

A WILL OFFERS FAMILY PROTECTION

What Becomes of Your Property if You Die:

With a Will?

What is a will?

A will is a document in which you direct the disposal of your property upon your death.

What is a valid will?

Virginia law describes the manner in which you can transfer property by a will. There are 3 primary requirements:

There must be testamentary intent (contents of will are to become effective only at death of maker).

Will must be properly signed by you (testator or maker of the will).

Your signature must be witnessed by 2 competent persons.

The 2 witnesses must sign the will in the presence of the testator (maker), at his specific request, and in the presence of each other.

The will is void if the above 3 requirements are not satisfied. In Virginia, property cannot be bequeathed by the spoken word.

Why should you make a will?

A will can provide reasonable security for the surviving wife or husband until his or her death.

A will can provide equitable treatment for children.

A will gives greater assurance that property will be distributed as desired.

It greatly simplifies the distribution of property, both real and personal.

It shortens the time of settlement of an estate for the heirs.

It prevents complicated financial and legal tangles, large legal fees, and incidental charges.

Without a Will?

Married Man or Woman Survived by Spouse and Child, Children, or Descendants

Real property:

All to child or children, divided equally
Note: (Wife or husband has interest in 1/3 for life.)

Personal Property:

Wife or Husband, 1/3
Child 2/3, or children 2/3, divided equally
(Grandchildren take their deceased parent's share.)

Widow or Widower Survived by Child, Children, or Descendants

Real Property:

All to child or children, divided equally
(Grandchildren take their deceased parent's share.)

Personal Property:

All to child or children, divided equally
(Grandchildren take their deceased parent's share.)

Married Man or Woman Survived by Spouse Without Child, Children, or Descendants

Real Property:

All to wife or husband

Personal Property:

All to wife or husband

Unmarried Man, Woman, Widow, or Widower Without Surviving Children or Descendants

Real Property:

If parents survive - mother 1/2, father 1/2

Personal Property:

If parents survive - mother 1/2, father 1/2
(If only one parent survives, he or she takes the whole.)

Unmarried Man, Woman, Widow, or Widower Without Surviving Children, Descendants, or Parents, but Survived by Brothers and Sisters

Real Property:

All to brothers and sisters, divided equally
(Nieces and nephews take their deceased parent's share.)

Personal Property:

All to brothers and sisters, divided equally
(Nieces and nephews take their deceased parent's share.)

Two Kinds of Property

Real Property - Land improvements (buildings, fences, etc.)

Personal Property - Car, truck, farm machinery, cattle, household goods,
bonds, bank accounts, stocks, negotiable notes, etc.

Steps in Making a Will

List property owned (real and personal).

Decide on how you want your property distributed at death.

Talk it over with your lawyer and have him draw up the will and supervise
the signing and witnessing of it.

Keep it in a safe place - a safety deposit box or lawyer's office.

Review your will periodically to see if changes are needed or desired.

Facts Affecting Provisions in a Will

Lack of testamentary intent (no will exists).

Failure of testator (maker) to have his signature witnessed by, or to
acknowledge the will in the presence of, 2 witnesses.

However, if will is in handwriting of testator, no witnesses are required.

Failure of witnesses to sign will in presence of each other.

Execution of a subsequent (later date) will void all previously made wills.

Children born after execution of will which contains no provisions can claim
the same share to which they would have been entitled by court if parent
had died without a will.

Debts against estate can affect bequests except the dower right in real
property.

Will is defeated if testator disposed of property prior to death.

Gifts of goods and chattels between persons living in the same household
are void unless made by deed or will.

A will cannot change the beneficiary designated in insurance policies
unless they are made payable to the estate.