Wills & Estates 101

ASEC, June 28, 2026 10:00 AM

Intro & Disclaimer

- Albert Benshoff, Stewardship or Gratitude and Giving Committee member, NC lawyer, Parishioner since 2003, Volunteered to give this presentation.
- I don't do this kind of legal work as a general rule.
- THIS IS NOT LEGAL ADVICE. PLEASE CONSULT YOUR OWN LEGAL ADVISOR.

WHY Bother? There are 3 reasons -

1. If you don't have a will / estate plan, the N.C. General Assembly's plan applies. [N.C. Gen. Stat. Chap 29 Intestate Succession]

- EX: Joe dies without a will. Joe wanted to leave 100% of his estate to his spouse, Jane. Joe has 2 adult children. The intestacy statute says Jane gets 50%, children each inherit 25%.

WHY Bother, Continue?

2. You don’t hate your family.

- EX: Sam dies without a will. Sam wanted to leave 100% of his estate to his unmarried partner, Sara. The intestacy statute says closest living blood relative inherits. Sara inherits nothing.

WHY Bother, Continue?

3. Book of Common Prayer at 445.

The Minister of the Congregation is directed to instruct the people, from time to time, about the duty of Christian parents to make prudent provision for the well-being of their families, and of all persons to make wills, while they are in health, arranging for the disposal of their temporal goods, not neglecting, if they are able, to leave bequests for religious and charitable uses.

How do I get started? Answer 2 questions-

- 1. How is property to be distributed? Who gets what, when.
- 2. If you have minor children, who will take care of them? And pay for that care?

Some definitions:

- "ESTATE" IS EVERYTHING YOU OWN AT DEATH: PERSONAL PROPERTY, CAR, FURNITURE, CLOTHING, TOOLS, CASH, STOCKS, BONDS, INSURANCE AND REAL PROPERTY
- "WILL" IS A COLLECTION OF LEGALLY BINDING DIRECTIONS TO YOUR FAMILY /FRIENDS AND WISHES THAT ARE NOT LEGALLY BINDING (I WANT TO BE BURIED, NOT CREMATED)
- "ESTATE PLAN" EVERYTHING THAT EXPLAINS WHO GETS WHAT, WHEN; FUNERAL ARRANGMENT; TRANSITION DOCUMENTS.

WHAT is an ESTATE PLAN?

- All the wishes and documents for what happens when you die. A Will is a part of an estate plan Or everything explaining who gets what, when + funeral arrangements + transition documents (see next)

ESTATE PLAN DOCUMENTS

- 1) WILL; 2) TRUST; 3) DURABLE POWER OF ATTORNEY, 4) HEALTH CARE POWER OF ATTORNEY, 5) DESIRE FOR A NATURAL DEATH, 6) DO NOT REVIVE ORDER , 6)HIPAA RELEASE 7) LETTERS STIPULATING OTHER REQUESTS.

FAQS

- WHAT IS A TRUST?

- A fiduciary relationship created by the SETTLOR to create a duty of the TRUSTEE to manage the SETTLOR's property. Includes 6 elements:
- 1) Settlor must have capacity; 2) Settlor indicates intention to create trust; 3) There must be definite BENEFICIARY (unless it is a charitable trust); 4) TRUSTEE has duties to perform, 5) Same person cannot be the sole beneficiary and sole trustee, 6) Trust must include trust property, which TRUSTEE holds for the benefit of the BENEFICIARIES. NCGS 36C-4-402

FAQS

- HOW MUCH DOES A WILL COST?   VARIES
- Free for vets though Wills for Heroes at NC State Bar.
- Free at FreeWill (No endorsement) AND The Episcopal Church Foundation (ECF). givingdocs.com/myepiscopallegacyplan/c/web
- The ECF offers WILLS, TRUSTS, CODICILS (will updates), BENEFICIARY DESIGNATION ASSISTANCE, DURABLE POWERS OF ATTORNEY, ADVANCE HEALTHCARE DIRECTIVE, QUALIFIED CHARITABLE DISTRIBUTION TOOL, DONOR ADVISED FUND TOOL, STOCK GIFT TOOL. You are not required to leave money the church to use these tools.

FAQS How much does it cost?

- DIY: Examples only. No endorsement. Assume a married couple, no kids. A) Lexis-Nexis Protégé, an AI program, drafted a decent will in 5 minutes. B) Legal Zoom (rated best by Forbes) $249 - $399 for a couple, Trust is extra. C) Trust & Will (rated best by Google's AI $39 to $1,500, Can pay for NC lawyer review.) D) Quicken WillMaker & Trust ($109- $219
- Lawyers: $1,400 to 1,800 for husband and wife, Trust, Health Care Power of Attorney, Power of Attorney, HIPAA release
- NO ENDORSEMENT

FAQS, Continued

- THERE IS JUST ME AND MY (UNMARRIED) PARTNER. DO WE NEED A WILL?
- YES!   BUT WHY?
- The Partner receives nothing under the intestacy statute. The Partner will not be able to make health care decisions without a health care power of attorney. The Partner may not have access to e-amils, bank counts, credit cards/banks, and so on.

FAQS, Continued

- THERE IS JUST ME AND MY SPOUSE. DO WE NEED A WILL?
- A GOOD IDEA.   BUT WHY?
- IF the assets are titled jointly, it doesn't really matter except for any property that is not titled jointly. Eventually that property will come to the spouse. If there is a "residual" estate and/or any gifts, the will saves an intestacy proceeding.

FAQS, Continued

- WHERE DO I RECORD THE WILL?
- **OPTIONAL**
- 1) FILE ORIGINAL WITH CLERK OF COURT. Must be named in will to retrieve will on death.
- 2) FILE WITH LAWYER, IF you can find a lawyer who offers that service.

FAQS, Continued

- IF I DON'T RECORD, WHAT DO I DO WITH THE WILL. ?
- KEEP THE ORIGINAL SAFE IN A PLACE THAT HEIR'S CAN FIND IT.
- A MISSING WILL IS NO WILL AT ALL.

QUESTIONS?

- PRESENTATION WILL BE REPEATED IN AUGUST
- YOU CAN CALL ME AT 980 622 6440 OR E-MAIL TO benshoff@broughlawfirm.com
- EMINDER: THIS IS NOT LEGAL ADVICE