

[The Ultimate Guide to Estate Planning](#)

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The phrase "estate planning" may sound like an exercise for the very rich, but thanks to the complicated nature of the U.S. legal system, even people with modest assets need a written document, or will, that specifies how those assets will be distributed upon their death. Yet according to a recent survey by the Harris Poll, 64 percent of Americans have not made a will.

The top reason cited? They "haven't gotten around to it yet." They also fear it will be difficult and expensive, says Lisa Honey, director of product marketing for Rocket Lawyer, the online legal resource that commissioned the survey. Then there's the simple fact that, as Honey puts it, "people don't want to think about death."

That's understandable. But if you don't have a will, a judge will be making key decisions about your [estate](#), not you.

All estates, whether there's a will or not, are subject to review by state probate courts — a fact that some people mistakenly believe negates the need for a will. But when there are no written instructions to guide them, lawyers and other legal representatives often work slowly and follow set formulas that may not reflect your wishes.

Typically, a will provides that guidance by naming an executor, beneficiaries, and guardians for minor children and disabled adult dependents, and by spelling out how assets will be distributed. Generally your executor is a trusted friend or relative who is unfazed by paperwork and has the patience to carry out the often tedious job of thoroughly settling an estate (including paying off creditors and maintaining property until it can be inherited or sold). In the absence of a will, the court picks the executor. The same is true of your children's guardians. Clearly, these are not choices you want to leave up to the court. Indeed, for people with minor children, the chance to name guardians for those children is often the single most compelling reason to make a will.

A will also lets you state your preferences in such matters as burial versus cremation, the care of a beloved pet or the completion of other assorted personal agendas. "But remember, your will becomes part of the public record when it's placed into probate," Honey cautions, "so don't include anything you wish to keep private."

In a digital age, you may not need an attorney to prepare a will; there are many online templates you can use to keep costs down. "There is no substitute for a genuine estate planner, but online wills have vastly improved in recent years," says Charles Sizemore, principal at Sizemore Capital Management in Dallas. "If your situation is sufficiently simple, an online will is probably fine." Websites such as [Rocket Lawyer](#), [LegalZoom](#) and [LegalShield](#) offer will services that can cost under \$100 for straightforward estates. (Note that married couples need a separate will for each spouse.) If your legal situation is complicated, however, you should consult an attorney.

But even a good will has its limits. "For a lot of Americans, the single most important document isn't their will," Sizemore says. "It's their IRA or 401(k) beneficiary designations." That's because many financial products, including retirement accounts and life insurance policies, are themselves legal contracts and, by law, supersede any instructions in your will. So regardless of what your will says — and even if you wrote it last month — the payouts from these products will go to the beneficiaries you designated when you filled out the forms, even if that was decades ago (when, say, you named your then-spouse as beneficiary). It is therefore imperative that you review beneficiaries regularly and choose contingent beneficiaries as backup. Sizemore also recommends updating your will every five or so years.

A will and up-to-date beneficiary information will suffice for most estate plans, but if you have substantial assets or especially complex circumstances, you may want to consider a trust. It will allow you to exercise greater control over your assets, minimize taxes and potential lawsuits, speed up the settlement of the estate and avoid probate court. You'll need to consult an estate planning attorney both to figure out what kind of trust you need and to legally establish that trust.

In essence, a trust is a legal entity that owns the property and assets you place in it. You name a trustee (often yourself during your lifetime, so you'll also need a successor trustee) and then impose terms of your choosing on the trust's management of those assets. Regardless of the format of your trust (and there are many), its chief virtues are the privacy it confers and the increased control you get over the transfer of assets, which is more direct than with a conventional will.

"Trusts don't go through probate court and therefore don't become public," says Jamie Hopkins, retirement income professor at the American College of Financial Services. "And they transfer property almost automatically upon death, helping wrap up the estate and getting assets to family members more quickly."

----- Written by Jeff Reeves, the author of the *Frugal Investor's Guide to Finding Great Stocks*

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Last Reviewed

Tuesday, January 2, 2024