



FROM COUNSEL

A Preventive Law Service of The Office of The Judge Advocate General
Keeping You Informed On Personal Legal Affairs

ESTATE PLANNING BASICS OR DO I NEED A WILL?

Estate planning is the process by which you decide how your possessions and assets, also known as your estate, are passed on after your death. Your estate includes everything you own, whether it is a car, personal effects, a coin collection, investments, cash, insurance policies, bank accounts, or real estate. Even items that you own jointly are part of your estate at death. By using a will or other estate planning methods, you can ensure that your estate will pass on to whom you choose after your death.

Everyone has an estate plan, whether they know it or not. This is because each state has statutes providing who will inherit from you in the absence of legal documents with signed, written instructions. Generally, in the absence of a will, your estate passes to your primary next of kin. For example, if you are unmarried and without children, your estate would generally pass to your parents.

Even though there is a statute providing for your estate plan, you may still need additional estate planning. The most common document used for estate planning is a will. A will is a document recording someone's intentions for disposing of their property after their death. A will can do the following things:

- Let your friends and family know your final wishes, such as where you would like to be buried.
- Nominate an executor (or personal representative) who will carry out your final wishes per the instructions in the will.
- Name beneficiaries who will receive the estate.
- Nominate a trustee who will manage the estate for beneficiaries under the age of eighteen.
- Provide instructions for how the estate will be managed while in trust for the benefit of certain beneficiaries, such as those under the age of eighteen.
- Designate the age or conditions upon which the estate will be given outright, or free of trust, to certain beneficiaries.
- Nominate a guardian who will care for children if both parents are deceased.
- Provide instructions for paying burial expenses, estate settlement, taxes and other debts.
- Execute strategies to reduce estate taxes.

Frequently Asked Questions

Q. Do I need a will?

A. Preparing a will is a personal choice. No one is required by law or regulation to prepare a will. Nevertheless, it is recommended that a person prepare a will in the following circumstances:

- You have minor children or stepchildren.
- You are married without children and want part or all of your estate to be given to someone other than your spouse.
- You are unmarried and without children and want part or all of your estate to be given to someone other than both parents equally.
- You wish for any part of your estate to go to anyone under the age of eighteen.
- You divorced or married since last making a will.
- You are separated from or are in the process of divorcing your spouse.
- You have a child with a disability.
- You have a spouse with a disability.
- You have purchased real estate.
- You wish to make specific gifts of property to a beneficiary or beneficiaries who are not receiving everything else, like giving a car to your sibling.
- You wish to disinherit someone.
- You wish to leave part of your estate to a charity, church, or school.
- You experienced a life event, such as the birth of a child, since your last will.
- Someone named in a prior will to have a role or a benefit has predeceased you.

Q. Does a will control my Servicemen's Group Life Insurance (SGLI)?

A. No. The beneficiary designation made on form SGLV-8286 determines who receives SGLI proceeds. However, SGLI proceeds cannot be given directly to minors. A will can include provisions to appoint someone to receive SGLI benefits for a minor and manage those funds until an age you designate. Once the minor beneficiary reaches that age, the SGLI funds will be given to beneficiary. Using this technique ensures your SGLI can be used for and eventually given to your minor children.

Q. How do I have a will prepared?

A. The Legal Assistance Office prepares wills for Soldiers, military retirees, and their family members. Will worksheets are available at the front desk of the Legal Assistance Office or at the SRP site and need to be completed before your appointment. Appointments can be made by calling 239-3117 and usually last one hour per person.

Q. I have prepared a will. Where should I keep it? Can I scan it?

A. You should keep your will where you keep other important documents, such as a fireproof safe, filing cabinet, or gun safe. If you update your will, you should destroy any prior will. You should be careful about keeping a will in a safety deposit box unless your executor has access to it. You can have your executor hold it for you, for safe keeping. It is always important that your executor knows where your will is and is able to obtain the physical document in the case of your death. A scanned copy is generally not valid for carrying out your wishes.

FROM COUNSEL is distributed by the Fort Riley Office of the Staff Judge Advocate, Legal Assistance Office, located in Bldg 216, Clausen Hall. **Consult an attorney for specific legal advice for your particular situation.** Our office hours are: 0900–1700, Mon–Thur, and 0900–1500 on Fri. Call 785-239-3117 for an appointment.