

Second, list the people and institutions to whom you want to leave your assets.

Use their full legal names, and note their relationships to you - son, niece, friend, caretaker, teacher, alma mater, etc.

Three, name a Personal Representative.

Someone will need to take legal responsibility for attending to your affairs when you die, including making sure that your Will and estate are handled according to law. This person is called the Personal Representative, and can be a family member, a friend, or an attorney. You want to make sure that the person you name will have the time and ability to do what is required. An attorney can explain the duties of a personal representative, and help you consider who would be best. See our pamphlet **Probate** for a description of the legal responsibilities of a Personal Representative.

Working with An Attorney

Fees

In your first discussion with an attorney, after you give the attorney a general idea of what you want the Will to cover, you should ask the attorney for an estimate of what you will be charged for this legal service, and when you will be expected to pay. In some cases, the charge may be a flat fee; in others, it may be an hourly charge billed at regular intervals, or when the work is completed. You may be required to pay a retainer, or amount of money at the beginning, from which the attorney will deduct expenses. You should make sure you and the attorney agree to payment and terms before you actually start the work.

Time Considerations

If you have an important time constraint, or circumstances that make speedy completion of a Will necessary, you should make that clear, as well.

The Process

After you have your information together, you can expect to have at least one conversation with your attorney, and maybe more, as you work out exactly all the details of your Will. Eventually, your attorney will give you a draft of your Will to review with you, and to which you may want to make changes. When both you and the attorney feel that the Will has covered everything you want covered in a way that is clear and according to Maine law, you will have to sign it with a witness and a notary present. The notary will imprint the Will with a special stamp, and you will be given at least one copy as well as the original. Most often people leave the original with their attorney, and save a copy with their most important papers or give it to a trusted relative or friend. Remember that when you die, someone will need to know where to find your Will in order to carry it out.

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Revised 5/2006



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Lawyer Referral & Information Service

Writing Your Will

The Right Call for the Right Lawyer

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Writing Your Will

Frequently Asked Questions

What is a Will?

A Will is a document which allows you to direct the distribution of your assets— your money, real estate, and personal property — after your death.

Who can make a Will?

Anyone 18 or more years of age who is of sound mind may make a Will.

Why do I need a Will?

Most people make a Will so that they can give their money and possessions to people they care for, or institutions they believe in, after they die. In effect, a Will becomes the essential document governing how the courts understand your intent and assures that your wishes are followed. You may tell someone that you want your string of pearls to go to your first granddaughter, or your cabin in the mountains to go to your son, or your collection of autographed Stephen King novels to go to the local library – but if you don't put these wishes into a Will that is signed and witnessed according to law, things may turn out very differently. The court might order that the pearls, cabin, and books all be sold, and the money divided equally among your children, for example - which might be fair, but not what you wanted. So whether you are leaving behind a fortune, or just one or two personal possessions, putting your wishes into a Will is the only way to be confident that your property will go where you want.

Does a Will cover everything I own?

Generally, a Will directs the distribution of *anything that you own individually, and list in the will*. When you legally own something with someone else – such as a house, or a savings account that is under both your name and that of your spouse – that property generally remains the property of the other person when you die. On the other hand, Living Trusts and life insurance policies are governed by their own terms, and will go to the beneficiaries named as part of those documents, and not included in a Will.

Can't I get standard forms and write a Will myself without a lawyer?

Legally, yes. But there are three reasons that it is a really good idea to work with an attorney.

- ✓ **To** make sure the court accepts your Will as the legal document in charge of your estate, a Will must be signed in a particular way, with witnesses, and under oath. Other types of Wills (such as holographic, or handwritten) may be accepted by the court, but even these are subject to certain requirements that can be explained by an attorney.
- ✓ If you have minor children, or need to provide for an incapacitated adult, such as an adult child with special needs, or an ailing spouse, an attorney can help you set up arrangements for guardianship and/or special trusts to help care for them after you are gone. These may include legal arrangements beyond the Will itself, as well as appropriate language within the Will.

- ✓ Inheriting money or property from you may create unintended legal or financial problems for your heirs. An attorney can anticipate these problems, and can often find better ways to help you accomplish what you intend.

Can I make changes later?

Yes, not only *may* you change your Will as many times, and at any time, as you like, you should plan on it. Your Will should be reviewed periodically to keep up with changes in your assets, your wishes, and the law. The Will you made when you had your first job and one child will not be sufficient later, when you have several children, more property, and live in a different state under different laws - or the same state, and different laws. Similarly, as your children become self-sufficient, you may want to distribute your assets according to different priorities. Wills can be rewritten entirely, or changed by additional notes, or “codicils,” depending upon the complexity of the changes.

Getting Ready to Write Your Will

First, list your assets.

These will be both the things you personally own that have recognized monetary value, like a house or car or antiques; and things that may be of little monetary value, but are important to you or the people or institution to whom you want to give them, such as mementos, family heirlooms, or personal treasures.