

Where there's a Will, there's a Way



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Focusing on Wills, Estates, Residential Real Estate and Small Business

Helping clients plan for their succession by ensuring they have effective wills, power of attorneys and health care directives that reflect their wishes. Assisting with estate administration. Making real estate transactions seamless.

Legal disclaimer

The information provided in this presentation is general in nature.

It does not constitute legal advice and no solicitor/client relationship is established with you.

The information given today is about the law and process in Saskatchewan and may not be applicable in other jurisdictions.

What does Probate mean?

Probate is the process that allows organizations like banks, investment firms, and Land Titles know that the Will being given to them is the official last Will of the deceased, and the person they are transferring the asset to is the authorized Executor(s).

If there is no Will, then the person is called an Administrator instead of an Executor, and Letters Probate are called Letters of Administration.

Does every Will have to be probated?

You only need to probate a Will if you have assets going through the Will of more than around \$30,000.

So if you are leaving everything to your spouse, you may want to set up your affairs so when the first of the two of you dies everything transfers to the survivor automatically and there is no need to probate that Will.

What assets go outside my Will?

Assets owned jointly with right of survivorship

- Joint bank accounts and joint investment accounts
- Real estate owned jointly (note, but not as tenants-in-common)

Assets for which you named a beneficiary other than your Estate

- Registered accounts - RRSP, RRIF, LIRA, TFSA, etc.
- Pension
- Insurance

Assets of lower value – personal effects, vehicles

What assets go through my Will?

Everything else goes through your Will.

Benefits of fewer assets going through the Will?

When there's a designated beneficiary - the assets often transfer to the beneficiaries more easily and faster

Lower probate fees

- In Saskatchewan probate fees are 0.7% (\$7 for every \$1000) of assets going through the Will.
- Also an administrative fee of \$200.

Lower legal fees to administer the Estate

Still need a Will

If you have no assets going through your Will, then the Will does not need to be probated. But there are still benefits of having a Will:

- Clearly assigns someone to wrap up your affairs.
- Says who the Executor is and other organizations (such as Canada Services and CRA) are very happy when an Executor can provide a copy of a Will
- Can provide instructions about burial or cremation
- The way you die may result in your estate having additional assets – e.g. if you die in a plane crash or fire – there may be an insurance pay out to your estate
- If you and your spouse die in a common accident, then a Will is necessary
- If you are the last to die

Digital Assets

- emails, email accounts, text, video and picture messages
- digital music, digital photographs, digital videos
- digital art, digital manuscripts, digital music
- software licences, social network accounts
- financial accounts, banking accounts
- tax preparation service accounts, other online accounts
- digital currency accounts, domain registrations, web hosting accounts
- similar digital items which may exist as technology develops

Have a Process to Deal with Digital Assets

- Will – Give executors the ability to access all of your devices and use any passwords to obtain, access, review, modify, delete, control and transfer any of your digital assets
- Legislation – *Fiduciaries Access to Digital Information Act, 2020*
- Inform your Executors – Digital vaults
- Limitations – programs controlled by foreign companies

Power of Attorney

- Highly recommended
- Your Will takes effect the moment you die, but not before that
- If alive but unable to make decisions your Will cannot help
- You need a Power of Attorney or go to the court for a Guardianship order
- You require mental capacity to make a Power of Attorney – so when you need it most you can't make one
- Simple and relatively inexpensive
- Your Attorney can make decisions for you about Property and Finances, Personal Matters or Both – depending on how you set it up

Health Care Directive (Living Will)

- Before you receive medical treatment consent is required
- If unable to provide consent your Health Care Directive sets out the treatment you want and do not want
- It also names your proxy(ies) who can provide consent for you
- Your proxies must act according to your wishes if they know them
- Important to discuss these matters with your proxies or next of kin – so they understand your values and preferences
- Recommend you visit the Plan Well Guide website at **planwellguide.com**

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- To protect your child's inheritance from a divorcing spouse
- To provide an inheritance to someone who is disabled that will not interfere with their government assistance payments
- To delay and stagger payments to young beneficiaries
- To set up a trust or annuity that pays a monthly amount to a beneficiary who is disabled, cannot handle money, or has addictions
- To hire a trust company to manage any trusts in your Will
- To provide posthumous gifts to charities
- To assist in your tax planning
- To assist in succession planning for your business or farm



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Helpful Websites:

PLEA – Public Legal Education Association

- <https://www.plea.org/plans-for-the-future>

Government of Saskatchewan

- Powers of Attorney
 - <https://www.saskatchewan.ca/residents/justice-crime-and-the-law/power-of-attorney-guardianship-and-trusts/powers-of-attorney-for-adults>
- Guardianship for Dependent Adults
 - <https://www.saskatchewan.ca/residents/justice-crime-and-the-law/power-of-attorney-guardianship-and-trusts/guardianship-and-co-decision-making-for-dependent-adults>

Plan Well Guide

- www.planwellguide.com