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Wills

What is a will?

A will is a written document saying what you want to happen to your assets at your death. Generally, a will should list your beneficiaries (who you want to get the assets) and which items you want them to get. A will should also name an executor, who is the person who will be responsible for taking your will to probate court and handling your estate.

What if I do not have a will?

If you die without a will, you are said to have died “intestate.” Tennessee law will decide how your property will be distributed. An administrator will be appointed by the court to collect your assets, pay your debts, pay your funeral and burial expenses, and distribute any remainder of your possessions to your relatives as determined by Tennessee law.

If you die with a spouse and no children, your assets will go to your spouse. If you die with a spouse and a child, your assets are divided equally between them. If you die with a spouse and more than one child, your spouse gets 1/3 and the remaining 2/3 is divided among your children.

What are the requirements for a valid will?

Under Tennessee law, a will has the following requirements:

- Be made by someone 18 or older;
 - Be made by someone of “sound mind”;
 - Be in writing and signed;
 - Be witnessed by at least 2 people who will not get any property under the will.
- The witnesses must sign their names in the presence of the person making the will.
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Can I write my own will?

A will that is entirely in the handwriting of the person making the will is called a “holographic will.” Holographic wills are valid in Tennessee. A holographic will does not have to be witnessed, but it must be signed and dated and must indicate that it is intended to be a will.

Should I hire a lawyer to write my will?

While the law does not require you to use a lawyer to write your will, hiring a lawyer is a good idea because improper drafting can cause unnecessary expense and could result in your wishes not being followed.

What will the lawyer ask me when I meet with him or her about my will?

A lawyer will likely ask you for the following information:

- A list of the family, friends, or organizations to whom you want to leave your property.
- A list of all of your property and how it is titled.
- How you want your property divided. For example, you may want to have your property split equally among your children; however, you should consider alternative recipients in case you outlive your first choices. For example, you might name your grandchildren as alternates in the event one or more of your children does not survive you.
- Who you want as your executor.

Can I change my will?

You can change your will, and it is important to review your will from time to time to make sure it still expresses your wishes. You may want to change your will if you move to a new state, get married or divorced, or if there are any other major life changes.

How do I change my will?

You can change your will by making a new will or signing an amendment, called a “codicil.” If you make a new will, you should destroy your old will after you sign your new will to avoid confusion. You should not write on a current will because erasing or marking through parts of a will may invalidate the entire will. If you need to make changes, make a new will or a codicil.

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