



## MDRF Enterprises

# Firearms in Probate in Missouri: A Compliance Guide for Estate Professionals

Drew McDermott is a Certified Personal Property Appraiser (CAGA Member ID #967) and AGI Certified Firearms Appraiser (#1152547) serving estate attorneys and fiduciaries in the St. Louis region since 2012. As a dual certified appraiser through the Certified Appraisers Guild of America (CAGA) and the American Gunsmithing Institute (AGI), MDRF Enterprises LLC provides USPAP aligned firearms valuations and federally compliant transfer coordination for Missouri probate matters.

# Executive Overview

Firearms are not ordinary personal property. Improper handling of estate firearms may expose executors or fiduciaries to potential federal criminal liability if transfers or distributions are conducted in violation of 18 U.S.C. § 922. This guide provides a technical framework for maintaining a legal chain of custody from intake to final disposition.

## Critical Compliance Alert

Executors and fiduciaries have a legal duty to administer estate firearms in compliance with applicable federal firearms law and Missouri probate statutes.

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### IMPORTANT NOTICE

## How to Use This Guide

*This guide is an educational resource for estate professionals, not a substitute for legal counsel. Firearms law is jurisdiction specific and subject to change. Estate professionals should consult qualified legal counsel regarding decisions about estate firearms transfers or distributions.*

*The information contained herein is provided to assist estate professionals in identifying compliance considerations and coordinating with legal counsel.*

### **No Attorney–Client Relationship**

*Use of this guide does not create an attorney–client, fiduciary, or professional appraisal engagement with MDRF Enterprises LLC or Drew McDermott.*

### **Jurisdiction Matters**

*Federal and state firearms laws vary. What applies in Missouri may differ from other states. Verify local requirements with licensed counsel.*

# Immediate Compliance Risks for Missouri Executors Handling Firearms

If you are administering a Missouri estate that contains firearms, the following actions may create personal criminal liability if performed incorrectly:

## Prohibited Person Distribution

Distributing a firearm to a prohibited heir (18 USC § 922(d))

## Interstate Transport Violations

Transporting firearms across state lines without FFL facilitation (18 USC § 922(a)(3))

## Constructive Possession Risk

Leaving estate firearms accessible to unauthorized individuals (constructive possession risk)

## NFA Item Misidentification

Failing to identify NFA regulated items such as suppressors or short-barreled rifles (26 USC § 5845)

## Stolen Firearm Distribution

Distributing a firearm later determined to be stolen, which may expose the estate to forfeiture or law enforcement seizure

## Inaccurate Tax Reporting

Submitting inaccurate Fair Market Value estimates on IRS Form 706

Professional intervention by a licensed FFL and USPAP compliant firearms appraiser may be required to:

- establish lawful chain of custody
- verify ownership and registration status
- conduct stolen firearm checks
- perform qualified FMV appraisal for tax reporting
- coordinate lawful transfer to heirs or third party buyers

# Statutory Definitions & Authority

For a fiduciary, "ignorance of the asset" is the primary precursor to liability. You cannot legally inventory what you cannot legally define.

## The Federal Scope (18 USC § 921 & 27 CFR § 478.11)

Under federal law, a "firearm" is not defined merely by its ability to fire, but by its component architecture.

### The Receiver Rule

Any frame or receiver, the "chassis" of the weapon, is legally a firearm, even if it is a bare metal part without a barrel, trigger, or stock.

### Silencers as Firearms

Per 18 USC § 921(a)(3)(C), any firearm muffler or silencer is legally defined as a "firearm" unto itself. Finding a "suppressor" in a nightstand is the legal equivalent of finding a loaded handgun; both require the same chain-of-custody documentation.

### Antique Exception (The 1898 Rule)

Generally, firearms manufactured in or before 1898 are classified as "antiques" and are not "firearms" under the Gun Control Act (GCA). However, as a Certified Appraiser, we caution executors that modern replicas of black powder guns may still fall under GCA regulations depending on their ignition system.

## Missouri Specific Mandates (RSMo § 473.340)

Missouri probate law places an affirmative duty on the executor to "take possession" of all personal property.

