

How to Prepare a Last Will and Testament

The Simplest Way

The simplest way to ensure that your funds, property and personal effects will be distributed after your death according to your wishes is to prepare a will. A will is a legal document designating the transfer of your property and assets after you die. Usually, wills can be written by any person over the age of 18 who is mentally capable, commonly stated as "being of sound mind and memory." Your state may impose additional legal and tax requirements, and that's why competent professional help may be advisable.

Do I Need a Lawyer to Make My Will?

If you are thinking about making your own will, you may feel a little uneasy about the process. After all, a will is an important legal document, so shouldn't you seek a lawyer's assistance? The answer depends on your situation. If you're like most people, you probably need a lawyer. With an attorney's assistance it's not difficult to make a will that takes care of basic concerns, such as leaving a home, investments, and personal items to your loved ones and favorite charities. There are many resources available to you: your public library, bookstores, internet sites that may help you prepare for your meeting with the attorney.

Plan Ahead

The end of your life is something you probably don't want to dwell on, but as Christians we know that one day we will see Christ face to face. Thinking about what will happen to your loved ones, your assets and personal possessions is an important part of being a good steward. Making sure you've done all you can to be a good steward of your finances will give you peace of mind. And once your will is prepared, you won't have to think about it again unless something significant in your life changes.

Everyone Needs One

Although wills are simple to create, about half of all Americans die *intestate*, without a will. Without a will to indicate your wishes, the court steps in and distributes your property according to the laws of your state. Wills are not just for the rich; the amount of property you have is irrelevant. A will ensures that what assets you do have will be given to family members or other beneficiaries you designate. If you have no apparent heirs and die without a will, it's even possible the state may claim your estate. Having a will is especially important if you have minor children because it gives you the opportunity to designate a guardian for them in the event of your death. Without a will, the court may appoint a guardian for your children.

Elements of a Will

Here are the basic elements generally included in a will:

- Your name and place of residence
- A brief description of your assets
- Names of spouse, children and other beneficiaries, such as charities or friends
- Alternate beneficiaries, in the event a beneficiary dies before you do
- Specific gifts, such as an auto or residence
- Establishment of trusts, if desired
- Cancellation of debts owed to you, if desired
- Name of an executor to manage your estate
- Name of a guardian for minor children, if any
- Name of an alternative guardian, in the event your first choice is unable or unwilling to act
- Your signature
- Witnesses' signature(s)

Naming a Guardian

In most cases, a surviving parent assumes the role of sole guardian. However, it is important to name a guardian for minor children in your will in case neither you nor your spouse is able and willing to act. The guardian you choose should be over 18 and willing to assume the responsibility. Talk to the person ahead of time about what you are asking.

Naming an Executor

An *executor* is the person who oversees the distribution of your assets in accordance with your will. Most people choose their spouse, an adult child, a relative, a friend, a trust company or an attorney to fulfill this duty. You should expect your estate to pay the executor for this service. Fees vary by state.

If no executor is named in a will, a probate judge will appoint one. *Probate* refers to the legal procedure for the orderly distribution of property in a person's estate. The executor files the will in probate court, where a judge decides if the will is valid. If it is found to be valid, assets are distributed according to the will. If the will is found to be invalid, assets are distributed in accordance with state laws.

Responsibilities usually undertaken by an executor include:

- Paying valid creditors
- Paying taxes
- Notifying Social Security and other agencies and companies of the death
- Canceling credit cards, magazine subscriptions, etc.
- Distributing assets according to the will

Preparing a Will

Start by organizing what you need: outline your objectives, inventory your assets, estimate your outstanding debts and prepare a list of family members, and charitable organizations. Use this information to carefully consider how you want to distribute your assets. Ask yourself lots of questions: Is it important to pass my property to my heirs in the most tax-efficient manner? Do I need to establish a trust to provide for my spouse or other beneficiaries? These are reasonable questions to ask your attorney, CPA or financial advisor.

Taking inventory of the assets may be the key to making a will. Assets should be mentioned in your will. Think about all your financial assets including stocks, bonds, real property, mutual funds, family heirlooms, jewelry, etc. Any items not specifically mentioned may be addressed in a catchall clause of your will called a residuary clause, which generally states, "I give the remainder of my estate to..."

Outstanding debts usually will be paid by your estate before your beneficiaries receive their shares. You may want to clear up debts that you know will be a problem, or make specific provisions for payment of those debts in your will.

Remember to be specific and clear when naming beneficiaries. For example, state the person's or charity's full name so your executor will know exactly who you mean. Clarity will also help to prevent challenges to your will.

