

Why Does Everyone Need a Will?

With a Will

- You can direct the distribution of your assets to those you care about most.
- You can choose a personal representative (executor) who will oversee the distribution of your assets.
- You avoid unnecessary expenses on the administration of the estate.
- You can provide appropriately for minor children by naming a guardian or establishing a trust.
- You can provide for family members, friends, or relatives according to their needs.
- You can save considerable estate tax by utilizing proper estate planning techniques.
- You can provide support for charitable causes that have a special meaning for you.

Without a Will

- State intestacy statutes determine the distribution of your property.
- The court appoints an administrator for you.
- Because the administrator is subject to constant court supervision, the cost of administering the estate may be greater.
- You cannot provide for minors. The court will appoint a guardian for them, and the guardian will make decisions about a child's care that you should have made.
- Your heirs will benefit equally by class not necessarily in the proportions you would have intended.
- Your estate may lose thousands of dollars in needless taxes because you did not take advantage of the tax-saving opportunities available to you.
- You cannot support a charitable cause.

Some of the reasons people use for not having a will include:

- *"I don't have much property."*
Each of us has property worthy of distribution to someone—an automobile, bank account, stereo, home computer, furniture, jewelry, paintings, china, etc. Even if everything were sold at an estate auction, it would probably yield several thousand dollars which could be useful to your favorite charity.
- *"My property is in joint names."*
This is a trap into which many people fall. Having property in joint name is no excuse for not having a will. In the event of a common disaster, you will have no distribution plan. Or, the other joint tenant could predecease you. Having everything in joint name is also a bad estate plan because the first spouse to die loses the benefit of his or her lifetime estate tax exemption.
- *"My spouse will get everything anyway."*
This is an invalid premise. If you die without a will, your children may share in a major part of the estate. Your spouse may predecease you, or you may get a divorce. Both of you may die in a common disaster with the result that everything will be left up to chance. (For example) Did you know that if you die without a will in Massachusetts, your children share in the estate? Do you want your 21 year old college student to receive a percentage of your estate rather than having it all go to your spouse?
- *"I'm young. I have plenty of time."*
A review of the obituaries will show that death is not a state reserved only for the elderly. Many people in their forties and fifties and younger die from all kinds of unexpected accidents and diseases. (The number of court appointed guardians after 9/11/01 should be a reminder that we're surrounded by uncertainty.)
- *"I'm not married so I don't need a will."*
This is all the more reason why you need one. Who knows what haphazard distribution will result from a distribution under state laws in your case.
- *"My wife and I already split out estates into two revocable trusts. Everything worthwhile is in the name of either my trust or my wife's trust and will be distributed according to the terms we have outlined."*
Each of you still needs a pour-over will that simply provides for anything standing in your name alone upon your death to be distributed to your trust. Then, the trust takes over the distribution plan. It is very unlikely not to own something outside the revocable trust at death. Moreover, some people set up living trusts but neglect to fund them.

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