

What if I want to change my will after it's done?

You can change your will or any other estate-planning document that Wills for Heroes provides at any time. Unless your department is planning another wills day, we strongly recommend that you consult with an experienced estate-planning attorney before making any changes.

Never write on the legal document once it has been signed. If someone's address changes or an agent dies, do not cross out the incorrect language. The language was correct at the time of signing.

You should consider changes to your Will or other estate-planning documents whenever you have a "life event" – for example, a birth, death, marriage, or divorce in your family or in the family of anyone that you have named or included in your estate planning documents. It is a good idea to review your estate-planning documents every five years to ensure your desires are still being met.

Who should receive a copy of my estate planning documents?

You decide based on what feels comfortable for you. Make sure someone knows where to find your documents. If you are leaving them in a safe deposit box, make sure it can be accessed at your death to retrieve the contents of the box. The person must be named on the safe deposit box account, not just be in possession of the key.

Does my will still apply if I move out of Alabama?

Yes. A validly executed will in Alabama is honored in other states. However, the new state's probate laws may make it best to prepare a new will, advanced directive for health care, and power of attorney when you move to another state.



What is a living will?

An advanced directive for health care or "living will" is separate from your will, but may be an important part of your estate plan. It states that in the event you have a terminal, incurable medical condition and your life is only being prolonged by means of artificially provided life support and if you cannot communicate your desires, the living will "speaks for you" so your doctors know and can act upon your desires about medical life support. Once executed, the document is effective until you revoke it, which you may do at any time by physically destroying it or revoking it. You may also name a health care proxy and successor to make health care decisions for you.

What is a power of attorney?

A power of attorney is a document by which one person (the "principal") appoints another as agent and allows the agent in certain circumstances as specified in the document to act for the principal. The agent is also known as the "attorney-in-fact," not to be confused with an "attorney at law," who is a person licensed to practice law.

The most common use for a power of attorney is to handle financial or property transactions when you are physically or mentally unable to do so. For example, the principal can authorize the attorney-in-fact to sign the principal's name to buy, sell, or mortgage real estate; buy or sell securities; deposit or withdraw funds from a bank; or sell automobiles. The power of attorney can also be used to make health care decisions and arrange living accommodations.

You should only appoint someone you trust. Most married couples appoint each other. Single persons generally appoint a relative or a close friend.

What about organ donation?

It is a great idea to put your wishes down in writing; whether you are for, against, or have not decided. This program does not have a form for you to decide about organ donation at this time. Your Alabama driver's license may, at your direction, state whether you are an organ donor.



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WILLS FOR HEROES

FREQUENTLY ASKED
QUESTIONS AND
ANSWERS



Is this clinic really free?

Absolutely. However, the program coordinator will keep your questionnaire for statistical purposes. Attorney volunteers are specifically instructed not to solicit your business.

Are there any limitations?

Yes. The estate documents prepared at this clinic are basic documents. This program is not designed to deal with complex estates that would require special needs trusts or other complex designations.

Do I need to be present to have my will prepared?

Yes. We cannot determine your goals and wishes unless you are present.

Do I need to bring anything with me to the wills day?

Yes. You need to bring your estate-planning questionnaire, filled out to the best of your ability. If you are going to do a specific bequest of any real estate, please bring the mortgage or some other document showing the legal description of the property. Also bring government identification with your picture on it because you will be signing your will in the presence of a notary.

How long will it take to finish my will?

It generally takes approximately one hour from start to finish to complete your will and other estate-planning documents.



What is an estate plan?

An estate plan has a lasting effect on you and your family. What you do now affects physical and financial care issues if you become incompetent and what your family may have after you die. Your plan may include a will, power of attorney, and advance directive for health care ("living will"). You must plan carefully, and that requires you think about your situation, family, and desires. Do so now while you have the time to reflect.

Make sure you also review any beneficiary designations on life insurance, retirement plans, annuities and IRAs to ensure that they are correct and up to date. Look at them at least every two to three years. If you die with a spouse and child, but forgot to change your beneficiary designations that named your parent or former partner, the fact that you married and have a child does not change the distribution of those assets. The asset will go to the person named - the parent or former partner - instead of those you would now name.

What is a will?

A will is a legal document that states your desires concerning what will happen to your probate assets after your death. Your will only affects your probate assets and will not, for example, govern who inherits assets owned as joint tenants with right of survivorship or assets with a beneficiary designation, if any beneficiary survives. A will also contains other specific directions from you concerning who is to implement your instructions (your personal representative) and, perhaps, who will care for any minor or disabled children (your guardian) you may leave behind. A will is especially important for parents with young children. You should name a guardian (and preferably a successor) for your children in case the other parent also dies while a child is a minor (under age 19).

Why should I make a will?

If you die without a valid will, Alabama law determines what happens to your assets. Your wishes will not be considered, and therefore your assets may not go where you want them to go. In Alabama, if you have a spouse and children from a former relationship, your children receive half of your estate and your spouse receives the other half. See Alabama Code 1975 Section 43-8-41(4).



What is probate?

Probate is a court procedure by which a will is proved to be valid or invalid, your creditors are notified, and valid claims against your estate are paid. The probate process accomplishes the transfer of your remaining assets from your name to your beneficiaries under your will.

A will does not avoid probate. Indeed, in order to be effective, your will must go through probate. During the probate process, the will, if any, is submitted to the court with paperwork asking for a personal representative (PR) to be appointed. Upon appointment, the PR collects the assets; notifies heirs and creditors; pays administrative expenses; pays statutory allowances, if applicable; pays any taxes; pays any creditors in a priority set in Alabama statutes; and distributes the remaining assets, if any, to the beneficiaries.

A will may not need to be probated if all assets pass by beneficiary designation or if the estate is very small.

There are expenses to probating an estate and a minimum of six months after the PR is appointed by a judge to administer an estate, after the will is admitted to probate. Estate assets can be tied up for that time period.

Are all of my assets controlled by my will when I die?

No. For example, proceeds of life insurance policies and retirement plan assets are distributed as you direct in a beneficiary designation form. A bank account that you own jointly with another person will presumptively go to the other joint owner. Real estate that is owned as joint tenants with rights of survivorship will go to the survivor upon the death of the first joint owner. It is extremely important that you coordinate the disposition of these assets with the disposition of the assets of your estate, as provided for in your will.