States require that you sign the will in front of witnesses - the number of witnesses varies by state.

If it is your desire to bless Kairos in your will, please let your attorney or financial advisor know that our correct legal name is Kairos Prison Ministry International, Inc., a Florida not-for-profit corporation located at 130 University Park Drive, Suite 170, Winter Park, FL 32792. If our Federal Id number is needed, it can be secured from the Kairos Prison Ministry office by calling 407-629-4948.

Updating a Will

You'll probably need to update your will several times during the course of your life. For example, a change in marital status, the birth of a child or a move to a new state should all prompt a review of your will. You can update your will by amending it by way of a codicil or by drawing up a new one.

Estate Taxes

The property included in your will may be subject to taxation. In planning your will, take into account the following:

- Federal estate taxes
- State death or inheritance taxes

- Federal income taxes
- State income taxes
- City taxes

You may be able to minimize your estate tax by establishing a trust or giving gifts during your lifetime. You can also cover the cost of estate taxes by proper financial planning. Talk to your lawyer, CPA or financial advisor to find out more about how this works.

Where to Keep Your Will

Once your will is written, store it in a safe place that is accessible to others after your death. If you name a trust company as executor, it will hold your will in safekeeping. You can keep it in your safe deposit box, but be aware that some states will seal your safe deposit box upon your death, so this may not always be the safest place to store your will. If you choose to keep your will in a safe deposit box, make sure that someone else that you trust has access to it so that it may be retrieved after your death. If you had an attorney prepare your will, have him or her retain a copy.

A Living Will

A living will is not a part of your will. It is a separate document that lets your family members know what type of care you do or don't want to receive should you become terminally ill or permanently unconscious. It becomes effective only when you cannot express your wishes yourself. If your state recognizes a power of attorney for health care, have one executed to authorize someone to act in accordance with your present intentions.

Discuss your wishes as reflected in your living will with family members, and be sure they have a signed copy.

Establishing a Trust Fund

If you want to establish a trust, it is recommended that you consult a lawyer that specializes in estate planning. This is important because laws vary by state. The following sections on trusts are provided for your information only.

Establishing a trust requires a document that specifies your wishes, lists beneficiaries, names a trustee or trustees to manage the assets and describes what the trustee or trustees may do. Once the document is completed, you must transfer the assets to the trust.

Some states require you to file a trust document with the state. To find out about your state's laws regarding trusts, talk with an attorney who specializes in estate planning.

About Trust Funds

People often associate trust funds only with the wealthy. But a trust fund ("trust") actually can be an effective financial tool for many people in many circumstances.

A *trust* is a separate legal entity that holds property or assets of some kind for the benefit of a specific person, group of people or organization known as the *beneficiary* (*beneficiaries*). The person creating a trust is called the *grantor*, *donor* or *settlor*. When a trust is established, an individual or corporate entity is designated to oversee or manage the assets in the trust. This individual or entity is called a *trustee*. A trustee can be a professional with financial knowledge, a relative, loyal friend or a corporation. There are pluses and minuses to each type of trustee.

Benefits of Establishing a Trust

Whether it makes sense to establish a trust depends on your individual circumstances. Some common reasons for setting up a trust include:

- To provide for minor children or family members who lack financial experience or who are unable to manage their assets
- To provide for management of your assets should you become unable to oversee them yourself
- To avoid probate and transfer your assets immediately to your beneficiaries upon death
- To reduce estate taxes or provide liquid assets to help pay for them.

Keep in mind that you may not need to establish a trust to accomplish these and other financial goals. A well-written will may distribute your assets appropriately. Check with a lawyer before deciding if a trust is right for you.

PAMPHLETS FROM THE FEDERAL GOVERNMENT

The quarterly Consumer Information Catalog lists more than 200 helpful federal publications. For your free copy write Consumer Information Catalog, Pueblo, CO 81009, call 1-888-8-PUEBLO (1-888/878-3256) or find the catalog on the Net (www.pueblo.gsa.gov).

The IRS website and the Attorney Bar Association of your state may be a source of valuable reference materials.

Note: This document is provided as a guide to our donors and volunteers to assist in their estate planning. It is meant to provide information only, not legal counsel or tax or financial advice, regarding the process of preparing a Will, Trust or other legal document. The making of a will or trust is an important matter and we highly suggest you do so with competent professional assistance. If you have any questions about the above or how you might donate to the Kairos Prison Ministry, please contact us at 407-629-4948.