

What is a will?

A will is a written document that allows you to designate

1. Who gets your property when you die;
2. Who should act as the legal guardian of your minor children in the event of your death;
3. Who should act as your personal representative to administer your estate; and
4. How any tax burdens arising from your estate should be allocated.

Why have a will?

If you have a will, *you* can exercise control over the distribution of your assets. If you die without a will, *state inheritance laws* will determine who gets your property. A will may also help avoid disputes among your heirs over the administration of your estate and/or the allocation of property. Finally, having a will may save your estate money.

Who may make a will?

You must be at least 18 years old and of sound mind to make a will.

What are the signing requirements of a will?

To be valid, your will must be in writing and signed by you, or by another person at your direction and in your presence. The will must also be signed by two or more witnesses who must sign either after they watch you sign the will or after you acknowledge to them that it is your signature on the will.

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WILLS AND TRUSTS



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Will all my property be covered by my will?

Not necessarily. Certain kinds of property, such as life insurance, will pass to the people or entities you've named as beneficiaries on the policy. Likewise, property held in joint tenancy will pass to the remaining joint tenant(s).

Can I dispose of my property however I want to in my will?

You can change the way the law would distribute your property, but you may not be able to completely prevent your spouse or children from inheriting.

What is probate?

Probate is the process of court supervision over the distribution of a deceased person's property.

Does a will help avoid probate?

No. If there is property to be administered a will does not avoid probate, nor does it increase probate expenses. If a person dies testate (with a valid will), the probate court will admit the will and administer your estate in accordance with your will. If a person dies intestate (without a valid will), the probate court will determine how your property will be distributed in accordance with state inheritance laws.

Is a living will the same thing as a will?

No. A living will (also known as an advance directive) relates only to health care desires.

Does a will save my estate money?

Possibly. Depending on your assets, there may be substantial tax consequences associated with death. After death, little can be done to relieve an estate from adverse tax consequences caused by lack of a proper estate plan. Thus, a properly drafted will may help reduce taxes that will have to be paid at your death. Additionally, the guardianship provisions of your will may help avoid a costly guardianship proceeding for your minor children.

What is a trust created by a will?

You may use your will to create a trust upon your death. A trust is an arrangement where one party holds property for the benefit of another. Trusts are typically used to provide income to your spouse or to hold property until minor children become adults. The trustee is the party that holds the property in trust for the intended recipients--also called beneficiaries. The trustee is responsible for protecting the property, paying out the investment income, and terminating the trust as the will directs. When a trust terminates, the trustee is responsible for distributing the trust's remaining principal according to the terms of the trust agreement. A trust can help protect beneficiaries from making unwise investment decisions or from wasteful spending.

What is a personal property list?

Tangible personal property may be distributed by a separate written list attached to your will, sometimes called a personal property list. This list must be referenced in your will, but need not be in existence at the time your will is executed. To be effective, a personal property list only needs to be signed and dated by the testator (the person making the will).

How can I change my will?

You can change your will by writing a completely new will or by writing a supplement to your existing will, called a codicil. The new will or codicil must be made with the same formalities required for executing the original will. You should not simply cross out existing language or write new provisions into your will because such alterations may not be effective. Personal property lists, however, may be changed by creating, signing and dating a new list.

How long is my will valid?

A will remains in effect until it is changed or revoked. It is a good idea to periodically review your will to make sure that it distributes your property in accordance with your desires. You should think about revising your will when

- You marry or divorce
- There is a birth or death in the family
- There is a change in the value and/or kind of property you own
- The person you want to be guardian or personal representative moves away or dies
- You move to another state

Where should I keep my will?

Your will should be kept in a safe place where it will be protected against theft and fire and where it can easily be located after your death. Oftentimes, probate courts or court administrator's offices will accept wills for safekeeping at no charge or for a nominal fee. A safe deposit box in a bank is another common location for storing a will. Wherever you choose to store your will, you should notify your personal representative or a family member of its location so that it can be found after your death.