

Last Will and Testament

The foundation of most plans, the Will sets out your written instructions for the distribution of your probate estate, and must meet certain legal formalities. The Will does not affect assets passing by beneficiary designations on life insurance policies and retirement plans or survivorship provisions on joint accounts. It is often appropriate to establish a trust under your Will to take effect, and be funded, at death for the protection of assets for certain beneficiaries. The named executor (and be sure to name an alternate executor) is appointed to pay your final obligations and to carry out your wishes for your heirs. The nomination of a guardian for minor children must be made in a Will. If you wish to make bequests to your favorite charities, establish a trust for minors, or even disinherit someone, the Will is critical to ensuring that your wishes are met.

If a person dies “intestate” (without a Will), the estate is distributed in accordance with the assumption set forth in the Virginia Code. This statutory Will is very likely not what a person would want, since it creates unexpected results in blended family situations as between surviving spouses and their step-children. In addition, the costs of probate administration are increased due to certain court costs, surety premiums and legal fees which could be minimized or avoided with a properly drafted Will. And without naming an executor, you also leave it to your survivors to decide who will administer the estate.

Notice - This information is not legal advice or counsel absent an extant attorney-client relationship with the recipient; this information does not create an attorney-client relationship. Seek legal counsel before taking any action on the matters referenced above.