Andrew Smith's grandchildren and two of his great-grandchildren decided to ask the court to order a sale of the property so that each person owning an interest in the property could get paid some money. The law contains some safeguards that can prevent a sale, but it is helpful to have a lawyer who knows the rules and can advocate for those living on the land.

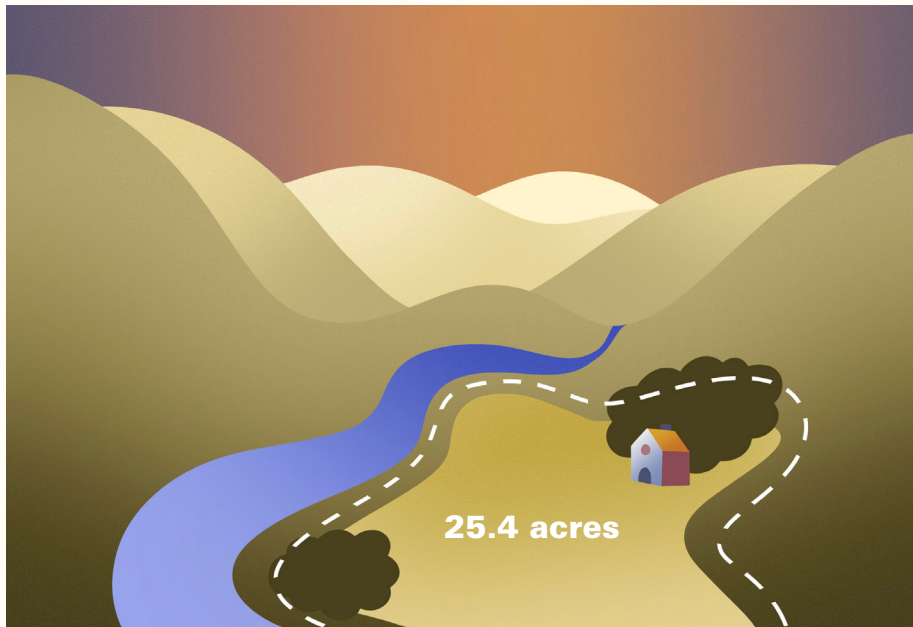
TENN. CODE ANN. § 29-27-302(5) (West 2025).

How Does Heirs' Property Come About?

Heirs' Property is a type of shared property ownership where the co-owners own the property, but there isn't legal clarity about who has decision-making responsibility to use and care for the property. At least one co-owner must have inherited the property from a relative.

A common way that Heirs' Property occurs is when the original landowner dies without a will. This is called **Intestate Succession**.

TENN. CODE ANN. § 29-27-302(5) (West 2025).



Intestate Succession Timeline

In 1931, Andrew Smith Sr., JoAnn's grandfather (Mikaela's great-grandfather), bought the land. When he bought the land he received a deed, which was recorded in the Campbell County Register of Deeds office.

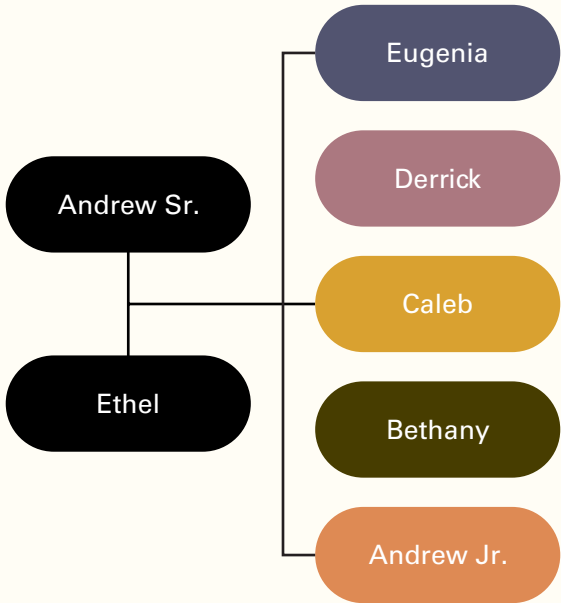


Andrew Smith Sr. died in 1942. His wife Ethel Smith died before he did. When Andrew Sr. died, he had five children: Andrew Smith Jr., Bethany Smith, Caleb Smith, Derrick Smith, and Eugenia Smith. Because Andrew Smith Sr. died without a will, all five of his children—Andrew Jr., Bethany, Caleb, Derrick, and Eugenia—inherited 1/5 of Andrew Sr.'s land.

