

The Simple Will: No Frills, No Fuss, No Anxiety

Republished with Permission © 2010 Nolo.

A basic will may be all you need.

You've heard that if you do nothing else to take care of your legal affairs, you should write a will, and it's pretty good advice. If you don't make a will before your death, state law will determine who gets your property and a judge may decide who will raise your children (and either or both may not be whom you would have chosen). Writing such an important document can be daunting, but it doesn't need to be.

If all you need is a basic will, you can confidently use a good self-help book or software to make a legally binding will that:

- leaves your property to the people and organizations you choose
- names a guardian to care for your minor children if you can't
- names someone to manage property you leave to minor children (yours or someone else's), and
- names your executor, the person with authority to make sure that the terms of your will are carried out.

When a Basic Will Is Enough

By and large, if you are under age 50 and don't expect to leave assets valuable enough to be subject to estate taxes, you can probably get by with only a basic will. But as you grow older and acquire more property, you may want to engage in more sophisticated planning -- we go into these details below.

Take a common situation where a husband and wife want to leave their property to each other or, if they die together, to their children in equal shares. They also want to name a personal guardian for their children. They can safely make simple wills themselves without hiring a costly expert.

Here are a few other examples of real-life situations where a basic will is all that's needed.

- Heather and Jerome, in their late 30s, own a home, two cars, and some savings. Their net worth totals \$400,000. They have one child, Mark, age 11. Each prepares a will leaving all his or her property to the other. If they die at the same time, Mark is to receive all their property. Heather and Jerome agree that Heather's brother will care for Mark and manage the property until Mark turns 18.
- Sam, a widower with three grown children, owns property with a net worth of \$510,000. He creates a will leaving all his property equally to the children. He specifies that if any child dies before him, that child's share is to be divided equally between the surviving children.
- Barbara is a single mother with two teenage children. Though she's not on great terms with her ex-husband, he's a decent father and pays child support more or less on time. Barbara's will leaves all her property equally to her children. Because she does not want her ex-

husband managing money left to her children if she dies, she uses her will to appoint her sister Debbie to manage each child's property until that child turns 18.

Will a Basic Will Avoid Probate?

No. If you leave anything more than a small amount of property through a will, probate court proceedings will probably be necessary after your death. Although it varies from state to state, probate can take six months or a year and eat up three to five percent of your estate in lawyers' and court fees. And your beneficiaries will probably get little or nothing until probate is complete.

But if you need only a basic will, you have little reason to concern yourself now with probate. If you're relatively young and healthy and you don't have piles of money, your real concern is to make legal arrangements for the statistically unlikely event that you will die suddenly and unexpectedly. You've almost certainly got plenty of time to plan for probate avoidance later.

Is a Basic Will for You?

If the following statements describe you, a basic will is probably enough:

- You're under age 50.
- You're in pretty good health.
- You don't expect to owe estate tax at your death..
- On the other hand, if one of the following applies to your situation, then you probably need something more than a basic will:
 - You expect to owe estate tax you die or when your spouse does.
 - You want to control what happens to property after your death -- for example, you want to leave some property in trust for your child and have it go to your grandchildren when your child dies.
 - You have a child with a disability or other special need that you wish to address in your estate plan.
 - You have children from a prior marriage and you fear conflict between them and your current spouse.
 - You think someone might contest your will, claiming that you were not mentally competent when writing it, or that the will was procured by fraud or duress.

How to Create a Basic Will

Hiring a lawyer to create a basic will could cost you several hundred dollars, and is usually not necessary. You can use *Quicken WillMaker Plus* (desktop software) or *Nolo's Online Will* (online software) to create a comprehensive and legally sound will for less than \$70.