

Do I Need a Will? - HELP4TN Blog



What is a Will?

A will is a legal document that explains how you want your property to be distributed after your death. If a will is correctly drafted and witnessed, it can be filed in the probate court together with your death certificate. The judge on that court can make sure that your wishes are faithfully carried out. The rules for writing and witnessing a will are very specific and very detailed. It is best to hire a lawyer to make sure it is done correctly. If it is not correct, then it will be as if there is no will at all.

What Will Happen to Your Property?

The property you own at the time of your death is called your estate. Without a will, your estate will be divided according to a set formula created by the government. Under that formula, your property will usually be divided between your spouse and your children. If you have no living spouse and no children, then your property goes to your next of kin. This could be your parents, a brother or sister, aunt, uncle or cousin. If your wishes match up with the government's formula, then a will may not be necessary.

There are some kinds of property that are not covered by the instructions in a will. Among these is the payout from a life-insurance policy. This goes to whoever you named on the insurance documents as your beneficiary. The same is true for retirement savings in an IRA or a 401(k) retirement plan. You can also arrange for your bank accounts to be payable on death to whoever you wish. In the case of most joint accounts, the other owner of the account will become the sole owner after you die.

Why Might You Need a Will

If you have certain possessions that you want particular people to get after you die, then you probably need a will. If you have a large estate or many different kinds of assets you may need a will. You can also use a will to favor a child who lives with you or who takes care of you while your other children seem indifferent to your needs. If you wish to leave a portion of your estate to a favorite charity, then you need a will.

One important thing to think about when writing your will is who you want to name as your executor. The executor's job is to pay your debts and to distribute your assets in accordance with your wishes, under the supervision of the probate court judge. The law gives the executor the power to deal with your creditors, and with banks and other institutions for that purpose. You should choose someone you can trust. If the judge is confident that the person you chose will perform these duties honestly, then the judge will appoint that person as executor. The judge does have the power to appoint someone else if there are doubts about the person you have chosen.

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