

Municipal Employees Legal Services

Do I need a Will? (Yes, you do!)

YOU may wonder if you need a will.

You may think you don't have enough assets. Or you may believe that a will forces your heirs to go through expensive legal proceedings after your death.

Actually, a will is a good idea for everyone.

Having a will lets you choose what happens to your assets after you pass, rather than leaving things to chance. A will makes life easier and less messy for your family and heirs, takes less time and is less costly. If you live in New York and die without a will, under New York law, your assets will be divided, according to New York law. That means your estate goes to your closest surviving family members. This may not be what you want and can yield unfortunate results.

For example, married couples with children typically want to leave everything to each other, with the idea that the surviving spouse will take care of the kids. If you assume the result would be the same if you didn't have a will, you would be wrong.

The court would divide your assets between your spouse and your children; your spouse would receive a little more than half of your assets and your children would get the rest. Your spouse would probably be appointed to oversee the children's funds, but would have to keep those funds separate and file annual reports.

Each child would get their share at age 18, whether the child can handle it or not. The decision-making power people want their surviving spouse to have over their combined assets can be severely limited if you don't have a will.

If you are the divorced parent of a minor child and die with-



Sr. Attorney Stephen Shepard at a will signing with a member.

out a will, your child inherits all of your assets. But if your child dies while still a minor, under law your child's estate would then go to the child's closest relative, who could well be your ex-spouse.

This is a result you could choose to avoid with a carefully prepared will.

Also, you need a will to appoint a guardian for your minor children. If you don't, the probate court appoints a guardian. That will likely be a family member who steps forward. But maybe that person is not the best choice to take care of your children.

So why not express your choice in a will?

By consulting an experienced attorney, you can explore all options and have a will prepared that is right for you. A lawyer can explain options that may reduce the property that goes through probate, such as jointly-held bank accounts or real estate.

A lawyer can advise you about having a living will and health care proxy — which may be triggered in the event that you become unable to make medical decisions — and a power of attorney, which allows a relative or close friend to handle your finances if you became incapable.

You can achieve peace of mind that your choices are followed. Have your union legal services plan make a will for you and your spouse or domestic partner.

Call DC 37 Municipal Employees Legal Services Plan (MELS) at 212-815-1111.

This article was prepared by Vincent Gagliardi, a Supervising Attorney at DC 37's Municipal Employees Legal Services, and appeared in the July-August 2017 Public Employee Press.

- To contact DC37 MELS about having a will prepared or other covered legal services, call (212) 815-1111!
- DC 37 MELS, a Program of the Health and Security Plan
- For more information, visit www.dc37.net/benefits/MELS.



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