

Planning Your Will

Turning Point™
with Dr. David Jeremiah

But do not forget to do good and to share, for with such sacrifices God is well pleased. (Hebrews 13:16)

Creating a Personal and Effective Will

Your Will is one of the most important documents you will execute. While you are alive, it lies dormant. You can change or revoke it, and it has no effect whatsoever on your financial, business, or personal circumstances. But at death, your Will becomes exceedingly important. It will be submitted to a court, and once accepted as valid, its terms will control the disposition of the estate you have spent a lifetime building.

Certainly, your Will can have a profound effect on the financial well-being of family members, friends, and charities. This unique document will be a permanent reflection of your personal life values and your love and concern for family, friends, and community.

Key Elements

Whether your Will is simple or complex, it is first and foremost a legal document. To be effective, it must meet the requirements of state law. But your Will can be much more than a legal document. It can contain a final message that reflects your personal beliefs—a way of leaving a rich legacy that others can remember you by.

Legal Requirements

Of course, every state has different rules, but there are some typical requirements. The Will should be:

- In writing (including a statement that the document is the testator's Last Will and Testament) and signed by the person executing the Will.
- Executed by a person who is mentally competent when the Will is written.
- Signed in the presence of two disinterested witnesses, who also sign the Will to acknowledge the testator's signature and the fact that it is, in fact, the testator's Last Will and Testament.

Answers to Commonly Asked Questions

Do I need to change my Will when I move to a different state?
Many states will admit a Will to probate if it meets the requirements of the laws of the state where the testator resided when the Will was executed. But some states will not recognize certain types of Wills, or Wills executed in a certain manner. Remember—different rules may apply depending on where a person resides, where a person dies, or where property is located (e.g., a vacation home in another state). It is a good idea to check with a local attorney to make certain your estate plan remains intact after a move.

Who should witness my Will?
State law governs who may witness a Will, but there are some general principles to follow. Ideally, you should choose a person who has no interest in the Will (i.e., is not a beneficiary, trustee or executor) and is not related to you either by blood or by marriage. You should also look for a person of good character who is likely to outlive you and remain in the state.

Can I use a fill-in-the-blanks type of Will to avoid attorney costs?
We recommend that you consult an attorney. After all, even a small mistake in the drafting, execution, or witnessing of a Will can make it completely invalid.

Amending and Revoking

You can change your Will easily by executing a codicil—a separate document executed with the same formalities of a Will. In most cases, a codicil is used to make modifications to an existing Will. The old Will remains intact and is simply amended by the codicil. If you need to make major changes, you will probably want to execute a completely new Will. A new Will automatically revokes all previously executed Wills.

Restrictions on Asset Disposition

In most cases, you have the freedom to dispose of assets to beneficiaries of your choosing, but state laws do impose some restrictions. The best example is the rule that a married person cannot disinherit a spouse. If a Will makes no provision for the spouse (or makes inadequate provision), the spouse generally can elect to take a statutory share of the estate, regardless of the actual terms of the Will—typically one-third or one-half of the value of the estate. Children, on the other hand, generally do not have an absolute right to receive any part of the estate under a Will.

Practical Considerations

Let us turn now to the practical side of a Will. This is an area where the person making the Will, rather than the attorney, has primary responsibility.

Making a gift in your Will
Chances are good that your present Will leaves specific sums of money to one or more designated beneficiaries and then directs that all the rest of your estate be divided among other designated beneficiaries. Here are the most common forms of gifts.

- *Percentage of value.* A percentage-of-estate-value gift allows all beneficiaries to share in increases or decreases in the value of the estate after the Will is executed.
- *Contingent gifts.* What will happen if a beneficiary named in your Will dies before you? Your gift may go to an unintended relative or lapse and pass to your residual estate. Either way, your objectives may be frustrated. The best approach is to name contingent beneficiaries to receive a gift if the primary beneficiary predeceases you.
- *Specific gifts.* Your Will can leave specific real or personal property to a beneficiary. Keep in mind, however, that if the property is not in your estate at the time of your death, the gift may become void and the beneficiary will not receive any part of your estate.
- *Residuary gift.* Any specific gifts provided in your Will are paid first. Whatever is left after all specific bequests, taxes and estate costs have been paid can be left to beneficiaries out of the residuary estate.

Selecting the executor

Many people name a spouse or an adult child as the executor of their estate. Unless the estate is large or complex, this is generally a good decision. (In actual practice, the legal work is done by the attorney, while the executor makes decisions for the estate and completes a significant number of administrative tasks.) However, depending on the nature of your estate, there may be good reason to nominate a friend as your executor, or to name a bank or trust company to settle your estate.

In choosing an executor, keep in mind that settling an estate can be a complex and demanding task—collecting and preserving assets, settling claims, collecting debts, filing tax returns, probating the Will and attending court proceedings. In most cases, all this is accomplished in one or two years, an accounting is filed, the estate is distributed to your designated beneficiaries, and the executor is discharged.

The Art of Planning an Effective Will

There are five basic steps to making a new Will or reviewing an existing Will.

1. Make a comprehensive listing of assets (including personal effects) and liabilities. Write down the income each asset produces and other characteristics of each asset.
2. Make a list of your objectives—what you want your estate plan to accomplish, rather than how much each beneficiary should receive. For example, you may want to ensure financial security for your spouse, protect a child against a temporary financial misfortune, or ensure a grandchild's education.

3. Seek the advice of an attorney.
4. Make your own decisions. It is your estate and you have a right to dispose of it in any way you choose.
5. Talk about your decisions with your attorney, then rely on the attorney to draft a Will that will accomplish your objectives.

A Final Word

Please remember your faith is the most important asset you can share with your family and pass down to the next generation. Sharing your personal faith testimony in your Will as part of your legacy documents allows you to distribute your richest wealth—your belief in Jesus Christ and His gift of everlasting life, which can make an eternal impact by encouraging others to trust in Jesus and enjoy God's promise of eternal life.

Also remember that a Will (or Trust) allows us to specify our final plans and our instructions about the distribution of the treasure God has entrusted to us. In disposing of your property in your legacy plan, be sure that you do not forget God's cause. You are His agents, holding His property, and His claims should have your first consideration.

We trust that godly wisdom will assist in guiding you to make the best plans for stewardship of the assets He has entrusted to you. This is both a high honor and a privilege. However, it can also seem like a daunting task. If that is the case, let us know because we are here to help you. If legacy planning is something you are considering for the first time, or if you need to update an older, existing plan, we have resources and people who are happy to assist.

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