### The Discovery Requirement

If an executor has reason to believe a firearm is being withheld by an heir or third party, they are legally compelled under RSMo § 473.340 to petition the court for a discovery of assets.

### Valuation Integrity

Missouri courts require an "accurate" inventory. Submitting a "guesstimate" value for a high end collection can lead to a breach of fiduciary duty if the assets are later sold significantly below Fair Market Value (FMV).

## The National Firearms Act (NFA) Threshold

Items governed by the National Firearms Act (26 USC § 5845) such as short-barreled shotguns, machine guns, or "Any Other Weapons" (AOWs) require the highest level of technical scrutiny.

- **The "Reasonable Time" Possession:** While an executor may technically possess these items during probate per ATF P 5320.8, they must have the NFRTR (National Firearms Registration and Transfer Record) paperwork in hand to prove the item isn't contraband.
- **The Possession Gap:** If an executor leaves an NFA item in an unsecured home where others have access, they may be in "constructive possession" violation, a federal felony.

### Strategic Insight for the Fiduciary

The MDRF approach offers professional pushback to the common executor's refrain: "It's just an old hunting rifle." From a compliance perspective, there is no such thing as an "old rifle", there are only regulated assets and unregulated antiques. Our role is to ensure your inventory reflects that legal reality with documentation integrity.

# Valuation & IRS Compliance: Technical Standards

In high stakes estate administration, valuation is a legal liability management tool. Standard retail "blue book" quotes or casual dealer estimates are insufficient for federal filings because they fail to meet the rigorous evidentiary standards required by the IRS and probate courts.

## IRS Form 706 Requirements

For estates exceeding the federal filing threshold (\$15,000,000 in 2026), all personal property, including firearms, must be reported at Fair Market Value (FMV) as of the date of death.

		
<h3>The Definition of FMV</h3> <p>The IRS defines Fair Market Value as the price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.</p>	<h3>Audit Triggers</h3> <p>Significant collections should be supported by a qualified appraisal prepared by a competent expert, particularly where valuation may materially affect estate tax reporting or beneficiary distribution. Failure to provide a qualified appraisal for significant collections can trigger a "Gross Valuation Misstatement" penalty, potentially subjecting the appraiser and the estate to severe civil penalties.</p>	<h3>Qualified Appraisal Mandate</h3> <p>To be "qualified," an appraisal must be conducted by an appraiser with verifiable education and experience in the specific type of property in this case, firearms and must be signed under oath.</p>

## AGI / USPAP Standards & Forensic Grading

Court ready appraisals must adhere to the Uniform Standards of Professional Appraisal Practice (USPAP), which provides the ethical and performance framework for all professional valuation.

<h3>Credentialed Authority</h3> <p>As an AGI Certified Firearms Appraiser, our reports are built on a foundation of professional competency and objectivity.</p>	<h3>Forensic Methodology (PPGS)</h3> <p>We utilize the Photo Percentage Grading System (PPGS). Unlike subjective descriptions (e.g., "Good" or "Fine"), PPGS provides a data driven, percentage based evaluation of finish wear and mechanical condition. This removes the subjectivity that often leads to IRS disputes or heir challenges.</p>	<h3>Documentation Integrity</h3> <p>Every appraisal includes high resolution photographic evidence, NCIC stolen gun verification, and a specific basis for valuation, such as verified comparable sales transactions.</p>
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## Marketable Cash Value (MCV) vs. Fair Market Value

While FMV is the legal standard for tax reporting, executors often require Marketable Cash Value (MCV) for the practical management of the estate.

- **Net Proceeds Calculation:** FMV represents the gross value in an open market; however, MCV represents the net amount the estate will actually receive after deducting commissions, transportation, storage, and professional fees.
- **Equitable Distribution:** For estates dividing assets among multiple heirs, using MCV is often the only way to ensure a truly equal distribution of the liquid value of a collection.
- **Liquidation Decisions:** Understanding the "Gap" between FMV (what it's worth on paper) and MCV (what you can spend) allows a fiduciary to make informed decisions about whether to sell the collection or distribute the items to beneficiaries.

### Fiduciary Strategic Note

The MDRF approach emphasizes that a professional appraisal is an investment in certainty. By providing a USPAP compliant report, we shift the "burden of proof" from the estate to the IRS, creating a defensive barrier that casual dealer estimates cannot provide.

