



Last Will and Testament

What is a Will?

A Will is a legal document in which you direct where you want your "stuff" to go when you pass away and it lists who you want to be the Executor of your estate (the person or company that will be responsible to carry out your wishes). In addition, your Will should contain other provisions that depend on your particular situation. For example, your Will may include tax clauses (to deal with estate and/or income taxes). It may contain provisions to set up trusts for minor or disabled beneficiaries. Exactly what provisions you include in your Will depends on your particular situation and your wishes.

What are the benefits of having a Will?

Having a Will helps make sure your property goes to whom you really want to receive it. If you don't prepare a Will, the state that you reside in at the time of your death will basically write it for you. The state lists who has priority to be your Executor and who will receive your assets. In many cases the way this is set up is not what most people expect. For example, if you are married and have children, probate assets are divided between your spouse and children (which is different than what most people expect). Even a simple Will makes things easier for your beneficiaries when you pass away. This is because the process with Surrogates Court is more complicated and often requires additional paperwork and notifications when there is no Will. Generally that means the process often takes longer and is more expensive.

Who should have a Will?

Everyone who is 18 or older should have a Will. Some people think they are too young or don't own enough "stuff" to need a Will. This thinking is a mistake. Some of the most complex estate administrations that we have been involved with have been for younger people. Having a Will typically makes the process easier and less costly than if you don't have a Will. Also, the expenses in a smaller estate can eat into a beneficiary's share of assets much quicker as compared to a larger estate.

Other Important Information about Wills.

Having a Will does not mean your loved ones will avoid Probate (we use Trusts for that).

A Will only controls property in your name alone, with no beneficiary designation. It does not control joint assets or assets with beneficiary designations (like insurance or IRA's).

You can change a Will any time you want as long as you are mentally competent, but you should never write on your original. If you want to make changes, you should work with a competent attorney. If you mark up your Will (or cross things out), you could accidentally revoke it (making things more difficult and expensive for your beneficiaries).