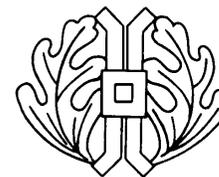


PREVENTIVE LAW SERIES

WILLS



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WHAT IS A WILL?

A will is a written document which allows you to determine how certain assets and property will be distributed upon your death. It also allows you to determine who will be responsible for distributing your property, and paying your debts after your death. Moreover, it will allow you to determine who will be responsible for the care of your minor children should you and the other parent die.

DO I REALLY NEED A WILL?

That question must be answered by you, the client. An attorney can advise you on the law concerning wills, but you must ultimately decide whether you want to distribute your property and care for your beneficiaries by will or in accordance with state intestacy laws. For some people the state intestacy laws are adequate, but for many people a well drafted will is the best way to be sure that your property will be given to the right people. It is recommended that you discuss your particular situation with an attorney before making a decision. Having a will may save your beneficiaries time and money later.

WHAT WILL HAPPEN TO MY PROPERTY IF I DIE WITHOUT A WILL?

If you die without a will, your property will be distributed in accordance with state intestacy laws. Normally, the property will go to your spouse and/or children, your parents, brothers and sisters, nieces and nephews, and other close relatives. That means your friends, former spouse, or favorite charity will receive nothing. The surviving member of an unmarried couple will not be protected. If you have no living relatives, your property will go to the state, even if a close friend or companion survives you. One way to ensure that your property goes to the person whom you desire is to have a will.

WHAT PROPERTY MAY BE DISPOSED OF IN A WILL?

A will may dispose of your separate property and your one-half of your community property or quasi-community property. Keep in mind that some property is not covered by a will.

1. Money from any life insurance policies (i.e. SGLI) will go to the person(s) you have named as beneficiaries on the policy, no matter whom you have chosen as beneficiaries in your will.
2. You may own real estate, cars, bank accounts and other property with another person(s) as joint tenants with the right of survivorship. Property owned as joint tenants with the right of survivorship is transferred to the surviving joint tenants upon your death no matter who you've named as beneficiaries in your will.
3. In California and other community property states, the money, real estate and other objects you and your spouse acquire during your marriage is called community property. Generally, both spouses own this property equally, no matter who earns the most or actually purchased the property. Therefore, your will cannot include your spouse's half of the community property, only your half.

4. Money from your retirement plan will go to the person(s) whom you have named in your plan, despite whom you have named as beneficiaries in your will.

5. Property held in a living trust will go to the beneficiaries of the living trust, despite whom you have named as beneficiaries of your will.

WHO IS THE EXECUTOR?

The executor is the person authorized by the court to act for the estate. The probate court will ordinarily appoint the person named in the will, unless unusual circumstances compel a different appointment. The executor's first job is to have the will probated, if necessary. Then, the executor is authorized to administer the estate, including paying taxes, debts and funeral expenses, and, ultimately, settling the estate according to the terms of the will. All assets must be found and, if necessary, valued by appraisers. The executor then distributes the property to the person(s) designated in your will.

WHO CAN MAKE A WILL?

Any individual 18 or more years of age who is of sound mind may make a will.

WHAT WILL HAPPEN TO MY CHILDREN IF I DIE WITHOUT A WILL?

If the child's other parent is living, he/she will usually retain full custody of your child. If the child's other parent does not survive you, the probate court will appoint a guardian for your children in accordance with state law. The court will normally appoint a close relative if one is available. Therefore, to ensure that your wishes are followed, a will should be created designating the person you wish to care for your children.

HOW SHOULD I DISPOSE OF MY PROPERTY?

This question must also be answered by you, the client. An attorney will advise you as to the legal consequences of your chosen disposition, but you must make the decision as to how to dispose of your property.

CAN MY SPOUSE AND I HAVE THE SAME WILL?

No. You and your spouse must each have a separate will.

WHEN SHOULD I CHANGE MY WILL?

You should probably change your will after every marriage, divorce, annulment, separation, birth, death or significant event in your life that could affect how your property would be disposed of when you die. It is also recommended that you have your will reviewed every few years to ensure that it is adequate to handle your present needs. If you have questions consult with an attorney.

LEGAL ASSISTANCE APPOINTMENTS:

For an appointment to see a legal assistance attorney, please contact the Legal Assistance Office, located in Building 610, Naval Air Station North Island, by telephone at (619) 545-6278.

RESOURCES:

San Diego County Bar Association Attorney Referral Service (619) 231-8585

San Diego Superior Court Probate Services (619) 685-6677

San Diego Superior Court Probate Examining (619) 236-3781

San Diego Superior Court Probate Division <http://www.sandiego.courts.ca.gov/superior/courts/probate.html>

California Probate Code section 6100 et seq.

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