# National Firearms Act (NFA) Protocols

Managing a Missouri estate containing NFA assets, such as machine guns, suppressors, and short-barreled rifles, presents the highest risk profile for any fiduciary. Unlike standard firearms, NFA items are strictly regulated under 26 USC Chapter 53 and 27 CFR Part 479. Improper handling of these assets can result in federal felony charges, carrying penalties of up to 10 years in prison and \$250,000 in fines.

## Possession During Probate (ATF P 5320.8)

The ATF National Firearms Act Handbook (P 5320.8) and federal regulations provide specific protections for fiduciaries during the administration process.



### Executor Possession

An executor, administrator, or personal representative authorized under state law may possess a registered NFA firearm during the term of probate without such possession being classified as a "transfer" under 27 CFR § 479.90a.



### Constructive Possession Risks

While an executor has legal authority, they must ensure no "prohibited persons" or unauthorized individuals have access to the items. Leaving NFA items in a shared residence where heirs have access could constitute illegal constructive possession.



### Documentation Mandate

The fiduciary must always maintain proof of the firearm's registration (the original tax stamp) and documentation of their legal authority to act on behalf of the estate while in possession.

## Transfer Deadlines and Form Requirements

All registered NFA items must be legally transferred before the estate is formally closed.

### Heir Distributions (ATF Form 5)

Distributions to lawful heirs (beneficiaries named in a will or through intestate succession) are considered "involuntary" and are tax exempt. These require the submission and approval of ATF Form 5 prior to the heir taking possession.

### Market Sales (ATF Form 4)

If the estate sells an NFA item to a non heir or third party, the transfer is considered "voluntary" and requires ATF Form 4. This typically requires a \$200 transfer tax, though certain 2026 regulatory updates may affect these fees.

**Timeline for Compliance:** Applications for transfer (Form 4 or Form 5) should be filed as soon as possible and must be submitted no later than the close of probate.

## Unregistered NFA Contraband

The most critical technical challenge occurs when a fiduciary discovers an NFA item that is not registered in the National Firearms Registration and Transfer Record (NFRTR).

- **No Retroactive Registration:** Federal law does not allow for the retroactive registration of found NFA items by an estate. Possession of an unregistered NFA item is a criminal act.
- **Mandatory Abandonment:** If an NFA item lacks proper registration, it is classified as contraband. The executor is legally obligated to contact the local ATF office to arrange for the immediate abandonment and surrender of the firearm for destruction.
- **Technical Verification:** As a Certified Appraiser, we conduct thorough NFRTR verification and NCIC stolen gun checks to confirm an item's legal status before any valuation or transfer is attempted.

### Fiduciary Strategic Note

The MDRF approach emphasizes that NFA compliance is binary: an item is either a registered asset or it is a liability. Our role is to provide the documentation integrity required to navigate these protocols, shielding the executor from the catastrophic risks of federal non compliance.

# Executor Chain-of-Custody Risks

For a personal representative, the "Chain of Custody" is not merely a logistical concern it is a legal shield against criminal liability. In Missouri probate, the executor assumes a fiduciary duty to secure and lawfully distribute assets. Because firearms are the only personal property that carries inherent legal peril, any deviation from strict federal and state protocols can lead to felony charges.

## The Prohibited Person Trap (18 USC § 922(d))

Federal law places an affirmative burden on the executor to ensure that firearms are not transferred to an ineligible individual.



### "Reasonable Cause" Standard

Under 18 USC § 922(d), it is a federal felony to sell or otherwise dispose of a firearm to any person knowing or having reasonable cause to believe that such person is prohibited from possessing it.



### Who is Prohibited?

This list includes individuals with felony convictions, misdemeanor domestic violence convictions, fugitives, unlawful drug users (including medical marijuana users under federal law), and those adjudicated as "mentally defective".



### The Fiduciary Dilemma

Even a simple distribution to a family member named in a will may expose the executor to federal felony liability under 18 U.S.C. § 922(d) if the recipient is ineligible. Without a formal background check, an executor cannot "confirm" eligibility, leaving them personally exposed to criminal investigation.

