

# Why Create a Will?

## *Distributions Your Way or Their Way*

The most important reason to have a will is to avoid dying intestate! If you die intestate, your estate will be subject to intestacy laws. These are state laws that prescribe how your property will pass to your heirs if you die without a valid will. Creating your own will allows you to express how you want your remaining property to pass.

### **Law—Their Way**

A will determines how probate assets (assets not jointly owned or distributed according to contract) pass to heirs. If you die without a valid will, your assets will pass to your heirs according to state law.

Each state writes its own intestacy laws which serve as a "*generic will*" for its residents. Lawmakers design the wills to pass property as they think most people would want and to make provisions for all contingencies. These laws vary from state to state.

Usually, the distributions occur as follows:

- If your spouse survives you, and you have no children, your spouse inherits the estate. However, in some states, your parents and your spouse split the estate.
- If your spouse and children survive you, each inherits a portion of the estate.
- If only your children survive you, they inherit the estate.
- If you have no surviving spouse or descendants, your parents inherit the estate. If your parents are deceased, your siblings inherit the estate. If you have no surviving siblings, your next of kin inherits the estate.
- If you have no next of kin, your state of residence takes over possession of your estate.

### **Will—Your Way**

Creating a will allows you to express how you want your probate property to pass. Probate property consists of any assets not subject to a contract or jointly owned.

Advantages of a Will:

- You choose who gets your remaining property.
- You designate an executor of your choice to carry out your intentions.
- You can design your will so that you may actually reduce estate taxes.
- You can appoint a trustee and/or guardian to manage assets you leave to your children.
- You can amend or revoke the will at any time.