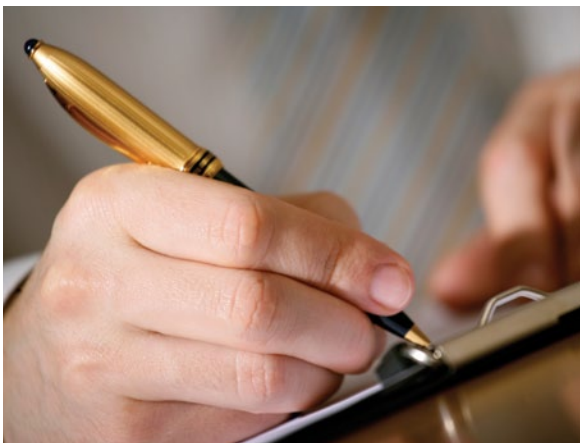
Guide to Your Last Will and Testament



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Your TotalLegal® Last Will and Testament

Your last will and testament may be the single most important document you ever sign. Your will specifies how your estate will be distributed and determines who will inherit your real estate, your investments, your savings, and your personal belongings. Your will can also name one or more persons as a guardian for your minor children and an executor to manage your estate. Without a will, there's no guarantee that your wishes will be carried out or that your family members will be provided for as you intended.

This "Guide to Your Last Will and Testament" is intended to help you do the following:

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Understanding Your TotalLegal® Will

Listed below is a summary of the sections of your will. If, after reviewing your will, you would like to make changes to any provision, please follow the instructions located on page 6 found later in this guide. Please see the definitions at the end of this guide for clarification of legal terms used in this section of your will.

Introductory Clause/Revocation of Former Wills and Codicils

This paragraph identifies the testator of the will and declares your city and state of residence so that the court is able to confirm that it has jurisdiction over the probate of your will. This paragraph also revokes any and all of your former wills and codicils, which means that once this TotalLegal® will is executed, it is your only valid will.

Identification of Family

First, this section states your marital status. Second, it lists the names and birth years of all of your biological and adopted children, both minors and adults. Third, if you have disinherited anyone, this paragraph should contain a statement with the name(s) of the disinherited person(s).

Disposition of Remains

This is an optional section. Any information you provided in your TotalLegal® online interview concerning how you would like your remains handled after your death should be listed here as well as a provision giving your executor permission to make the necessary arrangements to carry out those wishes.

Appointment of Fiduciaries

This section is used to appoint an executor to manage your affairs after your death and settle your estate. If you have also used your will to create a testamentary trust, the trustee should be named in this section. Additionally, if you have minor children and named a guardian to care for them in the event of your death, the guardian should be named in this section as well.

Specific Gifts

This is an optional section used for making specific gifts, such as money, personal property or real estate to a person or organization. This section is also used to list any debts owed to you by someone else that you want to forgive (erase). Additionally, this section is used to name a caretaker for your pet in the event of your death.

Disposition of Residue

This section outlines how the remainder of your estate will be distributed to your beneficiaries, and it can become complex when many primary and/or alternate beneficiaries are named in your will. This section often has a clause giving the remainder of your estate to your “heirs” if your primary and alternate beneficiaries do not survive you. If a family trust is created, this section will also outline how the trustee should distribute the assets of that trust.

The terms “heirs,” or “heirs at law,” refer to those persons who will inherit your property by law pursuant to the Rules of Descent and Distribution (Intestate Succession), rather than under your will, if you die with a will that does not name any living beneficiaries. These rules, which vary from state to state, only allow the surviving spouse, blood relatives, adopted children, and adoptive parents to be designated as heirs.

For state-specific information on how your state defines “heirs at law,” please go to our TotalLegal® Help Center at totallegal.com/helpcenter.asp.

Understanding Your TotalLegal® Will

Below you will find general information on what commonly happens when someone dies without a will or with a will that names no living beneficiaries.

If there is a surviving spouse, he or she is always entitled to a statutory share of the decedent's estate, which is commonly one-third or one-half. After the surviving spouse has taken his or her share, the remainder of the estate is distributed in equal shares to the children of the decedent, including children from other marriages, and children from non-marital relationships. If the decedent has no living children, his or her grandchildren become heirs. If the decedent has no living grandchildren, his or her great-grandchildren become heirs. Note that ordinarily, a step-parent will not inherit from the estate of a deceased step-child, and step-children will not inherit from their step-parent unless the state statute provides otherwise.

