



Planning for “*What If...?*”

Tools for Protecting Your Family and Managing Your Assets

Wills

What Is It? A legal document that may name an executor, nominate a guardian, and instruct how your probate estate is to be distributed. It may also establish a testamentary trust. It can be revoked or amended until the time of death.

Without a will, your property will be distributed by the state's rules for intestate succession. The court will select your executor and your children's guardian.

Who Should Have It and Why?

Everyone should have a will, especially if you have dependent children.

Even if you think you have put all of your property into a trust or if you say you own everything jointly with your spouse, you still need a will. You and your spouse might die together in the same accident. You might have just bought a car, a house or opened a new checking account and failed to title it in the name of the trust.

Most importantly, you would rather name the guardian for your children than have the state do it.

Terms to Know

Executing a will: fulfilling the requirements to make a will legally valid, such as signing and witnessing the will.

Codicil: a legal document that amends or adds to a will.

Probate: the legal process for administering the portion of a your estate which is disposed of by either your will or the state laws of intestacy.

Testator (testatrix) or devisor: you, when you write and execute a valid will.

Executor (executrix): the individual or institution you nominate in your will to settle your estate. The court must actually award the authority to do this.

Guardian: a person appointed by the court to look after the person or property of a minor.

Devisee/legatee/recipient of a bequest: person to whom property is given by a will. (An heir is actually someone who received property by intestate succession.)

Estate: everything you own or are entitled to.

Probate estate: all properties distributed by your will or by intestate succession laws. Property that transfers at death by contract, title, beneficiary, or living trust agreement is not part of the probate estate.

Intestate: dying without a will, so that state laws governing intestate succession determine how probate estate is distributed.

Issues and Limitations

- A will and any codicils must be properly executed to be valid, legal documents. The requirements may vary by state.
- A will does not control distribution of property that transfers by contract, title (e.g., property held in joint tenancy with rights of survivorship), beneficiary, or that is held in trust. It is superseded by the power of these "will substitutes." Therefore, a will must be designed to work in conjunction with these other estate planning tools.
- A will must be reviewed and updated periodically. An out-of-date will or a poorly drafted one will not achieve the desired results.

Ask Yourself

Do I have a will? When was it written? Have circumstances changed so that my will needs to be reviewed or re-written? For example, have there been changes in

- my family makeup (divorce or remarriage, children born, death of heirs),
- my financial position,
- relationships with chosen guardians or executors, or
- tax laws that affect my estate?



<http://www.ace.uiuc.edu/cfe/whatif/index.html>

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