



# Do I Need a Will?

WHERE THERE'S A WILL,  
THERE'S A WAY...TO AVOID  
DYING WITHOUT A WILL.

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Many find themselves overwhelmed and uncertain on where to begin when it comes to estate planning. Millions of people believe there is no need to make decisions on how to wrap up their affairs when they leave this life. However, it is important enough to take some time to work out a plan.

Death is not a fun topic, but that doesn't make planning for it any less necessary. Take a deep breath and start with the easy stuff. What is a will? From Black's Law Dictionary, we get the following definition: "the legal expression of an individual's wishes about the disposition of his or her property after death; esp., a document by which a person directs his or her estate to be distributed up on death." (9th ed. 2009).

There are some that laugh at the idea that they even have an estate, but it's worthwhile to examine what kind of legacy will be left when you're gone.

Who wants that collection of all nine seasons of "The Office" on DVD? What even is a DVD? Are my siblings going to fight over some family heirloom gravy boat? Is disinheriting all of my children a worthy last laugh? Let's take a deeper look into how a will works.

## **Heirs According to Promise**

If this is too much already, just slowly read it again. This time, take a look at it from an informative Christian theological perspective of The Law and the Promise. In Galatians 3:15-29, the apostle Paul provides a 'human example' of understanding the relationship

between inheritance by law and by promise. Paul explains that the kind of inheritance he is referencing is eternal life through a promise by faith in Jesus Christ. He then distinguishes inheritance as an operation of the law. The law imprisoned all who could not uphold it perfectly but Christ came to justify by faith, fulfilling a promise from God.

In the same way, when someone dies without a will, or intestate, the law operates to distribute the estate to a spouse, children, parents, siblings, etc. (intestate succession). This may include people that a deceased individual did not intend or even know about. The worst case scenario is escheatment, property going unclaimed to the state.

The law operates to find heirs, not fulfill any wishes or desires a person had during life. A will operates as a promise, a specific request on how to settle an estate. A promise that may support a friend or distant relative who cannot inherit. A promise that leaves an endowment to a school or charity that will further a benevolent cause. Most importantly, a promise becomes 'The Last Will and Testament' of one's life. A will sets forth heirs according to a promise, rather than the operation of unfulfilled laws. (Galatians 3:29).

#### **Make an Inventory of Assets**

A practical first step would be to, individually or with a financial advisor, create an inventory of all of your assets. Some assets like life insurance or IRAs have beneficiary designations and are called "nonprobate assets" because they avoid the administration of an estate through probate court and are distributed to a designated beneficiary or trust. Take note of assets that would be passed or liquidated to cover estate administration. Safeguard important certificates of ownership, appraisals, locations, and other

important documents that help identify assets. Categorize household goods together and have an understanding of the value. It is equally important to identify whether there will be specific bequests to an individual. While great-grandma's knickknack might not appear to be extremely valuable, nobody wants a front row seat to a cagematch over who gets it (at least they shouldn't). The last thing anyone wants is to take up crucial time and money determining how to divvy up property.

Furthermore, once you have an inventory, be sure to periodically update it as you acquire or lose assets. Update account numbers, passwords, addresses, phone numbers, emails, and other information that would prevent you from losing track of assets. Take a second to think of the most valuable thing you have (you had better include your spouse and adorable children first. . . maybe a fur baby), then add up your net worth. Many states have alternative options for smaller estate administration, such as a Small Estate Affidavit. Common assets are real estate, stocks, vehicles, bank accounts, and personal property. Speak with an experienced attorney to understand what assets may or may not be subject to probate.

#### **How About a Death Napkin?**

Probably the most important aspect when it comes to a will is the legal requirements. Don't do all that work to have invalid or conflicting wills. These infirmities may create a migraine for your relatives and most certainly your attorney. In Washington state, holographic wills (wills written in one's own handwriting) are not valid; but, a will executed under the laws of another state will be deemed to be legally executed.

Under RCW 11.12.020, "Every will shall be in writing signed by the

testator. . . and shall be attested by two or more competent witnesses, by subscribing their names to the will. . . while in the presence of the testator and at the testator's direction or request." This is an expression of testamentary intent, demonstrating that you are intending to make a will. The last thing your Personal Representative, the person who handles the administration of your estate, needs is additional stress in determining if a will is valid or how many wills exist.

Avoiding uncertainty and executing a will under the legal formalities is common sense. When renowned musician Aretha Franklin passed, it was believed that she had no will. Later, there were three wills located. This can cause a lot of family tension, lengthy court proceedings, and a lot of stress. The death napkin may seem like a quick, temporary solution, but it will put those you love in a world of hurt.

#### **Make Your Promise Count**

Death can be a difficult topic for many and it is easy to push it off until a thousand tomorrows from now. Attorneys, advisors, friends, and family can be great vessels for walking you through these tough moments. It is crucial to work with someone you trust and someone who will take every opportunity to honor the life at hand while getting your house in order.

Despite all of the quips, pithy statements, and disinheritance surprises, this is your last statement. Whether you have amassed great wealth or want to leave a humble gift for those you cared for most, make your last will and testament count.

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