

Why Do I Need a Will?

A last will and testament (a “will”) is a fundamental estate-planning tool that is commonly recognized but greatly underappreciated. While most can relate a will to its role in distributing property after death, there are many other valuable benefits that a will can provide. Below are just a few of the reasons why everyone should have a will:

- 1. Appointment of a Personal Representative:** A will allows you to appoint the person(s) responsible for handling your estate after you have passed away. This individual will be responsible for taking care of your debts, collecting and managing your assets, and handling any other unresolved issues associated with your estate. Accordingly, a personal representative should be someone you trust and, ideally, someone who is responsible, organized, and local. Without a will, your personal representative is assigned automatically according to statute. This leads to complications if the role is assigned to individual(s) who are irresponsible, indecisive, out-of-state, and/or uncooperative, often causing delays, financial/tax issues, and mishandled estates.
- 2. Protection for your Minor Child(ren):** A will allows you to protect your minor child(ren) by appointing the person(s) responsible for their care in the event that you pass away. A *guardian* is responsible for the physical well-being of your child(ren), while a *trustee* safeguards their assets until they are responsible enough to manage them. Whether these roles are held by the same or different people, having them clearly appointed eliminates any uncertainty and provides a smooth transition during an extremely emotional time in your child’s / children’s life / lives. Further, it eliminates the potential for the bad feelings or family drama that often accompany custody determinations and disputes. Most importantly, it allows the guardian and/or trustee time to prepare for their potential role and gives you the comfort of knowing your child(ren) will be cared for by someone you love and trust.
- 3. Planning for Special Needs/Circumstances Beneficiaries:** A will allows you to protect the inheritance of a child or loved one who is unable to manage these assets due to disability, addiction, or money management problems. In these circumstances, a will can establish a trust to preserve and control their inheritance by appointing an individual to regulate these assets and provide for their well-being. If a beneficiary is on government assistance, a will can establish a special needs trust to provide supplemental income without affecting their government assistance. Without a will, these beneficiaries may receive a lump-sum payment which can drastically affect their ability to continue receiving government assistance. If a beneficiary has significant debt, a will can set up a trust to shield their inheritance from creditors.
- 4. Distribution of Your Assets:** It is commonly known that a will allows you to designate who will receive your assets when you pass away and how they will receive it. To better appreciate this feature, consider how your property will pass if you do not have a will. Without a will, your assets will pass strictly according to Pennsylvania statute, which does not consider

your family's specific circumstances and needs. If you are married, you should not assume that all of your assets will go to your spouse in the absence of a will. Many scenarios divide these assets among your spouse, children, parents, etc. If you are in a relationship but not married, your property will not pass to your significant other without a will. In fact, the following individuals rarely inherit unless it is specified in a will: extended family (aunts/uncles, nephews/nieces), grandchildren, friends, charities, or boyfriends/girlfriends. Additional planning is also required if you have children from another marriage or if you wish to omit a child from your will. Even if your assets are to be distributed through a trust, you should have a will to insure that any assets not included in the trust will pass through the will.

5. Clarity: A will provides clarity and guidance for everyone involved in the administration of your estate. In addition to the issues discussed above, a will can address numerous other matters unique to your estate, including the payment of income or estate taxes and the disposal of left over personal property. Personal representatives are often empowered when they see their powers specifically listed in the will and, in some instances, such as when a business interest is involved, it is necessary to include additional powers beyond those provided under statute. All of these features work together to avoid any indecision and hesitation in the administration of your estate. In cases where your decisions may be controversial to certain family members, it helps to decrease the likelihood of disputes. Overwhelmingly, distribution in the absence of a will makes the entire process more confusing, burdensome, and time-consuming.

No matter the size of your estate, you can benefit from a well drafted and personally designed will. A will is not just a document to describe who gets your money after you have passed; it is a comprehensive plan for how everything you are responsible for will be handled when you are gone. Having worked hard throughout your life to earn what you have, it is an investment that deserves respect and careful consideration.

Contact Keen Keen & Good today for a consultation.

Call 610-383-7810 or email info@kkglawfirm.com.

*Note that having a will is only a part of a comprehensive estate plan. In addition to the many benefits that a will provides, one should also consider the benefits of powers of attorney, a living will, and revocable living trusts.