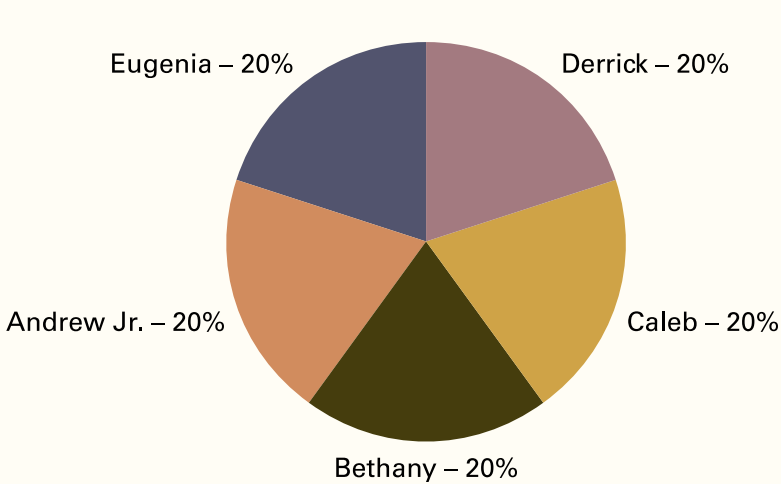
Andrew Smith Jr. was JoAnn's father. He lived on the land. The other children of Andrew Smith Sr. dispersed and moved to other counties and states. If Andrew Jr., Bethany, Caleb, Derrick, and Eugenia die without a will, their children and grandchildren will each inherit a part of the land, even though they moved away and did not live there.

Here is an illustration of how this works.

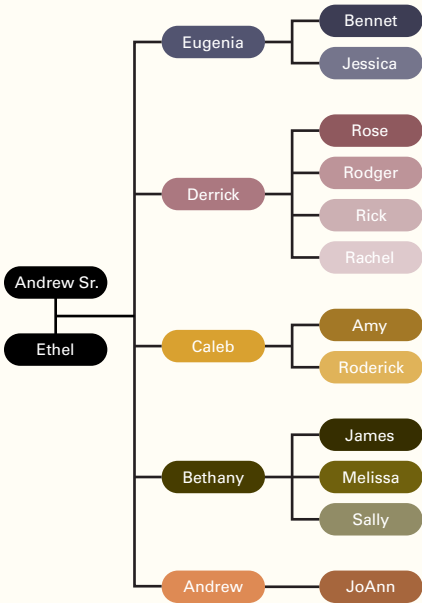
In 1942, Andrew Smith Sr. died without a will. His wife, Ethel, died before him in 1940. As Andrew Smith’s children, Andrew Jr., Bethany, Caleb, Derrick, and Eugenia each own a 20% interest in the land.



