

# Why You Need a Will

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# Reasons To Do A Will

- 1. Provides for the appointment of guardians**
- 2. Allows you to state how you wish to distribute your estates to surviving spouse, and ultimately down to children (usually in trusts). In addition, allows property to pass to parents, siblings, friends, and charitable bequests.**
- 3. Appoint executor (personal representative) to manage your estate**
- 4. Estate tax reasons**
- 5. Asset protection and divorce protection for surviving spouse/partner and children**

# What Happens If You *Don't* Have A Will

- 1. The Probate Court will appoint a guardian for your minor children for you using a “best interest of the child” standard.**
- 2. The state of your legal residence determines how your property will pass under what is known as “intestacy law.”**
- 3. Your surviving partner/spouse will inherit with no protection or control.**
- 4. Your minor children would inherit their share of your property outright at age 18. This is unlikely to be what spouses intend. Furthermore, until such age, the estate will be tied up in a guardianship proceeding, which is expensive and time consuming. You would be better served with a Will which indicates that a child's share of your estate would be held in a flexible trust for the child's benefit.**
- 5. No estate planning considerations exist under intestacy law and accordingly, potential planning tools are ignored.**

## REASONS TO DO A WILL

1. Provides for the appointment of guardians

2. Allows you to state how you wish to distribute your estates to surviving spouse, and ultimately down to children (usually in trusts) upon death of surviving spouse. In addition, allows property to pass to parents, siblings, friends, and charitable bequests.

3. Estate tax reasons

## WHAT HAPPENS IF YOU DON'T HAVE A WILL

1. The Surrogate's Court will appoint a guardian for your minor children for you using a "best interest of the child" standard

2. The state of your legal residence determines how your property will pass under what is known as "intestacy law"

3. No estate planning considerations exist under intestacy law and accordingly, potential planning tools are ignored

# Conclusion

- Everyone above the age of 18 should have a Will.
- There are a range of planning goals a properly done Will can achieve
- Don't forget non-probate assets (those that pass outside the Will) must be coordinated
- Your Will is but the first step....you need a power of attorney, living will, health proxy and more....

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