• NEWSFLASH

ESTATE PLANNING

DO YOU HAVE A WILL?

Writing a will is an important step that many procrastinate. The reason may be that it is uncomfortable to think and plan about your own death. Or perhaps we think that we still have time or that making a will is expensive. However, a will is one of the most caring things we can do for our loved ones. Here is what you need to know about wills and why it is important to have one.

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What is a will?.

A will is a legal document that provides for the distribution of assets to heirs and beneficiaries after one's death. It also provides for the appointment of executors who will be responsible for the distribution of the estate, nomination of custodians for minor children and directions for the funeral and burial.

Who can make a will?

Every person over the age of 16 years, who has not been declared as mentally unfit can make a will. One does not need a certain asset threshold before writing a will. A will can revised as and when one acquires new assets.

Why is it important that I make a will?

There are many benefits of having a will which includes the following:

- A will allows one to bequeath property to people who would not inherit intestate such as children born out of wedlock, dependants, other relatives, friends, and charitable organizations,

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- One can also disinherit other people who would have inherited if one died without a will,
- One is able to nominate an executor whom they consider competent and trustworthy,
- One can nominate a trusted person as a guardian to take care of minor children,
- A will provides the survivors with guidance on how to distribute the estate of the deceased and lessens the possibility of disputes and
- One can protect their heirs who are married in community of property, by excluding the inherited property from community of property.

What will happen if I die before making a will?

If one dies without a will (intestate), the division of the estate, appointment of executors and nomination of guardians for minor children will be controlled by the laws of intestate succession or customary law if one is a tribesman.

If a testator is married in community of property, half of the joint estate and a child's share will be apportioned to the spouse and the remainder will be allocated in equal shares to the children. If the testator is married out of community of property, the surviving spouse will only get a child's share from the estate. If the testator is unmarried but has a partner that they have accumulated property with and have been staying with for a significant time, such partner will be apportioned half of the joint estate.

Children born out of wedlock can only inherit intestate from their mother and her relations and not from their father or his relations. In the case of a father, children born out of wedlock will not inherit intestate from the estate or that of the father's relatives but may only be entitled to maintenance if they are minor children.

The law of intestate succession does not consider factors that might influence the testator to divide the estate unequally or otherwise among the heirs. It further does not provide for the inheritance of property by one's parents, grandchildren, or other relatives while the spouse and children are still alive.

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