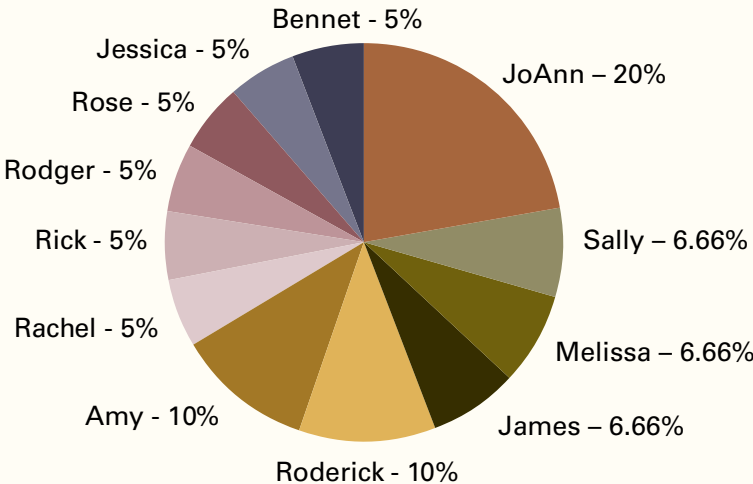
1942 Childrens’ Share of Property



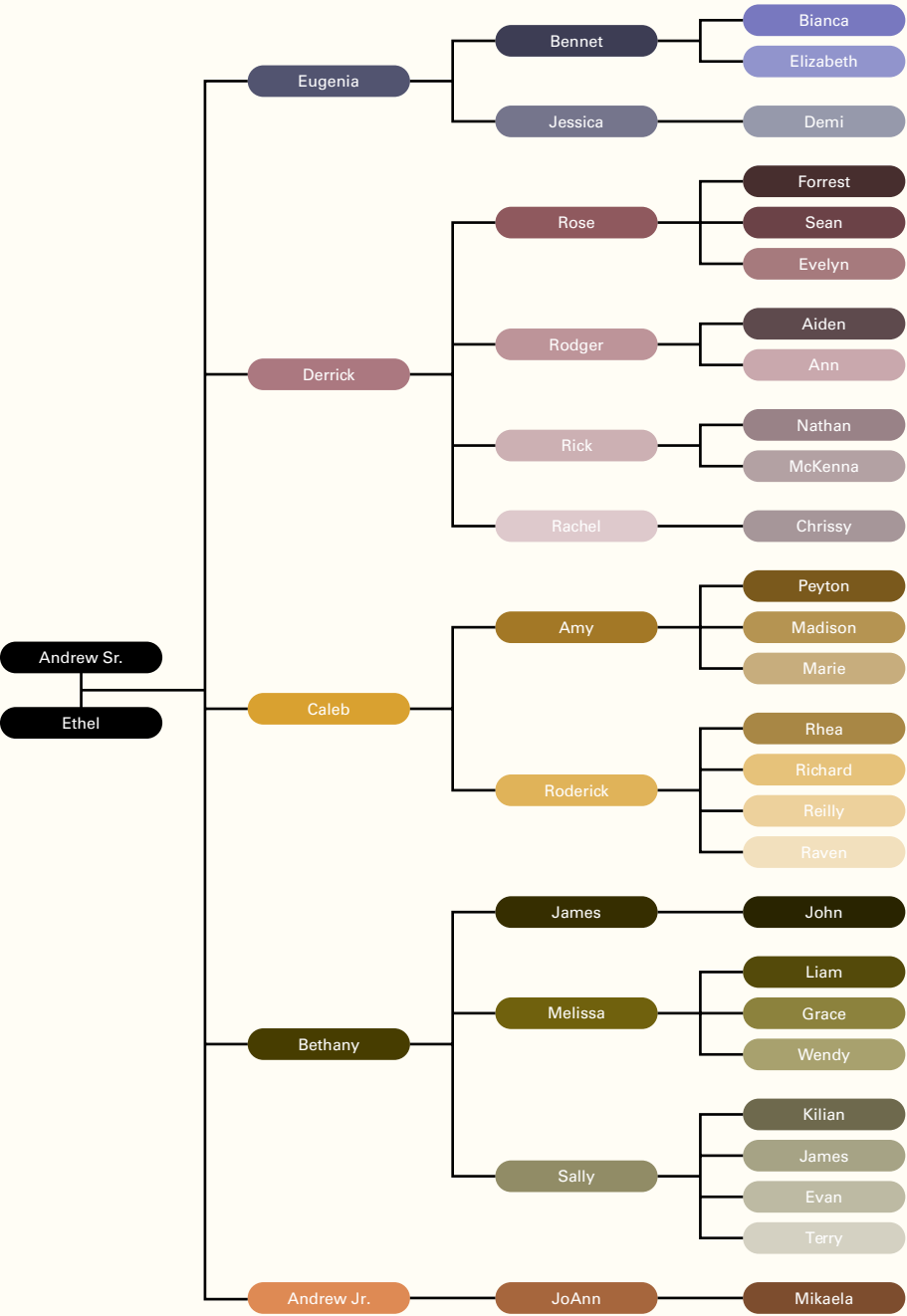
In 1992, all of Andrew Sr.’s children have died, and none of them had a will. The property interest gets divided even further among Andrew Sr.’s 12 grandchildren. The size of people’s interest in the land can get complicated. For example, the size of each grandchild’s share depends on the number of siblings they have.



