

How to Write a Will

Smart Money Magazine

Today is always the best time to compose your Last Will & Testament, because, well, you know what they say about tomorrow. According to a December 2010 survey from FindLaw.com, roughly 55% of Americans don't have a will, which leaves them no say in what happens to their assets when they die. Furthermore, if you die "intestate" without a legal will your living situation at death has no bearing on the division of your accidental estate. For example, you may be living with stepchildren who have no legal connection to you, and without a will, you'd leave behind a mess of legal uncertainty and dependents who may now inherit nothing.

Here's one way to control what happens to your assets after your death.

Leave no room for interpretation. An unclear will can make for a foggy settlement of your estate.

- **Be exact.** Clearly state your name and address, write that you are of sound mind and mention that you are not writing under any kind of duress.
- **Be more exact.** When dividing your estate, be specific about assets or stick to percentages. If the value of your farm, second home or portfolio goes up or down, this saves any confusion.
- **Forget the past.** If you have previously made out a last will and testament, be clear in your new will that you are formally revoking all previous wills and codicils.

Don't leave too many surprises. Communication before can manage expectations.

- **Be choosy, but don't pick on anyone.** Feel free to leave your most prized artwork or vintage sports car to your favorite son or daughter, but be mindful of who those decisions might impact, including those not receiving certain items.
- **Have the talk.** The best way to avoid any ill-will or unanswered questions after you're gone: discuss any items of sentimental or financial value with your loved ones first.
- **Wrap up loose ends.** A "residual clause" will take care of any assets that you forgot to mention: "I bequeath any residue to " To be sure there is no confusion with previous versions, sign the will and date it, and initial and date every page.

Think carefully about your executor. You won't be there to divvy up your estate, so you have to pick someone to do it for.

- **Name the teller.** An executor is the person you designate to see that the wishes in your will are carried out, so choose someone you know and trust, and who will actually have the ability to see through your wishes after your death. Have a Plan B for executor in case he or she dies first.
- **Ensure delivery.** You may have to decide on whether your executor should post a bond to the probate court where your estate will be settled. This can add to expenses. However, some states require a bond to ensure the executor carries

out their duties correctly, especially if the executor is not a resident of the same state as you.

- **Account for your last bills.** Empower your executor to take all of the expenses, taxes and funeral costs out of your estate. It's simpler to do that before your heirs receive their inheritance.

You have to do more than write and sign it. Your will should also be validated and available.

- **Make it legal.** Laws vary from state-to-state. To ensure your will is legal make sure that it's signed by three witnesses, at least one of whom should be a public notary.
- **Make it available.** Whether you keep it in a safe deposit box at the bank or in a shoe box, make sure your will can be found after your gone. Make copies and sign those in blue ink to show that you've actually signed each copy.
- **Get it lawyered.** Even though the internet is full of advice and sample forms, it's wise to consult a lawyer to make sure you haven't missed anything.

What not to do when writing a will.

Don't try to pass on something you don't own entirely. For example, if there is another name on the deeds of your house or your bank accounts, you can't leave the entire house to a third party.

Don't forget the order of your paperwork. To make things easy, most lawyers will give you a worksheet asking questions about how you want to divide your estate and, most importantly, asking you to list all your assets.