

In Maryland, a Last Will & Testament ("Will") is always a written document taking effect at your death. It is a set of instructions specifying the management and distribution of your estate.

Is my Will valid while I am alive?

Yes. But, it is not enforceable until you die.

What are the requirements for a valid Will in Maryland?

Any competent person over the age of 18 may sign a Will. This must occur in the presence of two witnesses who also sign the document in front of each other.

What should my Will contain?

Among other instructions your Will should:

- Name executor(s) and alternate(s),
- Name who inherits, their relationship to you, when they inherit, and what happens if that person dies before you,
- Name guardians if both parents die with minor children,
- If there are taxes which arise as a result of your death, (such as an estate or inheritance tax), or that survive you, (such as income tax), detail how they are to be paid, and
- List any specific bequests.

What controls, my Will or the titling of an asset?

Regardless of a Will's contents, titling controls:

- When one owner named on an account dies, the surviving owner owns the account, and
- An asset which names a beneficiary is owned by that person at the owner's death.

When does a Will become stale, can a copy be used to open an estate, and when should I update my Will?

- Wills do not become stale because of age.
- A properly drafted Will is valid until it is replaced.
- Normally the originally signed Will and not a copy must be used to open the estate. On occasion, a copy may be accepted by the court.
- A review of your planning documents should occur every 3 to 5 years as laws, your circumstances, and your goals change.

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- When these changes occur, your Will should be updated through an amendment called a "Codicil" or a new Will should be prepared.

What does Intestacy mean?

Intestacy is dying without a Will. This results in you losing control of post death decisions. As a result of dying without a Will, Maryland's statutes and cases interpreting them make all of the decisions regarding your estate. These laws and cases decide who inherits, what percentage that person inherits, who is the executor etc.

Dying intestate in Maryland can also mean that your surviving spouse may not inherit all of your probate assets.

Who should prepare Wills?

Wills are normally prepared by an attorney trained in these matters. While forms are available at many office supply stores and online, they are often non-comprehensive and at the very least should be reviewed by a professional.

Other things to consider

- If your Will includes tax or trust planning, it should always be prepared by an attorney
- familiar with these matters.
- Maryland has a Survivorship period of 30 days. To inherit from someone's estate, you must survive them by at least 30 days.

Disclaimer - This handout is provided for general information relevant for planning undertaken in Maryland only. None of the information within should be relied upon. Statutes, regulations, and the cases interpreting them are constantly changing. Consult an attorney before taking any action. Your reliance on or use of this information does not create an attorney/client relationship or privilege between you and the law firm and its employees, or their heirs, personal representatives, successors, or assigns.

ABRAHAM & BAUER, LLC

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Richard K. Abraham, Esquire

(O) 443-901-1333 • (F) 443-279-2953

staff@abrahambauer.com

504 Baltimore Avenue • Lower Level
Towson, MD 21204

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