



Living Will DECLARATION

WHY DO I NEED A WILL?

WRITTEN BY: LAURA THOMAS, JD
TRUST OFFICER

A Will gives a voice to someone who has died.

A Will allows you to voluntarily plan how you wish your property to be distributed at death and allows you to appoint a guardian of your choosing for your children. By creating a Will, you get to choose how your estate will be distributed and who will be guardian of your children. Your wishes will be respected and your children will have the guardian you trust.

If you don't have a Will, then your state, through its laws, will decide who will receive your property and who will be guardian of your children.

If you die without a Will, that is known as "dying intestate." If you die intestate, the probate process begins and the state will name a personal representative (the person who will distribute your assets). In most cases, the surviving spouse gets that difficult job. However, naming a PR can get complicated when you add in ex-spouses, kids, parents and even that oddball aunt or uncle who thinks you were best buds. Your assets will be frozen until the court decides who will distribute them. Which means, no one can touch your stuff, even if you said they could have it. If nobody is willing to handle your estate, the courts will name a public trustee. This total stranger will distribute your assets according to the laws in your state. When this occurs, that usually leaves everybody unhappy.



If you die without a Will, for example, the Commonwealth of Kentucky, per its statutes, will distribute your real & personal property in the order as follows:

- 1st To your children and their descendants. If there are none, then
- 2nd To your parents. If there are none, then
- 3rd To your brothers and sisters and their descendants. If there are none, then
- 4th To your spouse.

As you can see, under KY law, if you have a spouse, and you don't have a Will at your death, your real and personal property will not automatically go to your spouse. Instead, your children, parents, and brothers and sisters will be the first in line before your spouse to inherit your real property.

However, there are exceptions to the order of distribution shown above. One of the exceptions is that after the estate pays the funeral expenses, charges of administration, and debts, the first \$15,000 of any personal property is held back and will be distributed to the surviving spouse, or, if there is no surviving spouse, then to the surviving children.

Finally, under the laws of "Dower" and "Curtesy" the surviving spouse is also entitled to one-half of the surplus real estate and one-half of all personal property.

As you can see, estate planning is a complex process. Dying without a Will in place can create a literal family feud. Unfortunately, people in grief can let their emotions get the best of them, causing hard feelings all around.

To ensure that your estate is divided in the manner you see fit and your children are appointed a proper guardian, be sure to seek out an experienced estate planning attorney to draft a valid Will.

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