

WILL

OVERVIEW

A Will is a basic document that is used to distribute your assets to those you specify upon your death. For ownership of your assets to transfer to those you specify, a Will has to go through a process called probate. The probate process is controlled by the courts.

The court's probate process is designed to make sure the final wishes of the deceased are honored, creditors are paid, and the heirs receive what is left. The probate process typically takes six months to complete. For large estates, the process can stretch over many years. The costs of probate are paid from your estate.

If you do not have a Will, the state law will determine who receives your assets. If you are married, typically everything goes to your spouse, unless you have children who are not your surviving spouse's children. If you have children who are not children of your surviving spouse, your estate will be divided between your surviving spouse and your children.

If your children are minors, the court, during the probate process, will designate a guardian to oversee the minor's inheritance. This guardianship stays in place until the child turns 18. A Will allows you, not the court, to decide who will be the guardian, and you can provide for a custodian to manage the assets instead of a court-appointed guardian.

A Will only controls those assets that are in your name alone. It does not govern any assets that are joint with right of survivorship, payable on death or transfer on death, or have a valid beneficiary designation. All of those assets pass outside of your Will and outside of the probate process.

POSITIVES

- ◇ You Control Who Receives Your Property.
- ◇ You Decide Who Cares For Your Minor Children Upon Your Death.
- ◇ You May Leave Property to Charity or Non-Relatives.
- ◇ You Can Appoint Who Administers Your Estate After Your Death.

MYTHS

- ◇ A Will Avoids Probate.
- ◇ If I Don't Have a Will, Everything Goes to the State
- ◇ All my property passes through my Will.
- ◇ If I Die Without a Will, All My Property Goes to My Spouse

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