

Flett Law

“Do I really need a Will?” Yes. Yes you do.

If you do not have a Will, there are legislative provisions that set out who may apply to administer your estate and how your assets will be distributed. For this reason, many people mistakenly believe that they do not need a Will.

However, failure to create a Will can have unintended consequences. For example:

- If you have a spouse and children, only the first \$65,000 of your estate will go to your spouse and the remainder will be divided among your spouse and children. This is true even if your children are self-sufficient adults and your spouse relies on your income and assets.
- There is no legislative scheme for determining who will be the guardian of your children in the event that you pass during their minority. A judge, who does not know you, your children, or your crazy family, will make this decision.
- Those heirlooms that have been in your family for three centuries? They may need to be sold for cash in order to satisfy the debts of your estate or the scheme of distribution under the legislative provisions. Or, they may go to your spouse (as you intend) but when your spouse remarries and then passes, they may be transferred to your spouse’s new partner and lost to your family forever.

Some people neglect to create a Will because they do not think their estate is large enough to warrant it. However, disputes over estates are frequently not about money but about the things that have no monetary but great sentimental value. And even the few assets you have (such as a bank account or a vehicle) will need to be dealt with by someone. Consider making it easier on them.

Preparing a Will is one of those items that shows up on the to-do list as important but not urgent. We know it’s hard – hard to contemplate your own mortality, hard to make the time to sort through all your wishes, and hard to wade into the family dynamics that may be at issue. But, for your peace of mind and the sake of your family, it should be moved to the top of the priority list.

Lest you think that lawyers are self-interested in recommending that Wills be prepared, let me assure you that we earn far more in legal fees assisting on intestate estates (that is, estates where there was no Will), or administering badly drafted Wills, than we do in drafting a proper Will in the first place. Yet, an alarmingly high number of Canadians do not have Wills. We urge you not to be among them.