

Do I Need A Will?



What is a will?

A will is a legal paper. You write a will to say who will get your things after you die. To make a will, you have to be at least 18 years old. You have to be of sound mind. Sound mind means you know what you are doing and decided things for yourself. Unless you write it by hand, you must sign your will in front of 2 witnesses together. At the same time, both witnesses must sign your will.

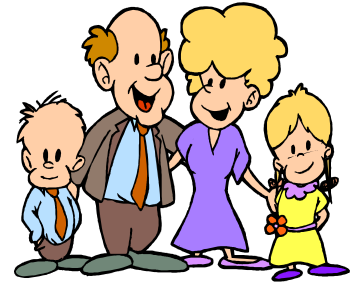


Do I need a will?

You may need a will **IF** any of these are true:

- You want to leave certain things to certain people.
- You want all or part of your things to go to a friend or charity.
- You want one person to get more or less than the others.
- You want to make sure one person gets nothing.
- You have no close family (parents, children, husband, wife, brothers or sisters).
- You want one distant relative to get everything.
- You own land, buildings, a business or have anything worth a lot of money.
- You have estate tax problems. (see page 6).

Do you have children under age 18? Do you want to pick who will be their guardian if you die? You do **NOT** need a will to do that. You can just write a letter saying who you want for their guardian.



What if I don't make a will?

Tennessee has a law which really is a one-size-fits-all will. Here is how it works:

1. Usually, your things are divided among your husband or wife and your children.
2. If you have no children, your husband or wife gets everything.
3. What if your husband or wife dies before you? Then your children or grandchildren get everything. All children get the same share.
4. What if you have no husband or wife and no children? Then your parents get your things.
5. What if your parents also have died before you? Then your brothers and sisters, or their children, get your things.
6. What if you die with no husband, wife, children, parents, brothers or sisters? Then other relatives get your things.
7. The State will get your things only if you have no relatives who can get them.

What are the legal rights of a husband or wife?



No matter what your will says, your husband or wife will get something when you die. Tennessee law lets them take at least part of what you leave. How

much they can take depends on how long you were married. It can be 10 to 40 percent of what you owned when you died. They can take this much instead of what you leave them in the will.

Do I need a lawyer to make a will?

No. You can write your own will but it is usually better to use a lawyer. This helps make sure everything is done right. In Tennessee you can write your own will. But if you do write your own will, it should all be in your own handwriting. A handwritten will is called a holographic will. You must sign and date the handwritten will. It does not have to be notarized. It does not have to be signed by witnesses. There are 3 possible problems with this kind of will:

1. It may not be recognized in another state if you move.
2. Two people who know your handwriting must testify after you die. They must testify that the will is in your handwriting.
3. If your will is incomplete, unclear or against state law, there may be a lawsuit.

Can I change my will?

Yes. But **NEVER** change your will by marking out some parts and writing in new ones. This can make your will no good. Adding a note called a "codicil" can change a will. But you have to know how to do a codicil. It usually is better to make a new will instead of adding a codicil.

Who makes sure your will is carried out?

Someone called a "personal representative." In your will, you should say who you want this to be. The person should be over the age of 18. The person should be someone you trust to do what you want.

What property can be covered by a will?



Houses, land and everything you own can be left to someone else in a will.

Some things don't have to be put in your will. They automatically go to someone else when you die. The other person gets them right away. He or she doesn't have to wait for the court to okay ("probate") the will. This kind of property includes:

- Property you own with your husband or wife as "tenants by the entirety." **Tenants by the entirety** means both of you own the whole thing while you are alive. When one of you dies, the other one still owns the whole thing. The part owned by the person who dies doesn't go to anyone else.
- A "pay on death" bank account. (You tell the bank ahead of time who gets the money if you die.)
- Life insurance policies that name someone to get the money when you die. (The policy can't say the money will go to your estate. It must name a person to get the money. This person is called the "beneficiary.")

Thinking about making a Living Trust instead of a will?

Most people in Tennessee don't need a Living Trust.

What about estate taxes?

Could what you own be worth \$1,000,000 or more? Then you should see a lawyer about estate taxes. Is what you own worth less than \$1,000,000? Then estate taxes shouldn't be a problem.

Is there anything else I need to do?



You should decide if you want a "Living Will." It is also called an Advance Health Care Plan. A living will does not say what should happen to your things. It says what you

want to happen to **YOU**. It tells your doctor what health care you want and don't want. It will only be used if you get too sick to decide for yourself. Call and ask for our free Advance Health Care Plan kit. Our phone number is **1-800-238-1443**. You can also get a copy at our web site (www.las.org).

The Advance Health Care Plan kit also lets you name someone to make medical decisions for you. This is called a "Health Care Agent." You pick a person you trust to speak for you. They make the decisions if you can't say what you want or are in a coma. They make sure the people who care for you do what your Advance Health Care Plan says.



NOTE: This pamphlet cannot take the place of legal advice. Each case is different and needs individual attention.

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Legal Aid Society

of Middle Tennessee and the Cumberland

1-800-238-1443

It's a free call.

On the internet at www.las.org

Tennessee Legal Aid/ Legal Services Offices

Legal Aid Society

of Middle Tennessee and the Cumberland

1-800-238-1443

Offices in Clarksville, Columbia, Cookeville,
Gallatin, Murfreesboro, Nashville, Oak Ridge,
and Tullahoma

West Tennessee Legal Services Jackson Office

1-800-372-8346

Dyersburg Office (731) 285-8181

Huntingdon Office (731) 986-8975

Selmer Office (731) 645-7961

Memphis Area Legal Services

Memphis Office 1-888-207-6386

Covington Office (901) 476-1808

Legal Aid of East Tennessee

Knoxville Office (865) 637-0484

Johnson City Office 1-800-321-5561

Kingsport Office 1-800-821-1309

Chattanooga Office 1-800-572-7457

Cleveland Office 1-800-445-3219