



FROM COUNSEL

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

ESTATE PLANNING BASICS

1. Purpose.

To explain basic concepts of estate planning. In addition, this From Counsel explains how a will works in an estate plan. Other estate planning documents, such as powers of attorney and health care directives, are addressed in separate From Counsel fact sheets.

2. Facts.

a. Estate planning is a lifelong process of making decisions about the use, maintenance, and disposal of your estate. Your estate includes everything you own, whether a car, a house, 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. Estate planning involves not only accumulating wealth during your life, but disposing of it when you no longer want it or after you die.

b. Everyone has an estate plan. Each state has a statute providing who will receive your estate in the absence of any instructions provided in a will. Generally, in the absence of a will, your estate passes to your primary next of kin. For example, if you are married with children your estate would pass to your spouse and kids. If you are unmarried and without children, your estate would pass to your parents.

c. 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 estate after their death. A will can provide the following instructions:

- Nominate an executor (or personal representative) who will carry out 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 the minor beneficiaries.
- Designate the age or conditions upon which the estate will be given outright, or free of trust, to minor beneficiaries.
- Nominate a guardian who will care for children if both parents are deceased or under a disability.
- Provide instructions for paying burial expenses, estate settlement, taxes and other debts.
- Strategies to reduce estate taxes.

3. 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, Legal Assistance recommends preparing 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 are divorcing your spouse.
- You have a child with a disability.
- You wish to leave specific bequests, gifts of a specific article or part of the estate, for an individual beneficiary.
- You wish to disinherit a relative.
- You wish to leave part of your estate to a charity, church, or school.

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 for the minor 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 prepare a will?

A. Legal Assistance can prepare wills for Soldiers, their family members, military retirees and their family members. Will worksheets are available at the front desk of the Legal Assistance Office. Appointments can be made by calling 239-3117 and usually last one hour per person. For deploying Soldiers, will preparation is also available at the SRP site.

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

A. Keep wills where you keep other important documents, such as a fireproof safe, filing cabinet, or gun safe. Storing a will in a safety deposit box can make it difficult for your family to find your will when they need it. Do not make copies, because it is difficult to locate and destroy copies if you later change or draft a new will.

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