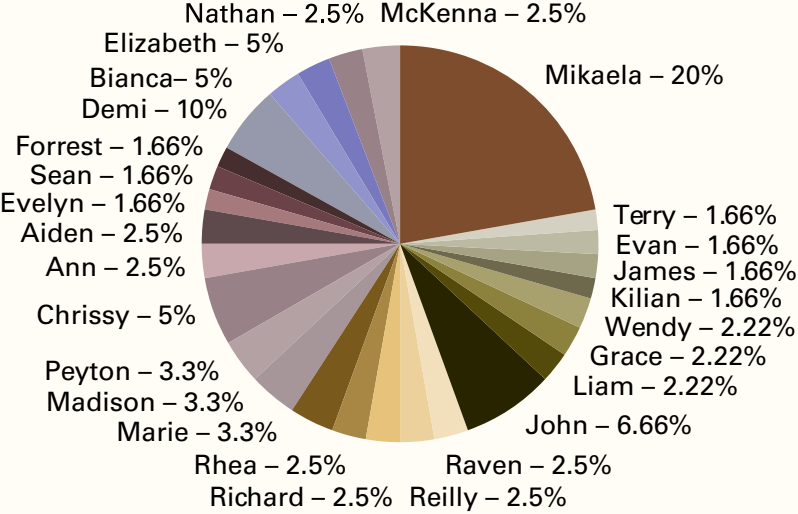
1992 Grandchildrens’ Share of Property



In 2002, if all of Andrew Sr.'s grandchildren die without a will, the property is now shared among Andrew Sr.'s 27 great-grandchildren.



2002 Great Grandchildren's Share of Property



The Problem with Heirs' Property

When so many people hold an interest in the same property, it becomes difficult to reach an agreement as to how the property should be used and whether it should be kept or sold. Conflict can arise between family members who are now distant relatives, with some family members wanting to stay and live on the land with others wanting to sell the land and receive money for their interest. If one is living in a trailer on land, that makes them more vulnerable because a trailer is not considered real property that is attached to the land.

Heirs' Property can make it hard for people to use their land. Because ownership of Heirs' Property is not clear, it can be difficult to obtain a loan on the property or receive USDA farm benefits for use of the property.

Solving these problems can be hard. Tennessee's Heirs' Property law is complex. The procedure for asserting one's rights to Heirs' Property under the statute is highly detailed and technical. It is very difficult to solve an Heirs' Property issue without an attorney.

How an Heirs' Property Story Can Be Resolved

Once they received the official Complaint for Partition, Mikaela and JoAnn (together with their attorney) submitted a response to the Complaint for Partition. They asked the Court to have all the parties mediate the issue before conducting a trial.



At the mediation, the various distant relatives came together in the same place with a mediator. Everyone realized that **the family's land was much more valuable intact and not sold**. Everyone agreed to own the property together. Mikaela and JoAnn would keep their home and the land surrounding it as a separate parcel. The other acreage would be held by the other relatives jointly. At some point in the future, family members might decide to develop the land, but for now, everyone decided that their land was worth keeping.

How to Prevent Heirs' Property Issues

Estate planning (drafting a will) can determine which of your children and grandchildren receive an interest in the land. Drafting a will can prevent the property from becoming subject to too many owners down the line. Because Andrew Smith Sr. died without a will, all five of his children—Andrew Jr., Bethany, Caleb, Derrick, and Eugenia— received 20% interest in the land.

