

In Texas you need a will, even if you think you don't.

I have had a few conversations over the past month that made me realize that the average Texan assumes that they don't need a will because they think they know how the law will distribute their property after they die. In every one of those conversations their assumption was incorrect.

Married Person: I don't need a will because when I die all my property goes to my spouse, right?

Wrong! Under Texas law, if you are married and have children, then the surviving spouse only gets one third (1/3) of the personal property of the estate, and the other two thirds (2/3) goes to the kids. The spouse only gets a life estate in 1/3 of the land, and the rest goes to the kids. So if you don't have a will, the kids get the majority of the estate, not the spouse. Imagine that situation when your teenager has more say in the assets than your spouse. That's not what you want, is it?

And if you don't have kids, it doesn't all go to your spouse. Under Texas law, all the personal property goes to your spouse, but only one half (1/2) of the land goes to him or her. The other half goes to the deceased's parents if they are still alive, and if not, then to his or her siblings, or their descendants. I'll bet that's not what you wanted either.

The only way to make sure that your property is distributed the way that you want it to be is to have a properly executed will that states your intentions. Once this will is admitted to probate, it must be followed. I know that many people are put off by hearing the probate is expensive. But in Texas, because we have the ability to provide for what is called an independent administration, probate is relatively cheap.

So there's no reason to put off getting your will drafted and executed. And to make sure that your wishes are properly carried out, for the least cost to your estate, it's a good idea to have a lawyer help you do it.

This article was written by Seth J. Hinkley. Mr. Hinkley has been advising clients since 1997. This is not legal advice and does not give rise to an attorney-client relationship. If you have any questions regarding the issues discussed in this article please contact Mr. Hinkley at:

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