



# Wills, Trusts And Estate Planning

## The Truth About Wills: Are You Putting Your Loved Ones at Risk?

Do you have a will? If you do have one, do you regularly review it? Too many people don't, and if you're just not sure why having an up-to-date and valid will is essential, consider the following:

### **Why too many people don't have a will.**

Fully 70% of Americans do not have a will. This can be due to procrastination or a reluctance to tackle the unpleasant subject of death. Another factor, however, is that too many people believe the State will automatically dispose of their assets in a manner that fairly represents their wishes. Unfortunately, this is seldom the case. Simply put, if you don't have a valid and current will, you and your loved ones are at risk. Here's why:

### **Why not having a will is dangerous.**

With no will at all, or if you have a will that's out-of-date or otherwise invalid, the rules of "intestate" (in-TES-tate) succession come into play. This means that the disposition of your assets will be according to standard rules established by the State.

In an intestate will there can actually be various rules depending on your family

structure. But it can be dangerous to assume that these rules will be appropriate for your family dynamic. For example, the rules of intestate succession could allocate less than you think appropriate to a surviving spouse and tie up funds that could be better directed toward the care of your children.

Guardianship of minor children is another issue; this could ultimately be determined by the State, with the appointed guardian -- no matter how close the relationship -- required to provide regular reporting on how money is spent regarding the children's care.

The court could also assign an executor not of your choosing; if the executor is an attorney, for example, his or her services could prove costly.

### **Why you need a will.**

It's a common misperception that only the wealthy need a will. Truth is, you probably need a will if you own property (even if it is simply personal property), have insurance, or just want to protect your loved ones. Having a will can also empower you to specifically and legally designate persons not normally provided for in a State-directed disposition of assets; this can be especially important for non-traditional families such as unmarried couples or same-sex domestic partners.

### **What a properly designed will can do for you.**

A well-constructed will can:

- Establish the executor of your estate, as well as name your beneficiaries
- Clearly define how, when and to whom assets will be distributed
- Set up a trust to administer assets given to your children, a necessity for minor children, and often used to spread out gifts to adult children; in addition, certain trusts can minimize taxation after the death of a spouse

- Establish a trust for the care of family pets
- Assign gifts to charities, educational institutions, and others who would not normally be included in a standard disposition of assets
- Anticipate and address all contingencies, including where your property will go in the event of the death of one or more beneficiaries (WARNING: open loopholes could cause your will to be declared -- wholly or in part -- intestate).

Consider other essential documents. Just as a comprehensive and up-to-date will can create peace of mind for the eventuality of death, other life planning documents will allow your loved ones to handle issues related to your health care, disability and other longer-term needs. These include a Durable Financial Power of Attorney, Durable Healthcare Power of Attorney, an Advance Healthcare Directive, otherwise known as a Living Will (which can make clear the wishes of the individual regarding life-sustaining medical procedures) and a Funeral Planning Directive. Each of these documents can be essential in making sure your wishes about your care are carried out and that loved ones have the authority to implement your wishes. I would be glad to provide you with more information on a life planning package that is right for you.

When you should review and/or revise your will. Once you've established a will, regular review is essential to keeping it from potentially invoking intestate rules. How often you and your attorney undertake this review can depend on your lifestyle and how frequently significant life changes occur. Regardless, you should review and/or update your will any time your family structure changes, such as with the birth or adoption of a child; when you marry, divorce, or enter into a committed domestic partnership; or anytime a change of beneficiary is desired or necessary. You should also update your will whenever significant changes in property or other assets are not adequately addressed in the prior document.

### **The Bottom Line:**

Crafting a comprehensive and valid will can help you make beneficial changes in how your assets are dealt with during your lifetime, but the best benefit -- for you and your loved ones -- is peace of mind. If you have questions about this topic, or need help addressing your specific estate planning needs, call me. I'll be glad to help.

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