Why You Need A Will

Contrary to a widely-held belief, dying without a will doesn't mean your property passes to the State, which then uses the money to buy new park benches. Instead, local laws determine your estate's beneficiaries; these are the laws of "intestacy." In most states, one half of non-jointly owned property (titled in your name alone) passes to your spouse, the other half to your child or children. If you are single and have children, your assets generally pass to your children and/or your parents, if alive. If you don't have children, typically your assets pass to your parents and/or siblings.

Having a will allows you to name the individuals you wish to inherit your assets, and the manner they will do so, regardless of state law. In addition, if you do not have a will, the local court will appoint your "personal representative" – an executor to administer your estate, based on statutory rules of priority. Again, this might not be the person you would prefer. You also may wish to specify funeral arrangements,.

If you are married with children, and you and your spouse die together in an accident, your child or children would receive your entire estate, but a court would have to choose the child's legal guardian. Judges usually appoint the nearest relatives of the child, often causing titanic court battles between sets of grandparents. Even worse are those situations where the child's closest living relative is Uncle Harold, a tambourine player with the Hare Krishnas. A properly drafted will names your beneficiaries, your child's guardian and a trustee for his or her estate while a minor. (The guardian and trustee you select need not be a relative).

Both husband and wife should have their own wills. Although joint wills are legal, it's generally undesirable to tie yourself together in this way; you run the risk of being

unable to deal with changed circumstances arising from the death of one spouse

Perhaps you're interested in going online, buying a book or computer program that tells you how to write your own will. These can be informative tools, but in some cases might cause you to miss an essential requirement or have less than the best plan. Making the best plan and the best usually takes knowledge and expert advice. For example, do you know that property held jointly with another may not be distributed by will? Or that life insurance may or may not be distributed by will, depending who is named as beneficiary? Or that the same can be said of individual retirement accounts, pension plans and other assets? That the beneficiary designation on retirement plans can have major tax consequences? That a spouse has a right to a large share of your property no matter what your will may say? The best plan recognizes that the best will is only part of the total plan for the distribution of your property.

When choosing a lawyer, seek references from friends and co-workers. Lawyers generally charge a flat fee for routine wills and estate planning. Preparation of a detailed estate plan and tax-saving wills, however, is done on an hourly fee basis.

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