Creating a **property transfer** that gives one or two people the right to keep all the property when you die makes sure that one or two designated people get the property after you die. You do not have to draft a will to do this. This is another method that might prevent multiple descendants from claiming an interest in the property.



What Can You Do if You are Facing Heirs' Property Issues?

- Obtain a lawyer who can help you understand your rights.
- Attend any court hearing that you receive a notice for. Ask the court for more time to obtain legal advice if you need it.
- If you receive a Notice or Complaint and decide to proceed without an attorney, contact the court to determine how to submit an Answer to the Notice or Complaint by the deadline.
- Try to reach an informal agreement about what to do with the land with your relatives who co-own the land with you.
- Understand that you have the right to buy out any owner who is requesting a sale of the land. If one owner wants to sell the land but the other owners do not, the owners who wish to stay on the land can buy the land from the person who wants it sold. That prevents the owner who wants to sell from asking the court to order a sale.

TENN. CODE ANN. § 29-27-307

Sources for Support

If you are experiencing an Heirs' Property issue or want to prevent future issues, these organizations may be a helpful starting point.

Legal Aid of East Tennessee

Provides simple wills to prevent Heirs' Property issues. Services vary by available staff capacity.

Serves Knox, Loudon, Sevier, Bledsoe, Hamilton, Marion, Rhea, Sequatchie, Bradley, Meigs, McMinn, Monroe, Polk, Blount, Carter, Hancock, Hawkins, Johnson, Sullivan, Unicoi, and Washington, Cocke, Grainger, Greene, Hamblen, and Jefferson Counties

www.laet.org

(865) 637-0484

Legal Aid Society of Middle Tennessee and the Cumberlands

Provides simple wills and basic estate planning to prevent Heirs' Property issues and review of Heirs' Property cases. Services vary by available staff capacity.

Serves Anderson, Campbell, Claiborne, Morgan, Roane, Scott, Union, Clay, Cumberland, DeKalb, Fentress, Jackson, Overton, Pickett, Putnam, Van Buren, White, Macon, Smith, Sumner, Trousdale, Wilson, Cannon, Rutherford, Bedford, Coffee, Franklin, Grundy, Lincoln, Moore, Warren, Davidson, Williamson, Stewart, Montgomery, Robertson, Houston, Dickson, Cheatham, Humphreys, Perry, Hickman, Lewis, Maury, Marshall, Wayne, Lawrence, and Giles Counties.

www.las.org

Toll-free phone for all offices: (800) 238-1443

West Tennessee Legal Services

Provides simple wills and basic estate planning to prevent Heirs' Property issues and legal assistance to address existing Heirs' Property issues.

Serves Benton, Carrol, Chester, Crockett, Decatur, Dyer, Fayette, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, Lauderdale, Madison, McNairy, Shelby, Tipton, Obion, and Weakley Counties

www.wtlls.org

(731) 423-0616

Memphis Area Legal Services

Serves Shelby, Fayette, Tipton, and Lauderdale Counties

www.malsi.org

(901) 523-8822 or Toll Free (866) 361-9001

HELP4TN

Free legal help program of Tennessee Alliance for Legal Services
Statewide

www.help4tn.org (English and Español)

(844) 435-7486

TN Free Legal Answers

American Bar Association virtual legal advice clinic

Statewide

www.freelegalanswers.org

TN Board of Professional Responsibility List of Lawyer Referral Services

Statewide

www.tbpr.org/for-the-public/lawyer-referral-services

University of Tennessee Extensions

Provides a variety of resources including legal education and resources, financial and succession planning, farm financial management, and county-based extension offices.

Legal education and resources

Extension Agricultural Legal Specialist:

arec.tennessee.edu/faculty-and-staff

Financial planning and succession planning

University of Tennessee Center of Farm Management:

farmmanagement.tennessee.edu

MANAGE Program:

farmmanagement.tennessee.edu/the-manage-program

UT Extension offices in all 95 counties:

utextension.tennessee.edu/office-locations-departments-centers

