

Considerations for Creating a Last Will and Testament

- Make a plan for end-of-life issues early
- Discuss your wishes with your trusted loved ones
- Review your Last Will and Testament anytime you have a major life change (such as divorce, death of a spouse, birth/adoption of a new child, or buying/selling a home) to make sure you are covered
- Choose a Personal Representative that you can trust to honor your wishes
- These are your wishes and not what anyone else wants
- Consult with an attorney before executing a Will.



Other Legal Representation and materials:

Lawhelp.org/sc is South Carolina's guide to hundreds of free legal resources such as:

- Information about your rights and legal responsibilities
- Legal forms and court documents

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- Information for the public in all civil law areas
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Balancing the Scales of Justice

Last Will and Testament



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What is a Last Will and Testament?

- A Last Will and Testament, known as a Will, is a legal document that tells the Probate Court and the world what you want done with your property when you pass away.

Requirements:

- At least 18 years old to create a Will; AND
- Have the capacity to execute a Will

Capacity to execute a Will means that you must know what property you own, who your heirs are, and who you want to leave your property to.

What decisions do I make in my Will?

- Determine who gets your property at death
- Choose a Personal Representative who will handle probating your estate
- Nominate someone in your Will to serve as guardian of your young children. The Family Court will take your choice into account; but is not bound by it.

A legal (valid) will:

- Signed in writing by you AND
- Signed by two disinterested witnesses. A disinterested witness is someone:
 - Who is not an immediate family member,
 - Who is not inheriting from your estate, and
 - Who has capacity to testify about what they witnessed when you signed the Will.
- Kept in a safe place, like a fireproof safe. Make sure your Personal Representative knows where your original Will is located.
- Filed in the Probate Court after you die.
- It is also best to have it notarized.

What are the duties of Personal Representative?

- Know location of Will
- File Will with Probate Court
- Fill out the forms correctly
- Work through conflict with the family
- Deal with creditor claims
- Distribute the estate property

What Happens if I don't have a Will?

- The law will determine who inherits from your estate and what they would inherit
- It is more difficult for the court to distribute your property
- More expensive to process the estate.

Do I have to include my spouse and children in my Will?

- You may exclude your children
- Your spouse can claim one third of your estate if excluded.

Can I make changes to my Will?

- Yes, but best to consult an attorney to make any desired changes
- Never write on your Will or line things out on your Will.

How do I get rid of my old Will so that I can write a new one?

You can cancel your Will by writing a new one or destroying your old one.

