

Wills

What is a Will?

A will is a legal document that states exactly how you want your money, property, and personal belongings distributed after your death. In your will, you name:

- **Beneficiaries**. Specific people, groups, or charities you choose to inherit your assets.
- **Executor**. A trusted person you name to carry out the instructions in your will, pay your final debts, and wrap up your estate.
- **Guardian**. A trusted person you choose to raise your minor (under 18) children if you and their other parent pass away.

To make your will valid, you must sign it with two witnesses that also sign the document. All signatures must be notarized. A will only takes affect when you die and may be changed up until that point as long as you remain mentally competent to execute a new will.

A will does not give anyone control over your finances or medical decisions. Typically, you execute powers-of-attorney for finances and healthcare along with a will to grant a trusted person those powers when you are incapable of executing them on your own.

Why Make a Will?

- **Control Distribution of Your Assets**. With a will, you decide exactly who receives your money, home and personal belongings. If you die without a will, state laws decide how to split your assets, which may not match your wishes.
- **Protect Your Children and Dependents**. A will enables you to choose who will raise your children if they are minors. Without a will, a court will pick a guardian and decide how your children's money is managed.
- **Manage the Legal Process**. With a will, your executor will pay your debts and distribute assets as you wish. Without a will, the state will make the decisions.

- **Reduce Family Conflict.** Clearly written instructions in a will prevent confusion and lower the risk of fights among heirs.

What Happens Upon My Death with a Will?

When you die, having a will does not mean your assets will transfer automatically instantly. Instead, your will serves as a legal roadmap for a court-supervised process called probate. The step-by-step process is as follows:

- **Your Executor Locates the Will.** Your executor must find your original, signed legal will. They will also gather your official death certificate, which is usually by a funeral director or medical examiner.
- **File for Probate.** Your executor files your will and death certificate with the local probate court. The court reviews the document to ensure it is valid, legally binding and represents your final wishes.
- **Official Appointment of Executor.** The court grants your executor legal authority to act on behalf of your estate by issuing a document called Letters Testamentary. With this document, your executor can access your bank accounts, talk to your utilities, and manage your property.
- **Inventorying Assets and Notifying Creditors.** Your executor takes control of your estate and performs the following tasks:
 - **Asset Inventory.** They list and value everything you owned, from bank accounts to real estate.
 - **Creditor Notification.** They notify banks, utility companies, and the public (often through a local newspaper notice) of your passing.
 - **Paying Debts and Taxes.** They pay off any outstanding bills, valid creditor claims, funeral costs, and final income taxes using your estate's funds.
- **Final Distribution to Beneficiaries.** Once all the debts, administrative fees, and taxes are completely paid, the executor presents a final accounting to the probate court. With the court's approval, the executor distributes the remaining assets to the beneficiaries exactly as you instructed in your will.

Do Any Assets Skip the Probate Process?

A will only controls assets that go through probate. Assets that transfer automatically outside of a will include:

- Accounts with a **Designated Beneficiary** such as IRAs, 401ks, and life insurance policies.
- Bank Accounts set up as **Payable on Death (POD)** or **Transfer on Death (TOD)**.
- Property owned jointly with **rights of survivorship** such as a home jointly owned by spouses.
- Assets previously transferred to a **Living Trust** during your lifetime.