

How to Create a Will in New York City

If you need help creating a will in New York City, the estate planning lawyers at Lissner & Lissner can assist you.

How is a Will Created?

A will is the cornerstone of an estate plan. In its simplest form it provides instructions for your last wishes and how your assets and estate should be divided. If you die without a will, your estate will be divided in accordance with your state's intestacy laws.



This means that any wishes you had regarding who should receive your worldly possessions will not be considered.

The best way to create a solid estate plan is to consult with a legacy preservation attorney.

Your lawyer can review your assets, explain the function of trusts, and assist you in creating a comprehensive estate that ensures your loved ones are protected if you are incapacitated or pass away.

How to create a will in New York City

A will, or last will and testament, is a document that protects your family and property in the event of your death. It serves many purposes, including to:

- Distribute your property and/or assets to specific individuals or organizations
- Appoint a personal guardian to look after your minor children

- Name a person you trust to manage any property you leave to your minor children
- Appoint an executor to ensure that the terms of your will are carried out according to your last wishes

The best way to start creating your will is to make a detailed list of your property and assets. Once you have compiled the entirety of your estate, you should create a list of beneficiaries and determine who will receive your belongings. It is imperative that you use clear and easy-to-understand language to avoid any conflicts among your heirs.

For a will to be valid in New York, it must be signed and dated by you — the person writing it. Additionally, your will must be signed and dated by two witnesses. Furthermore, to avoid any discrepancies or confusion, ensure that your will is typed and not handwritten.

You will also want to name an executor to make sure your property is distributed in accordance with your last wishes.

Again, without a will in place, your assets and property will be distributed according to New York state's intestacy laws. As result, your estate will be left to your closest living relatives, starting with your spouse and children. If they are deceased, next in line are your grandchildren or your parents.

Depending on who is still alive, the list continues with more distant relatives — siblings, grandparents, aunts and uncles, cousins, great grandchildren, and great nieces and nephews. Should the court determine that you have no living relatives by blood or marriage, the state claims your property.

Do you need an attorney to create a will?

You are not required to hire an attorney to create a will, and you do not have to notarize a will in New York for it to be valid. However, if you want the will to be “self-proving” and thus make probate quicker and easier, a notary attestation is required. Probate is the court process of validating your will. Many people seek to avoid probate to reduce cost and time as well as to protect privacy. But still creating a will by yourself is dangerous.

The Dangers of Do-it-Yourself Wills in New York

These days, just about anything has a do-it-yourself version online. In some cases, such advice is helpful and can save people money and time. But when it comes to most legal situations, including wills and all forms of estate planning, trying to cut corners may have disastrous consequences.

Common Mistakes in Do-it-Yourself Wills

We create wills to ensure that our wishes are carried out if we die. This is one of the reasons why a will should never be created without the help of an experienced estate planning attorney; if you are dead, you will be unable to address any unforeseen problems that an improperly drafted will may cause. Below are some of the most common mistakes seen in do-it-yourself wills.

Failure to Consider Taxes and Other Legal Issues

A will does more than just name who gets the house and who will take care of young children if both parents die. A properly drafted will should also address taxes, payment of debts, dispositions of the estate, and meet probate requirements.

In recent years, estate taxes have changed dramatically. An experienced [NYC estate planning attorney](#) can help to ensure that your will is created, and updated, to make use of all potential tax savings.

Using Terminology Loosely

When creating a will on one's own, it is extremely common to use incorrect terminology, some of which may lead to questions about the individual's actual intent to distribute assets.

The language must be very specific; simply stating your general wishes is not enough and can be dangerously ambiguous.

By drafting your own will, you run the risk of using terminology or language that is misinterpreted, or that voids the entire document. And if these mistakes arise, how will you defend your position after your death?

When disputes *do* occur, the court will want to hear from someone who had conversations with you about these matters, but who will not benefit from your will, such as an estate planning attorney.

Including Things You Don't Own

When it comes to wills, assets are considered either probate or non-probate. A probate asset is something you own in your name alone. Joint accounts are non-probate assets.

A will only governs probate assets, but for most people, many if not all of their assets fall under the non-probate category. An estate planning attorney can help you determine if you actually have the authority to dispose of the assets in your will.

Choosing the Wrong Personal Representative

When you die, the person you named as executor of your will is responsible for ensuring that your debts are paid and assets are distributed according to your wishes. Upon your death, the executor, also known as your personal representative, is supposed to file the will in court, thus beginning the probate process.

But what if you created your will years ago and the executor died before you? Or maybe you've lost touch with the executor and he/she decides they no longer want the job.

The unfortunate reality is, your personal representative does not need to serve as executor if he/she chooses not to. As such, it is imperative that you choose the right person, and make sure that your chosen executor is still current if years have gone by since creating your will.

How can an estate planning lawyer help you create a will?

The importance of proper estate planning should never be underestimated. Not only will a detailed and clear estate plan ensure your family is protected if you pass away, but it will also prevent will contests among future heirs, saving your family further grief and disruption.

As a result, it is in your best interests to consult with a knowledgeable estate planning lawyer prior to creating your will. An experienced legacy lawyer can assist you in the following ways:

- **Naming your beneficiaries** — The individuals you leave your property and assets to are known as beneficiaries. Your lawyer can work with you to determine who your beneficiaries should be and ensure that they are properly accounted for in your will.
- **Determining medical durable power of attorney/durable power of attorney** — It is important that you have a durable power of attorney and medical durable power of attorney in case you fall ill or are otherwise incapacitated and unable to make financial or medical decisions for yourself. In many cases, these decisions cause significant angst and turmoil for families because they are unsure of what to do when tragedy strikes.
- **Reducing or avoiding estate tax when possible** — Unless you have a legal background, you may miss opportunities to reduce or avoid estate tax implications during the will creation and estate planning process.
- **Discovering ways to avoid probate** — Probate can be time-consuming and costly. Your lawyer can help you create an estate plan that saves your heirs from having to go through the process.

- **Setting up trusts** — Trusts are useful for protecting assets for your own benefit during your lifetime in the event of incapacity, and also for the benefit of your heirs after your death. Your attorney can review your estate and assets and determine if creating a trust is ideal for your situation.

Your will is not a one-and-done document. Instead, you should update your estate plan frequently to reflect major life events — divorce, marriage, family births and deaths, etc. At every turn, your estate planning lawyer can help you revisit your will to ensure that it reflects your most recent last wishes.

Contact compassionate estate planning attorneys in New York City

For more than 30 years, Lissner & Lissner LLP, has provided New Yorkers with trusted guidance for wills and trusts, advanced health care directives, and other aspects of the estate planning process.

To speak with a knowledgeable legacy preservation lawyer about creating a will in New York City, call [\(212\) 307-1499](tel:2123071499) or contact us online.