

IF YOU DON'T HAVE A WILL

If you don't have a valid will at the time of your death, your estate will **not** proceed the way you want it to. When a person dies without a will, the Court must follow certain "default" rules which apply to people who have no will. Some of these default rules are exactly what most people **don't** want. By way of illustration, your "default will" would look as follows:

DEFAULT WILL AND TESTAMENT OF JOHN Q. PUBLIC

The undersigned, John Q. Public, being of sound mind and body, but failing to act in a responsible manner regarding my estate, and further being a person of unbridled procrastination, or simply too darn cheap to hire a lawyer, hereby declares as follows:

ARTICLE I. SELECTION OF MY EXECUTOR

I hereby fail to select a specific person to act as Executor (or Personal Representative) of my estate. Instead, I ask that the Court make such determination based upon the priority established by statute, whether or not I had a preference during my lifetime as to who should serve.

ARTICLE II. REQUIREMENT OF FIDUCIARY BOND

I hereby direct the Court to order my Executor to post a significant fiduciary bond with the Court, and for my estate to pay any premiums associated with this bond. The purpose of this bond shall be to guarantee that my Executor does not embezzle funds from my estate, regardless of whether such Executor is a beloved family member or trusted friend.

ARTICLE III. DIVISION OF ESTATE BETWEEN SPOUSE AND CHILDREN

I hereby direct the Court to split my estate between my spouse and children, pursuant to the complicated calculations under State law, which depend on the number of children, whether or not I have children from a prior relationship, the value of my homestead, and other factors which I do not understand. I expressly waive the right to simply direct that my entire estate should go to my surviving spouse, with the knowledge that he or she will care for my children when the time comes.

**ARTICLE IV.
TREATMENT OF GIFTS TO CHILDREN**

I specifically direct that no trust should be established in favor of my children whereby money can be given to them at appropriate ages. Rather, I insist that any funds allocated to my children be held in a conservatorship or guardianship account and that my spouse or other caretaker holding such funds be obligated to report to the Court the status of said funds each and every year. In addition, I specifically request that funds allocated to a child be **immediately** released to said child upon their 18th birthday, even though they may not be mature enough to handle funds at that stage. I specifically waive the right to establish a simple trust to care for the children and to delay payment until an appropriate age.

**ARTICLE V.
CHARITABLE GIVING**

I specifically waive the right to make any gift to my church, synagogue, or other charity, and the Probate Court shall have no authority to give even a small charitable gift from my estate.

**ARTICLE VI.
GUARDIANS**

I specifically waive my right to state a preference as to who should be the guardians of any of my minor children. As a result, should my spouse and I both die, the Court should simply make its best guess as to who should raise our children.

**ARTICLE VII.
TAX PLANNING**

Above all else, I specifically waive any planning by my tax accountant, attorney, and other professionals which could save me and my family significant taxes associated with my estate. Rather, I elect to proceed in a manner which will pay the most possible estate tax or inheritance tax, because I prefer that the government get my money instead of my family.

/s/ John Q. Public

NOTE: Obviously, the above will is not a "true" will, and not all of the default provisions will apply to every case. However, the above "default will" is generally

representative of the serious problems that arise with an estate where the decedent left no will.

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