## Interstate Transfer Restrictions (18 USC § 922(a)(3) & (5))

Geography is a major hurdle in estate administration. Federal law strictly regulates the movement of firearms across state lines.

- **Interstate Prohibition:** Under 18 USC § 922(a)(3) and (5), it is generally illegal for a non licensed individual to transport or deliver a firearm to a person who resides in a different state. Federal law generally restricts interstate firearm transfers between private individuals; however, an exception exists for transfers by lawful bequest or intestate succession. Because the executor must still ensure the recipient may lawfully possess the firearm under both federal and state law, many fiduciaries elect to utilize an FFL facilitated transfer as a compliance safeguard.
- **The Bequest Exception:** While there is a narrow exception for a "lawful bequest" that allows an out of state heir to physically transport an inherited firearm, this exception is fraught with risk. State and local laws in the recipient's jurisdiction may still criminalize the possession of that specific firearm (e.g., "Assault Weapon" bans in Illinois or New York).
- **FFL Requirement:** While federal law permits interstate transfer of firearms by lawful bequest or intestate succession, many fiduciaries elect to utilize an FFL facilitated transfer process to confirm recipient eligibility under both federal and state law and to document compliance through a formal background check.

# Lawful Intervention & NCIC Verification

While Missouri law allows for some private, in state transfers between non licensed residents, doing so within an estate context may increase administrative and compliance risk for the fiduciary.



## The NCIC Stolen Gun Check

As a licensed FFL, we conduct NCIC (National Crime Information Center) stolen gun checks on all estate inventory. If an executor unwittingly distributes a stolen firearm, they have effectively facilitated a crime. Identifying these items early allows for lawful surrender to authorities without further liability.



## Documentation as Protection

Using an FFL provides the estate with a formal ATF Form 4473 and a permanent record of the transfer. This creates a definitive "Paper Trail" that proves the executor satisfied their fiduciary duty and complied with all federal regulations.



## Professional Pushback

Our role is to prevent the "quick and easy" transfer that often leads to long term legal consequences. By mandating background checks and formal documentation, we protect the estate's beneficiaries and the executor's personal freedom.

## Fiduciary Strategic Note

The MDRF approach emphasizes that NCIC verification and FFL facilitation are not optional "extras", they are the standard of care for any professional managing a Missouri estate. By removing firearms from the residence and placing them in our Licensed Federal Firearms (FFL) Facility, secure storage, you immediately eliminate the risk of "constructive possession" and unauthorized heir access.

# Missouri Transfer Law Summary: Strategic Context for Fiduciaries

In Missouri, firearm transfers are governed by a combination of established probate statutes and evolving legislative mandates. For a fiduciary, navigating these laws requires balancing Missouri's generally permissive "Constitutional Carry" environment with the strict accountability required by the probate court.

## Intrastate Transfers and Private Sales

Missouri does not require state level firearm registration for standard (Title I) firearms, and generally allows for private transfers between residents without a background check.

