

Hello. How can we help?

🔍 What is a will? What are the legal requirements of a will?

Making a New Will

Brette Sember

KEY TAKEAWAYS



- ✓ Your will should reflect your family's current situation, including your spouse, children, grandchildren, and stepchildren.
- ✓ It is always better to create a new will than to try to revise an old will with a codicil.
- ✓ Making a new will involves thinking carefully about how you want to distribute your assets, then using the language required in your state within the document. It needs to be signed and witnessed according to your state laws.

When changes happen in your life, it's important to consider making a new will so it accurately reflects your current situation and your current wishes. If you don't update your will, you could end up with a situation where a grandchild born after your existing will is left out or a spouse you have divorced is still listed in your will. Nothing in your life is written in stone and your will shouldn't be either.

Changes to Your Family

Families change through the years and it's important that your will addresses your most current family situation so that you include everyone you want and exclude people who may no longer be part of your family. If you got married or entered into a relationship with a committed partner after your will was written, you will probably want to update your will to include that person, or perhaps to specifically exclude them so there can be no confusion

about your intentions. If someone you named as a beneficiary has died since you wrote your will, this is another reason to update your will. Your family may have grown, with children born or adopted into the family, new grandchildren, or the addition of stepchildren. It's your choice if you wish to include them as beneficiaries, but either way you'll want to update the will to be clear about your choice. You may also wish to rethink whom you have named as guardian if you have added children to your family or the guardian you previously chose is now deceased.

Changes to Finances

Your financial situation changes throughout your life and this kind of change is another important reason to update your will. If you have increased your wealth, you may wish to reconsider how much you have left to each person and perhaps consider charitable donations. If there has been a downturn in your finances, you may also want to reconsider bequests. If you have acquired specific items since your last will that are valuable or meaningful, you may want to designate to whom they should go. If you've since sold or given away property that is listed in a bequest in your previous will, a new will remove any confusion. If you've moved into or out of a community property state, you also will need to change your will to reflect the laws in those states. The creation of a trust (including a living trust) for some or all of your assets will also impact your will, so you will want to revise your will in that situation as well.

Change of Executor

The executor of your will is the person you designate to handle the business of probating your will and distributing your assets to your beneficiaries. If the executor named in your previous will is deceased or is no longer mentally capable of handling the task, it's time to write a new will and name someone else. Many people name their spouses as executors so if you've divorced, this is another reason to create a new will. You should have an alternate executor named in your will and if that person is deceased or no longer capable, you need a new will. You may also find yourself in a situation where you chose a friend as executor but you have drifted apart or are no longer in touch. This is another reason to create a new will.

Change of heart

The decisions you include in your will are yours alone, so you can change your mind at any time. Maybe you think one of your beneficiaries no longer needs the money; write a new will and give him or her less or nothing at all. Perhaps you have become involved with a charity that is very important to you. Create a new will and set up a bequest to that charity. Your will should express your true wishes, so if your wishes change, so too should your will.

How to Change your Will

If you would like to create a new will, there are several steps you should take. First of all, be aware that you cannot make changes directly on an old will. Crossing things off or writing

things in on an existing will is not legally valid and those changes will not be implemented by the probate court. If you want to create a new will you should think about what your wishes are then have them clearly expressed in a new document. The new will should contain the language required in your state and should express what bequests you are making to specific people, groups, or charities. Execute the new will in print format according to your state's laws (this includes signing it and having it witnessed, normally with at least two witnesses as well as stating you are of sound mind when you created it). It is also important that you revoke or destroy previous wills. You can do this with a statement in the new will stating "I revoke all previous wills executed by me" or you can simply destroy every copy of a previous will.

Codicils

It is also possible to change your will by writing a codicil to it, which is basically a written addendum that is properly signed and witnessed according to the laws your state. Each state has its own requirements as to execution and language, but the rules for a codicil are the same as for a new will. It must be signed according to state requirements and witnessed by at least two witnesses. When you write a codicil, the terms of the original will remain intact and you add or change specific things in the codicil. In general, a codicil is not a good idea because it can be confusing and can get separated from or purposely detached from the original will. In general, it is clearer and simpler to create a brand new will to be sure your wishes are carried out.

Keeping your will up-to-date and current is an important part of your estate plan. If you don't do so, family members may be left out of your bequests and your true wishes may not be carried out as you intend. Creating a new will is a simple process and [Willing.com](https://www.willing.com) can help you do so.