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## WILLS

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This article will review one of the most frequently used estate planning tools -- the will. To set the stage, let's first review the situation when an individual dies without leaving a will. This individual is described as dying intestate (i.e. without a will) and this individual's estate will be settled according to state statutes that provide for rules of descent. Each state has passed Laws of Intestate Descent and the provisions of these statutes vary from state to state. If you do not have a will, it is imperative for you to become aware of how your state distributes assets to heirs. Additionally, Laws of Intestate Descent only provide for the distribution of property and also only provide for distribution to legal heirs. Thus, if upon your death you desire to make any non-property provisions or if you desire to leave assets to non-family heirs or to an organization such as a charity, church, or university - -you'll need to provide for these desires in a will or will substitute.

A will is a legal document that indicates who receives your property when you die. Each state has statutes which regulate the drafting of wills. In Missouri, a will can be made by any person who is 18 years of age and of sound mind. Additionally, the will must be signed in the presence of at least two witnesses.

Many people consider the following as advantages of utilizing a will. First, a will provides the owner full control of the property until death. Second, a will gives the owner the ability to distribute property according to his or her particular situation or desires. Third, a will permits the disinheritance of an heir or heirs at law, except a surviving spouse. And fourth, a will can be amended or canceled.

It is important to note that several transfers at death are outside the control of a will. For example, any property owned as a joint tenant with rights of survivorship will be transferred at the death of the first tenant to the surviving tenants, regardless of what is indicated in the will. Second, life insurance proceeds will not be distributed per a will or Laws of Descent unless the estate is the named beneficiary of the policy or all the named beneficiaries are no longer living.

If you decide to utilize a will, there are some general provisions which should be considered and there are some provisions which should be handled outside the will. With regard to provisions to consider including in a will, the first, should be asset distribution - not only to who, but how and when. Second, if there are minor children, guardians should be nominated. Third, establishment of a trust or trusts to manage

assets for the benefit of minors or other heirs. And fourth, appointment of a personal representative who is to manage the affairs of the estate during the settlement process.

Funeral directives and provisions for disposition of the body are best handled outside the will. Funeral arrangements are best handled via written instructions given or addressed to members of the family. Such directions can help reduce the stress on the surviving family members during this trying time. Too frequently, a will is discovered and/or read too late to be effective with regard to the funeral or disposition of the body.

Given a will's lasting impact and the magnitude of its consequences, professional assistance in the planning, drafting, or review of the will is highly recommended. Remember, at the time your will goes into effect, you won't be around to defend your declarations or clarify the meaning of your words.



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