### The Fiduciary Exception

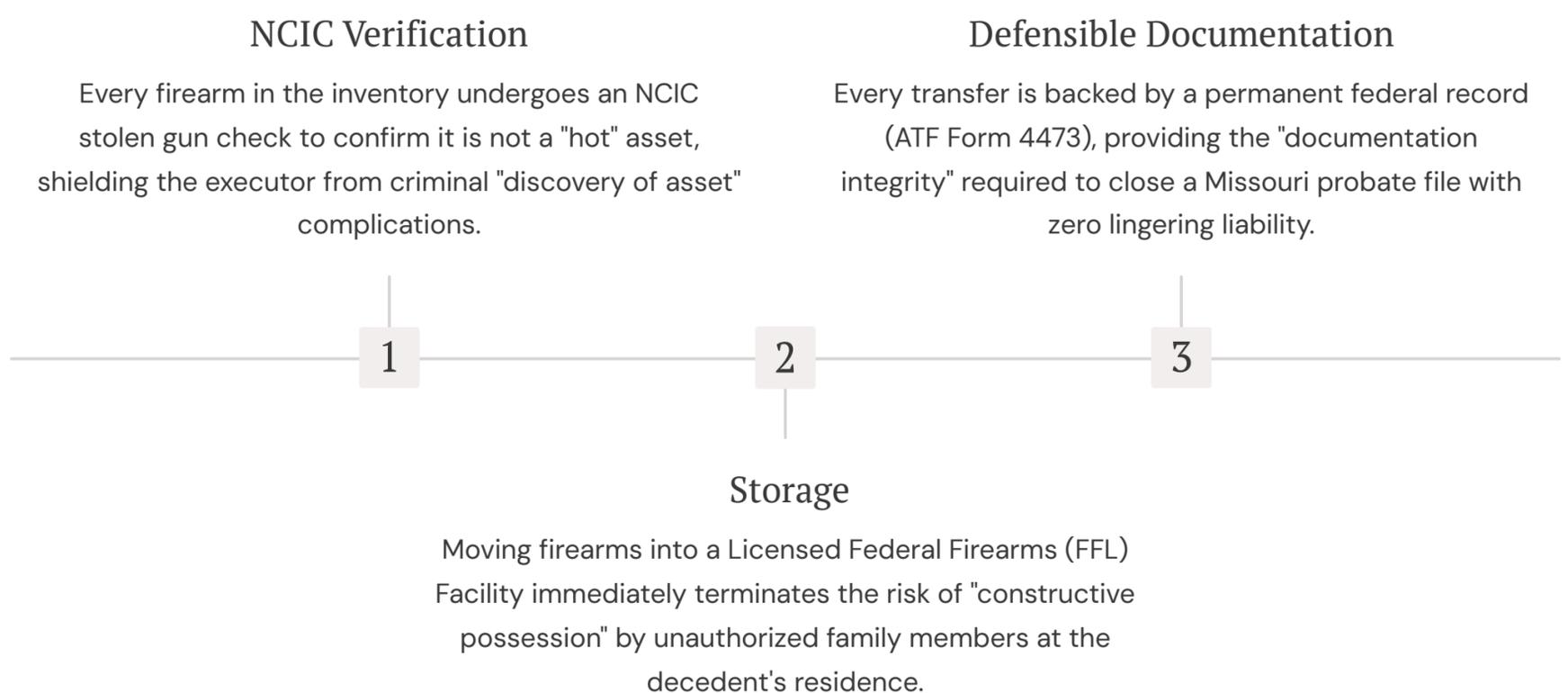
While private citizens may transfer firearms freely, an executor or personal representative is held to a higher standard of care under RSMo § 473.340. Distributing a firearm directly to an heir without a background check exposes the executor to personal liability if that heir is later found to be a "prohibited person".

### Estate Sales and Auctions

While Missouri law generally permits private intrastate firearm transfers between lawful residents, estate liquidators or auction professionals who take possession of firearms for resale, consign firearms for sale, or repeatedly facilitate firearm transactions for compensation may be considered "engaged in the business" of dealing in firearms under 18 U.S.C. § 922(a)(1)(A). In such cases, federal law requires that transfers be conducted by a licensed Federal Firearms Licensee (FFL). For fiduciaries administering an estate, utilizing FFL facilitated transfers also provides NCIC stolen firearm verification and creates a documented compliance pathway for probate administration.

## Safe Harbor for Fiduciaries

Given the complexity of overlapping federal and state regulations, many fiduciaries elect to utilize an FFL facilitated transfer process as a practical compliance safeguard.



### Fiduciary Strategic Note

Missouri law provides the path, but federal law provides the penalties. Our role is to serve as your technical intermediary, ensuring that every firearm in the estate is accounted for, valued correctly, and transferred with the absolute certainty that only a licensed professional can provide.

# Fiduciary Resources

MDRF Enterprises LLC provides comprehensive support for estate professionals navigating the complex landscape of firearms in probate. Access these essential resources to ensure compliant and efficient estate administration:



## The Executor's Dilemma

Managing legal risks.

[Read the complete guide](#)



## Estate Cleanout Checklist

Step-by-step accountability.

[Access the resource library](#)



## What to Do If I Find a Gun

Immediate safety protocols.

[View frequently asked questions](#)

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**Contact MDRF Enterprises LLC** for professional firearms appraisal, NCIC verification, and FFL-facilitated transfer services. Protect your estate and ensure full compliance with federal and Missouri probate law.