How to Write a Last Will: 5 Tips You Should Know

Do-it-yourself estate planning can be dangerous if you don't know about potential traps.

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Your last will and testament might be the most important and meaningful document you leave behind after your death. Estate planning is never a fun topic to consider, though, and so many people never get around to writing a will. At the same time, many different companies offer advice on how to write a last will on your own without costly legal fees from specialized estate-planning attorneys, but while some of those services produce adequate documents, they could also land your loved ones in a mess of trouble if you don't do everything right. Let's take a look at five things to watch out for in figuring out how to write a last will and testament that will get the job done for you and your family.

1. Know what the rules are in your state for what happens if you *don't* have a will.

Every state has what are known as rules of intestate succession that determine what happens to your property if you don't have a will. That's important not just if you never get around to writing a will but also if there's a problem with the will you *do* prepare. In the case of an invalid document, these laws will govern your estate.

Intestacy laws vary from state to state, but ordinarily, your most closely related family members will receive the assets of your estate. Your spouse is typically the first to inherit, with children next, and then parents, siblings, and more distant relatives. In some limited cases, the intestacy laws will do exactly what you want, in which case a will technically isn't necessarily. If there's the slightest difference, though, then it's worth it to have a properly executed document.

2. Some of your property might not be covered under your will.

As powerful as a last will is, it doesn't cover all of your assets. If you own property as joint tenants with rights of survivorship, then the co-owner of that property will receive full control of it after your death regardless of what your will says. Similarly, for retirement accounts, life insurance policies, and

other financial accounts for which you designate a beneficiary, the person you name on the beneficiary form has the right to those assets irrespective of any provisions in your last will.

One common mistake is to change your last will and testament but not make similar changes to beneficiary designations for covered accounts. It's essential to do both at the same time to fully realize your estate-planning goals.

3. If you have young children, make sure your will names a guardian for them.

Most people think of last wills as being the way to pass down property, but an even more important role that wills play is to allow you to name someone to take care of your minor children if both of their parents pass away. Without your input, a court will have to make its own determination of what arrangements are in the best interest of your children, and they might be completely different from your wishes.

Admittedly, a court isn't legally required to appoint the person you select as guardian for your children in your will. Nevertheless, your wishes are an important factor in the court's decision, and in most cases, courts will be reluctant to go against your will's direction without solid evidence of problems. To avoid long, drawn-out proceedings that can turn into nasty battles, naming a guardian is a smart thing for parents to do in their wills.

4. A revocable trust might better meet your needs.

Writing a last will can be a simple and effective way to provide for your loved ones in some cases, but often, you'll need more sophisticated planning techniques to streamline your financial affairs after your death. For instance, while probate proceedings in administering a last will and testament are open to the public, using a revocable trust, also known as a living trust, can allow for your property to pass to your heirs without the need to get a court involved or to have your assets made public.

In particular, if you have minor children, providing a trust for them can be a smart move to avoid further complications. It's possible to write testamentary trusts into a will, but the complexity involved makes it prudent to get an estate-planning attorney involved at that stage to ensure that it will work well.

5. Many do-it-yourself wills can't handle tough situations.

Estate planning can get tricky in a hurry, and the default rules generally assume the most common situations. If your personal situation doesn't match up with those assumptions, then it can get a lot harder to write a last will on your own.

Some of those situations include families with non-U.S. citizens or disabled adult children, as well as those who are in relationships without being legally married. Those who are raising grandchildren or stepchildren also need to take care in their planning, as do those who've been previously married, especially if they have children from a previous marriage. All in all, if you're in doubt, it pays to get a professional involved before it's too late.

Writing your will can be daunting, especially when it comes to all the legal obligations involved. With your loved ones counting on you to get the job done right, though, it pays to find out everything you need to know in putting your affairs in order.