

## WILLS, ADMINISTRATION OF ESTATE/PROBATE

**What are the requirements to make a Will?** You must be at least fourteen (14) years of age and of sufficient mind and memory to realize you are making a Will disposing of your property at death. The Will must be in writing (unless made on the deathbed), and be witnessed by at least two (2) witnesses. It is important to have a Will done by an attorney because the formal execution and proper format is just as important as the content.

**What if you die without a Will?** Georgia's inheritance statute will determine who gets your property. The court will appoint an administrator to manage and settle your estate.

**When should you make or review a Will?** As soon as you have property or children to be cared for, you should make a Will. Whenever there is a change in your legal circumstances, including marriage, divorce, birth or adoption of a child or death of a beneficiary you should also review your Will so that your Will is still valid.

**How long is a Will valid?** A Will is not valid until death and may be changed or amended by signing a new Will.

**What is a Living Will?** The State of Georgia recognizes the right of a competent adult to make a written directive, known as an Advanced Directive For Health Care, instructing his/her physician to withhold or withdraw life-sustaining procedures in the event of a terminal condition.

**What is a Power of Attorney For Asset Management?** A Power of Attorney For Asset Management appoints someone to handle your assets if you become incapacitated. You do not need to transfer assets at the time you sign a Power of Attorney, but you should keep the person appointed informed of your financial matters.

**What is an Advanced Directive For Health Care?** An Advanced Directive For Health Care appoints someone to make health care decisions for you when you are unable to do so yourself. This person can provide informed consent for treatment, or refuse treatments for you.

**What is Probate?** Probate is the public process of filing and validating a Will in court, paying all the debts and taxes of the deceased person and dividing up the assets according the Will or Georgia law.

**What is Estate Planning?** Estate planning is being diligent in the care and maintenance of all that you have worked for during your lifetime. It is making sure your spouse, children and you are provided for. Estate Planning is taking responsibility to ensure that your estate or everything you own is preserved and used for the benefit of those you love.

**What is a Living Trust?** A revocable Living Trust is established by transferring assets to the trust while you are alive. The individual then acts as the trustee and maintains control over the assets during his/her lifetime. At death, the successor trustee takes over and manages or distributes the assets in accordance with the directions contained in the document that created the trust; therefore, it avoids the need for Probate.

**How can I provide for my young children?** The most common trust is one set up for minor children for their care after you are gone and until they are old enough to take care of themselves. A parent can name a trustee to be in control of the finances and decide whether to sell or keep property and manage assets such as real estate. The trustee, usually a family member or close friend, can be paid an hourly rate or a set monthly amount for their services, out of the trust assets. You should also appoint a guardian for you children, someone who would have physical custody and take care of your children on a daily basis.

**Is a life insurance policy a substitute for a Will?** No. Life insurance is only one kind of property that a person may own. A Will is still needed to dispose of the rest of one's property.

**Is placing all property in joint ownership a substitute for a Will?** No. A joint tenancy does not provide for the distribution of the joint property in the event of a common disaster.

**Is a Will signed in another state valid in Georgia?** A Will signed and witnessed in another state is usually valid in Georgia. If you have moved to Georgia from another state, it is wise to have your Will reviewed by a Georgia attorney to ensure that it is properly executed and that the executor is qualified in this state. An improperly executed Will is void.