LAST WILL & TESTAMENT

This legal document indicates who will receive your probate assets after you die. A Last Will and Testament also appoints your Personal Representative and typically directs how to pay your debts, expenses, and taxes at death.

A Few Key Terms

Personal Representative
- A person named in a will to carry out the terms of the will and to administer the decedent's estate.

Beneficiary | Beneficiaries
- A person or persons who receives the benefit of property.

Tangible Personal Property
- Property that is capable of being touched and moved, such as personal effects, furniture, jewelry, and automobiles.

Intangible Personal Property
- Property that has no physical substance but represents something of value, such as cash, stock certificates, bonds, and insurance policies.

Real Property
- Land and items permanently affixed to land, such as buildings

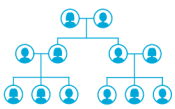
Non-Probate Asset
- Jointly held asset(s)
- Asset(s) with designated beneficiary (POD or TOD designation)
- Asset(s) held in the name of a trust or trust is named as the beneficiary

Probate Asset(s)
- Asset(s) in the sole name of the deceased with no beneficiary designation.

Testamentary Trust
- A trust established in a person's will to come into operation after the will has been probated and the assets have been distributed to the trust.

Pour Over Will
- A will used in conjunction with a revocable trust to pass title of probate property at death to property not transferred to the trust during lifetime.

Per Stirpes
- A Latin phrase meaning "by branch" and is a method for distributing property according to the family tree whereby descendants take the share their deceased ancestor would have taken if the ancestor were living.



Last Will & Testament

A Will will typically address the following:

Debts and Taxes

How debts are to be paid and which assets are used to pay them.

Disposition of Personal Effects and Household Goods

Directs how to dispose of your tangible property. Many times it references a memorandum, which is a list of tangible personal property to be distributed.

Disposition of Residuary Estate

This article directs who receives your remaining assets (not listed in the Personal Effects).

Personal Representative

This article lists the person or persons (and their backup) you want to manage your final affairs.

Personal Representative Powers

You should always list the powers you want your Personal Representative to have, particularly those that will ease the burden of estate administration for your Personal Representative

WHAT HAPPENS IF I DIE WITHOUT A WILL?

If you die without a valid will, your estate will become what's called "intestate". That usually means your estate will be settled based on the laws of the the state on who inherits what. Probate is the legal process of transferring the property of a deceased person to the rightful heirs.

Since no personal representative was named, a judge appoints an administrator to service in that capacity.

An administrator will most likely be a stranger to you and your family, and he or she will be bound by the letter of the probate laws of your state. As such, and administrator may make decisions that wouldn't necessarily agree with you wished or those of your heirs.

Your estate pays all court costs, legal and executor fees (often estimated at 3-8% or more of an estate's value).