

Need to know facts about preparing your will



A will is your most important document. When you die without a will, the law decides what happens to your home and other assets, including your pets, as well as who gets custody of your children.

If it's not written down in a formal will, it doesn't matter what you wanted, nor whether your wishes were communicated to loved ones. Dying without a will means giving up your chance to make key choices that can impact those you leave behind. It is also important to remember, will or no will, your debts will be paid before anything goes to your beneficiaries.

What happens to your home? If you own a property in joint tenancy (the most common model of shared residential ownership in Canada) with another person, the surviving owner will receive the deceased's share – even a will can't override this.

Different scenarios happen if the deceased is the sole owner of a house in which he or she lived with a spouse, and dies without a will. If the couple have no dependent children, the house will typically go to the spouse; but if the couple have children, some provinces provide that a certain portion of the estate will go to the spouse, and the rest will be divided among the spouse and the children – a rule that can force the sale of a surviving spouse's home. However, the spouse may have the right to remain in the home for a short period of time.

What happens to your other possessions? If you own assets other than real estate, and have more than one heir, those assets likely won't be distributed as-is; in other words, your heirs won't get your heirloom china. Typically these assets are sold and the proceeds of the sale are divided amongst the heirs.

If you die with neither spouse nor children, your estate goes to other relatives in a set order of priority from closest to most distant. If there are no relatives alive, the value of your estate goes to the government.

What happens to your children and pets? If the sole remaining parent of children under the age of 18 dies without a will, the court will decide with whom the children will live. By contrast, if the deceased has a will, his or her preferences about guardians are considered. Any pets that belonged to the deceased will be sent to shelters.

These arrangements don't happen for free. The costs of going to court and administering an estate are deducted from the estate proceeds. That means it can be more expensive to distribute your assets if you do not have a will.

Make an appointment with a lawyer to make a will. Do it yourself kits are available, but may not offer the provisions to meet your specific needs. They also don't come with advice about how to ensure all your wishes are honoured.