SYNDICATE LEGAL ADVISORY SERVICES

LAST WILL & TESTAMENT

Syndicate Legal Advisory Services – *Last Will & Testament*

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A Will (more formally called a "Last Will and Testament") is the most common Estate Planning document known. Unfortunately, a Will has limitations that, for most people, render its effectiveness as their exclusive document obsolete.

Even if you don't think you have a Will, in most States, you actually do. For example, in the State of California, a Will has already written a Will for you. It's called "**Intestate Succession,**" which is codified in Probate Code §6400 *et. seq*. When you die, your estate will be distributed to the heirs in the order determined by these Probate Code sections. If you're in the category of people with a very small estate with no spouse or minor children, things might get passed on without adverse consequences.

A properly drafted Will enables people to designate who their beneficiaries are, how they are to receive those assets (at once or over time) and who a parent of minor children chooses to nominate as the Guardian of their minor children. A testator (the person whose estate is the subject of the Will) has three basic options to choose from:

1. A hand-written Will (or "holographic" Will), which must be completely in the testator's own hand writing (If California, Probate Code §6111);
2. A "fill in the blank" Will, usually from an Internet self-help website or local document preparation service (If California, Probate Code §6240);
3. A properly drafted and witnessed Will (If California, Probate Code §6110).

While the first two types of Wills are "legal", they are rarely sufficient. A hand-written Will is usually written hastily upon impending death, which may be during the time when a person's competency is most likely to be challenged. Think about it… if you don't think death is imminent, why would you write it out by hand? A "fill in the blank" Will is also susceptible to competency challenges for the same reason. Also, neither of these Wills can ask the testator the right questions about their estate to determine which inheritance structure and other Will clauses are right for them.

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