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Q: Do I need a Will?

A: Most adults don't understand the many ways a Will can benefit them and their children. The following is a short primer on Wills and how they can help you and your family.

I always advise my clients that generally the need for a Last Will and Testament arises with one of three variables 1) When you become the owner of real property, 2) When you get married, or 3) When you have children. If one or more of these variables exists in your life, then you should prepare your estate. If you don't prepare, then your estate will be settled according to state laws of intestacy (i.e. no Will). State intestacy laws detail how and to whom property must be distributed, who will care for your minor children, and the costs you must pay. However, if you have prepared a valid Will, you can make those decisions and the Probate Court will order the distributions in accordance with your directives. However, if any one of the three variables above exists in your life, you definitely don't want anyone making those choices but You!

The three most important factors in preparing a Will are the designation of Executors, Trustees and Guardians (for minor children or incompetents). In their simplest terms, the Executor determines the assets and liabilities of the estate, settles the affairs of the estate and makes the distributions to beneficiaries. The Trustee manages assets placed in trust, usually for a minor or trusts set up for tax planning purposes, and the Guardian will be responsible for any minors affected by the death of the decedent. All three have a fiduciary responsibility to your estate, the beneficiaries, and the Court.

If you have a Will, you can make the appropriate designations for each of these positions. Usually family members and close friends whom you trust and deem the most competent are designated to handle such an appointment. If you die intestate, the court will be forced to make those designations, usually to someone you never would have appointed and at a cost to your estate, (especially if a professional trustee is appointed or state services must get involved regarding the guardianship of minors). In contrast to having a valid Will, decisions made for intestate estates occur only after a long and sometimes costly process.

In addition, state laws of intestacy provide for distributions to minors at the age of 18, which by today's standards is too young. In your Will, you can establish a minor's trust that holds assets for your children until they reach an age beyond the statutory requirement. The age of 21 is the usual minimal choice with a current trend beyond the age of 25. These trusts are designed to preserve the distributions to minors, but can be invaded for health, education and well-being purposes. They are

an excellent tool for providing a financial benefit to a child and ensuring that the asset will be well maintained for many years to come.

As you can see, if you die without a Will, the Court will settle your estate in a manner that may not be in accordance with your wishes. In addition, the cost of settling your estate will be much higher than if you died having prepared a Will in advance.

When you plan your estate with a Will, you control how your assets are managed and distributed, and the care your minor children receive.

Anthony J. Medico, Esq., *has practiced law for over 27 years. To ask a question regarding this article, send an e-mail to info@medicoandassociates.com or call us at (203) 661-8151. To read more highly informative Estate Planning articles, visit our website at www.medicoandassociates.com, where you can also download our free Estate Planning Survival Guide. Enjoy.*

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