

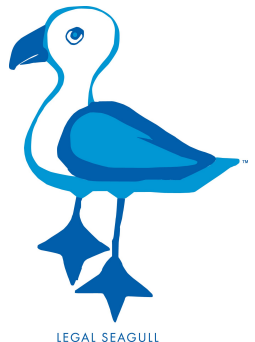
WILLS



What is a will?

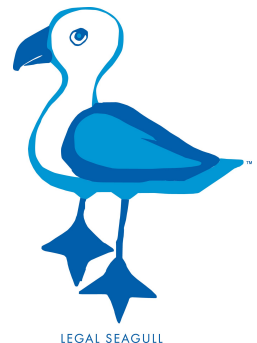
A **will** is a legal document that says:

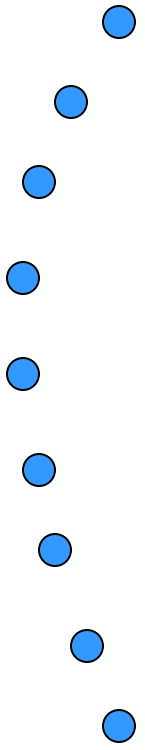
- what you want done with everything you own (your estate) when you die
- who you want in charge of carrying out your wishes



Who can make a will?

- At least 19 years old (limited exceptions)
- Legal capacity (“sound mind”)
- Know:
 - What a will is
 - The 2 Ps (property, people)
- Free and voluntary (not pressured)
- Know & approve will’s contents





Making a will

1. Typed will - should be signed by the testator and two witnesses. **All three people must see each other sign.**

OR

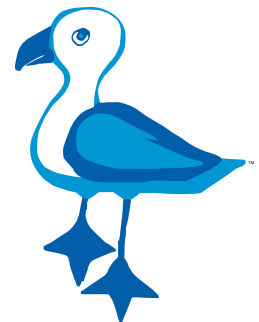
2. Holograph will: handwritten by the testator and signed by testator, but not witnessed. There should be no other marks or writing on the Will.

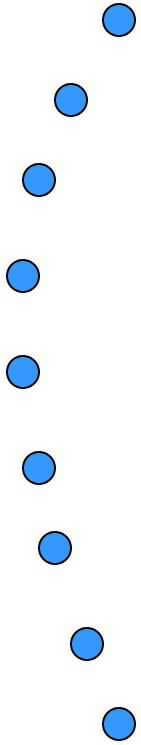
**It is always best to speak with a lawyer
before making a Will**



Why make a will?

- Peace of mind and dignity
- Let your family & friends know your wishes
- Make sure what you own goes to the people you choose
- Avoid disputes, save time & money
- Name a person to care for dependants
- Provide for companion animals (pets)





Why make a will?

Because of what happens if you **don't** have a will.



Why make a will?

So what you have goes:

- to the people you want
- the way you want
- when you want.

Because of what happens if you **don't** have a will.



Some risks of Do-it-yourself

- Too vague (my car to Angela; to my “nieces and nephews”)
- Dependants left out (spouse, children)
- No executor named
- No plan for possible events and contingencies
- No “what to do with the rest” clause (residuary)
- Not properly executed (no witnesses, witnesses not present, not dated, testator lacks capacity...)
- Beneficiaries involved in making the will/pressuring testator
- Unintended tax consequences



What if I die without a will?

- *Intestate Succession Act* rules say who gets your estate
- The rules are not flexible
- Lists **nearest relatives**: married spouse or registered domestic partner, children, parents...
- Common law partners are **not** listed



Rules:

- Surviving spouse, no children, surviving spouse takes all
- Surviving spouse, 1 child, 50% to spouse, 50% to child
- Surviving spouse and > 1 child: 33% spouse; 66% between children. However: if net value of estate \$50,000 or less, all to spouse
- No spouse, no children: parents inherit equally. No parent, then siblings equally
- Spouse may choose matrimonial home instead of \$50,000 (if home >\$50,000), or as part of the \$50,000 (if home <\$50,000)



Some laws limit what you can do

- *Testators' Family Maintenance Act (NS)*
- *Matrimonial Property Act (NS)*
- Public policy: against society's interests (morals & laws)
 - horses
 - Organization espousing hatred, violence



Some things distributed outside will

- Jointly owed property (eg. house, bank account*)
- Assets where you named a beneficiary, like:
 - RRSP, TFSA, RRIF, RDSP
 - life insurance
 - other pension plans



What revokes a will?

- Marriage, unless mentioned in will
- Divorce – but only parts dealing with ex-spouse, unless say otherwise
- A document revoking the will
- A new will (best option)
- Destroying the will



THANK YOU

Questions?