If the decedent has no living spouse or issue, then the decedent's surviving parents commonly become the heirs, and in some states, the decedent's surviving brothers and sisters will also be deemed heirs and will share in the proceeds of the estate along with the decedent's parents. If there are no surviving parents, the decedent's brothers and sisters will inherit the estate. Half siblings generally inherit the same as full siblings. If the decedent's brothers and sisters are deceased, the decedent's nieces and nephews commonly become the heirs. If the decedent has no surviving spouse, issue, parents, siblings, or nieces and nephews, commonly the paternal and maternal grandparents will become the heirs if they are living. After this point, the decedent's cousins may also become heirs of the decedent's estate.

In order to avoid having the Rules of Descent and Distribution determine how your estate will be distributed, it is important that you update your will to name new primary or alternate beneficiaries if any beneficiaries named in your will die.

Alternative Methods of Distribution

This section identifies a number of methods by which property may be distributed to a beneficiary who is under 21 years of age or is legally disabled. This section is included in all TotalLegal® wills.

Administrative Provisions

This section outlines the powers and duties of the fiduciaries named in the "Appointment of Fiduciaries" section. It also specifies how debts, expenses and taxes of the estate are to be handled and paid.

Miscellaneous

This section does the following:

- Defines terms used throughout the will.
- Transfers the title of any real property to the executor of the estate until he/she distributes or sells the property.
- Provides instruction on how to distribute assets if a beneficiary disclaims (does not want) an interest in the will.
- Identifies your state law as the law the will is subject to.
- Gives permission to the trustee of any trusts created by the will to move the administration of the trust without court approval.
- Provides instruction on what to do with property if the will has no specific instructions on the disposition of that property.

Attestation and Statement of Witnesses

This final section is the statement the witnesses sign affirming the signature of the will in an official capacity.

Ensuring Your Will is Legally Valid

Each state follows certain basic requirements to establish the validity of the last will and testament. If each requirement is not met, the document will not be legally enforceable. Refer to the signing guidelines that you received with your will for specific instructions for your state.

The following are the basic requirements for ensuring the will is valid and enforceable:

The individual making the will meets the minimum age requirement.

The individual who is making a will must meet a minimum age requirement (typically, the person must be 18 years of age or older). The only exception to this rule comes into play when the individual has emancipated minor status.

The will has been signed.

The signing of the will must generally be handwritten by the individual creating the will or handwritten by another individual at his or her request. Certain cases exist where this requirement might be altered. Not only must the will be signed in handwriting, but each state also designates the exact location of the signature. Typically, the will must be signed at the very bottom of the document.

The person creating the will is mentally capable of doing so.

In order for the will to be valid and enforceable, the individual creating it must be of sound mind and body. This translates to mean a person who has clear thinking and normal mental capacity. The testator must have a clear idea of whom his or her heirs at law are in order to create a valid will. He or she must also have a good understanding of his net worth at the time that the will is created.

Witness requirements have been met.

Specific requirements are in place as to the number of individuals who must be present when the last will and testament is signed. In general, two witnesses must be present in order for the document to be valid. Additionally, the witnesses need to be 18 years of age or older in most states. Moreover, certain other restrictions are also in place in most states regarding the witnesses. This includes the fact that the witnesses must not be related to the testator of the will. Nor can they be named as fiduciaries or beneficiaries.

Notarization.

A will does not need to be notarized.

After the signing.

After the will is signed, it should be stored in a safe place known to others. A will does not need to be filed with a court or any other agency. You may make photocopies of the will and make these copies available to select people, such as the executor, named in your will.

Self-proving affidavit.

The self-proving affidavit certifies that the witnesses and testator properly signed the will. A self-proving will makes it easy for the court to accept the document as the true will of the person who has died, avoiding the delay and cost of locating witnesses at the time of probate. A self-proving will saves your witnesses and beneficiaries considerable inconvenience by not requiring a court appearance to affirm the will's validity. It also gives your will an extra layer of authentication that can help your beneficiaries avoid a long and costly probate process.

Notarizing Your Documents

A notary public is an official appointed by state government (typically by the secretary of state) to serve the public as an impartial witness in performing a variety of official fraud-deterrent acts related to the signing of important documents. These official acts are called notarizations or notarial acts.

Is my will legally binding if it is not notarized?

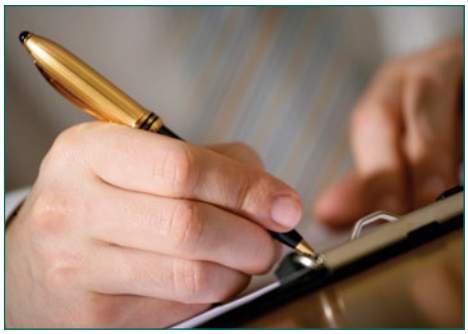
A will does not need to be notarized to be legally binding. You may wish to have your will notarized to make your will self-proving if your state accepts a self-proving affidavit. Please review the TotalLegal® guidelines for executing your will included with your package to learn whether your package includes a self-proving affidavit and to learn the benefits of a self-proving will.

