

How to Revoke a Will in New York City

Major life changes may constitute the need for an updated or completely new will. If you created a will while married to your first spouse but have since remarried and started a family, for example, you will likely have created a new will to reflect these significant changes. If not, you definitely want to do so immediately. But what about the old will? Should you keep it on file as is suggested with most important documents, just in case it needs to be referred to at a later date?

Let's start by differentiating between the processes of updating or altering an existing will and terminating an old will to create an entirely new will in its place.

Updating a Will

In New York, you can change your will by making something called a codicil. A codicil is essentially a supplement or amendment to an existing will, which slightly alters, adds to, or removes something from the will's original terms.

You might make a codicil to add an adopted child to the will, for example. When you are simply altering an existing will, there is no need for revocation of the original document. If you are unsure whether you need to revoke, or simply update your existing will, a [New York City estate planning lawyer](#) can help. Contact Lissner & Lissner LLP today at [\(212\) 307-1499](tel:2123071499) for a confidential consultation about your case.

Why Would You Need to Revoke a Will?

Sometimes, however, you need to start from scratch. When life changes, such as marriage, divorce, and acquiring or disposing of property, are significant, your current will may no longer reflect your wishes. If simply updating an existing will

isn't sufficient, you may want to revoke it entirely and create a new document. Although we are typically taught to hold onto important documents for future reference, the same concept should not be applied to revoked wills. In fact, holding on to a terminated will can have unintended and disastrous consequences.

How to Revoke a Will

Put in writing that you wish to revoke the will, and follow all rules for doing so in a clear and legal manner. Most people will create a new will at this time, but this is not a required step of revocation (it is, however, *highly* recommended).

Physically destroy the will by shredding, burning, cutting, or otherwise mutilating the physical document. To make this form of revocation valid, however, you and two witnesses must be present when the will is destroyed. And if you're going to physically revoke the will, one page is not enough; the entire document should be destroyed.

If you create a new will, you can include a specific clause in that will revoking any previous wills. Creating a brand new will—*with* this clause—and physically destroying the old document, is the most effective way to revoke an old will. By doing so, you are triply protected from any uncertainty or ambiguity surrounding your intended wishes upon your passing.

We cannot emphasize enough that while you *can* revoke a will without creating a new one, it is rarely a good idea to do so. There are multiple risks in revoking a will without creating a new one. For example, what if you physically destroy the will, having forgotten that you had made copies years earlier? If you pass away with copies lying around, some courts will accept copies in lieu of the original. A NY estate planning lawyer can help you determine how to proceed if you wish to update or revoke an existing will, and/or create a new one.

Beware of Accidental Revocation

It is also possible to accidentally revoke a will by misplacing it, or hiding it *too* well. If no will can be located upon your passing, the Surrogate's Court

Procedure Act dictates that New York wills lost or misplaced are presumed revoked. In these cases, the deceased's estate will most likely be distributed by New York's intestacy laws, regardless of the wishes contained in the missing will.

Contact Lissner & Lissner LLP Today

If you have any estate planning needs, the skilled legal team at Lissner & Lissner LLP can help. We have extensive experience in all facets of estate planning, including those involving disputes and litigation. An estate plan is one of the most important legal documents you will ever create, so it's important to ensure that any documents clearly and accurately reflect your wishes and align with your unique objectives and goals. Contact Lissner & Lissner LLP Today at [\(212\) 307-1499](tel:2123071499) for a confidential consultation about your case.