Where can I find a notary public?

Notaries public are generally available at most county offices, such as a county clerk, as well as insurance companies, credit unions, banks and law offices. However, it is important to note that while these businesses may employ a notary, the business may have a policy restricting the type of documents the notaries may notarize. To ensure the notary is able to notarize your type of document(s), it may be a good idea to call the business first. You can also search for notaries in your area through online notary associations:

Notary Rotary:
www.notaryrotary.com

123 Notary:
www.123notary.com



What is the cost to notarize a document?

Fees vary and can be as much as $10 in some states and as little as 50 cents in others. Notary fees are set by state law.

What type of identification will the notary accept for verifying my signature?

- State Driver's License or State ID card.
- U.S. passport.
- Foreign passport stamped by the USCIS.
- U.S. Military ID.
- ID card issued by the USCIS.
- An inmate identification card issued by the United States Department of Justice, Bureau of Prisons, for an inmate who is in the custody of the department.
- A sworn, written statement from a sworn law enforcement officer that the forms of identification for an inmate in an institution of confinement were confiscated upon confinement and that the person named in the document is the person whose signature is to be notarized.

Common Questions About Wills

How often should I update my will?

You should review your will regularly and after a major life change. Ask yourself if any of these life changes have recently occurred since you executed your will:

- Have you married or divorced?
- Have relatives or other beneficiaries or the executor died or has your relationship with them changed substantially and no provision is made in your will for this condition?
- Has the mental or physical capability of any of your relatives, beneficiaries, the guardian or executor named in your will changed substantially?
- Have you had children or grandchildren, or have the children gone to college, moved out of the house, or back into your home?
- Have you moved to another state?
- Have you bought, sold, or mortgaged real estate?
- Have you bought or sold a business?
- Have you acquired other major assets (car, bank account, etc.)?
- Have your business or financial circumstances changed significantly (estate size, pension, salary, ownership)?
- Has your state law (or federal tax laws) changed in a way that may affect your tax estate planning?

How do I make changes to my will?

You may make changes to your will for sixty (60) days after purchase* at no additional charge by doing the following:

1. Log in to www.totallegal.com from the home page.
2. If more than one document is shown, select the correct document.
3. Select “Update this document.”
4. Make your changes using the edit section tabs.
5. Continue through the rest of the online interview.
6. Select “Download” to save the changes and print your revised document.

*If you would like to make changes to your document that the TotalLegal® interview does not accommodate, you may do so by making the changes in the Word version of your will after purchase.

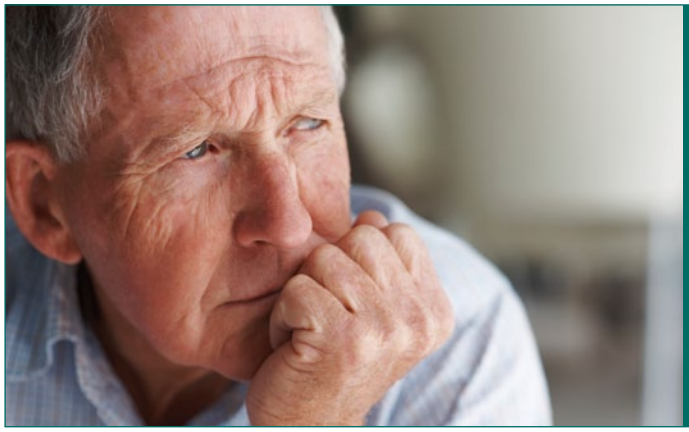
TotalLegal® Plan members may access and revise documents beyond the 60-day revision period. Non-members will be required to purchase a new TotalLegal® will and complete the online interview again if changes are needed beyond the 60-day revision period. For more information on the TotalLegal® Plan, visit www.totallegal.com.

When you update your will, you should destroy the previous will and all copies of it to avoid the possibility of confusion after your death.

Common Questions About Wills

Can a will be revoked?

Yes. If you wish to revoke a prior will, you should do so by express written statement in your new will. Your TotalLegal® will contains a clause that revokes any wills created earlier. The new will must be signed and witnessed in order to revoke any earlier wills.



It's a relief to know important decisions will be carried out the way I choose.

What are the legal grounds for contesting a will?

Challenging a will is usually time consuming, difficult, and expensive. However, if someone chooses to contest a will, they may do so on the following basis:

- The will wasn't signed according to the guidelines of the state of residence.
- The testator was coerced into signing the will.
- The testator did not have the mental capacity needed to sign the will.
- The testator was tricked into signing the will.

An Overview of the Probate Process - Executor

If you named an executor in your will, please remember to give that person the "Executor's Guide" included with your TotalLegal® package. The guide provides practical information about executorships that every prospective executor should have.

Probate and the Executor

Executor: The person named in the will to be responsible for handling and distributing the property of the decedent according to the will; also called a "personal representative" or "administrator."

Upon the death of the testator, the executor locates the will and files a document commonly called a "Petition for Probate of Will and Appointment of Personal Representative" with the probate court. The court will admit the will to probate and will also require the executor to take an oath of office, after which the executor will receive official documentation, typically called "Letters of Administration" or "Letters Testamentary," showing his or her status as executor.

Some states require the executor to publish a notice in a local newspaper calling for creditors to present their claims to the executor within a specific time frame. If the creditors fail to present their claims within a certain time frame, the creditors may lose their ability to collect the debt owed to them by the testator.

The executor must inventory all of the real and personal property of the estate so the value of the estate may be determined.

The inventory ensures:

1. That the estate has enough value to cover debts;
2. The intended distributions to the beneficiaries are met; and
3. All the property has been accounted for.

Once the creditor notice period has expired and any creditor claims paid and the estate fully administered, the executor will close the estate by filing the necessary documents with the probate court.

An Overview of the Probate Process - Guardian

If you named a guardian for your minor children in your will, please remember to give that person the "Guardian's Guide" included with your TotalLegal® package. The guide provides practical information about guardianships, which every prospective guardian should have.

Probate and the Guardian

Guardian: A person named in a will to have physical and legal custody of the testator's ward(s) in the event of the testator's death.

To start a guardianship proceeding upon the death of the testator, the person designated in the will as the guardian files a written request with the Court, usually called a "Petition for Guardianship." In most states, guardianship proceedings that arise out of the death of the ward's physical custodian are handled in probate court. Even though the testator named the guardian in his or her will, that person does not become the actual guardian unless the court grants the request for guardianship.

When appointing a guardian, the court gives substantial weight to the guardianship designation made in the will, but as always, it is the duty of the court to determine what is in the best interest of the ward(s). In making a "best interest determination," the court may assign a person to perform a home study of the prospective guardian, which typically includes home visits from the court-assigned person as well as interviews with the prospective guardian, other family members, and the ward(s), if age appropriate. The court may also require that the relatives of the ward(s) be notified of the guardianship request and may hold a brief hearing. In the event that someone contests the guardianship request, the court may order an additional investigation and/or hearings.

Although the court has the authority to name a different guardian, the court will most commonly award guardianship in accordance with the will. The court supervises the guardianship for as long as it exists, commonly until the ward(s) become adults, but perhaps indefinitely if the ward is an incompetent adult. As a practical matter, the degree to which the court monitors the guardianship varies greatly depending on the circumstances of the each individual case as well as state law. In many instances, there is little to no contact with the court.

Estate Planning Considerations

Three life events will automatically affect your will:

1. **Marriage.** In most states, your spouse is legally entitled to a percentage of your property after you die, unless you have a written agreement to the contrary. If you don't want to leave at least half of your property to your spouse, you need to specify that in your new will.
2. **Having or Adopting Children.** The laws of most states protect children not included in the will by entitling them to a share of your estate. How large the share is depends on if your spouse is alive at the time of your death and how many other children you have.
3. **Divorce.** If you are getting a divorce, or are divorced, you also need a new will. In most states a final judgment of divorce, or an annulment, revokes any gift made in your will to your former spouse, but in some states, that does not happen. No matter where you live, though, you should make a new will after a divorce.

Making Administration of Your Will Easier for Your Executor

- Keep the inventory sheet current.
- Keep the contact information sheet current.
- Make sure final arrangement wishes are in writing and are specific and clear.
- Make sure documents (will, tax returns, deeds, insurance policies, etc.) are easy to find.
- Make a clear plan for the executor to follow when it comes to hard-to-sell assets or handling a family business.
- Settle any lawsuits or major disputes.
- Clearly explain the estate plan to family in order to avoid future disputes between the executor and family members.

Other Estate Planning Documents

The following TotalLegal® documents are available to enhance your estate plan. While your TotalLegal® will provides instructions to be followed after your death, the TotalLegal® living will, health care power of attorney, and financial power of attorney provide instructions in the event that you become incapacitated and are unable to make decisions for yourself during your life.

Living Will

A living will is a document that informs doctors and other health care professionals about the kind of life-sustaining medical treatment you want if you become unable to communicate your wishes verbally. A living will is limited to choices involving artificial life support, feeding tubes, and hydration. Most people who choose to have a living will also have a health care power of attorney.

Durable Power of Attorney for Finance

A durable power of attorney for finance grants authority to another person called an agent to handle all of your business and financial matters should you be unable to do so. Depending on your individual circumstances, you may choose instead to limit the powers of the agent to a few specific duties as well as limiting when the control becomes effective.

Durable Power of Attorney for Health Care

A durable power of attorney for health care allows an individual designated by you to make decisions about your medical treatment if you are unable to do so yourself. It goes beyond a living will, in that it can be used for any health care decision, including surgery and experimental treatments.

To create one or more of these documents, visit www.totallegal.com

Common Terms Related to Wills

Bond: An insurance policy that protects the beneficiaries named in the will in the event that the executor wrongfully spends or distributes estate property.

Codicil: A document that adds to, subtracts from, qualifies, modifies, revokes, or otherwise alters or explains an existing will.

Decedent: A testator who has died.

Descendants: People with a direct blood line relationship following downwards from you, starting from your children, grandchildren and great grandchildren, are called your lineal descendants. Descendants are those in a descending line of birth from an individual, rather than an ascending line, such as to the parents of the individual.

Estate: Everything owned by the decedent, including personal belongings, real estate, savings, investments, life insurance, business interests, and employee benefits.

Executor: The person named in the will to be responsible for handling and distributing the property of the decedent according to the will; also called a “personal representative” or “administrator.”

Executorship: A legal relationship created when a court appoints someone executor of an estate.

Fiduciary: A person to whom property or power is entrusted for the benefit of another.

Fiduciary Duty: A legal duty to act in the best interests of a person.

Guardian: A person named in a will to have physical and legal custody of the testator’s ward(s) in the event of the testator’s death.

Guardianship: A legal relationship created when a court grants physical and legal custody of a ward to another person or entity; also called a “conservatorship.”

Heirs/Heirs at Law: Persons who inherit property by law, rather than under a will, pursuant to the Rules of Descent and Distribution (Intestate Succession). This occurs when someone dies without a will or with a will that does not name any living beneficiaries.

Inter Vivos: Latin for *“between the living”* and it refers to something done while you are still alive. The following is an example of where you might commonly see this language used in a will or other estate planning document: “I give my red car to my sister, if she survives me. However, if I no longer have my red car for any reason other than an inter vivos gift to my sister—i.e. having already given her my red car when I was alive—I give her whatever vehicle I have when I die instead.”

Intestate: A person who dies either (1) without a will or (2) with a will that names only beneficiaries who have predeceased the decedent.

Common Terms Related to Wills

Issue: A decedent's children, grandchildren, great-grandchildren, etc., to the remotest degree.

Jurisdiction: The court's power to hear a case.

Legitimation: An act that gives the status of legitimacy to a child born to unmarried parents, such as subsequent marriage of the parents, paternity proceeding, or adoption.

Per Capita: Each beneficiary takes in equal shares, regardless of whether they are in the same group.

Personal Representative: see "Executor."

Per Stirpes: Each person in a group or class takes in equal shares.

Pretermitted: An heir who was born after a will was drafted, but before the death of the testator.

Probate: The method by which the decedent's estate is administered and processed through the legal system after they have died. A state probate court oversees this process.

Remainderman: A person who inherits or who is entitled to inherit property upon the happening of a specified event such as the death of a beneficiary.

Residue/Residuary Estate/Remainder: The part of a decedent's estate remaining after all debts, expenses, taxes, and specific bequests (gifts) have been satisfied.

Situs: The place where the property is located for legal purposes.

Testamentary Trust: A trust listed in the will that begins after the testator's death and uses the testator's assets, which are managed by a trustee, to provide financially for the testator's ward(s) until the trust expires and/or all funds have been distributed.

Testator: A person who has made a legally binding last will and testament. After the testator dies, he or she is commonly referred to as the "decedent" or "deceased."

Trustee: The person or entity appointed to oversee the day-to-day management of property owned by a trust.

Ward: A minor child or incapacitated adult of whom a guardian has custody.

Will: A legal document that provides specific instructions for how the testator's assets should be distributed, names an executor, names the guardian(s) of any ward(s) of the testator, and sets forth any other final wishes of the testator; also referred to as a "Last Will and Testament."