

Why a Will?

Why have a will? What does it do? It is, essentially, your orders from the grave on a variety of topics. If you do not have a will at the time of death; that is, you die intestate, the state makes these decisions for you. Generally speaking, you are better off with, than without, a will. For many people, the will has limited usefulness; for example, those who are single, have no children, and want their biological parents to inherit all their property. On the other hand, the will may be extremely important for those who: are married, are separated pending divorce, have children, want to disinherit (i.e., prevent close relatives from inheriting property), or who have substantial property.

Specific and general bequests Through your will, you instruct what is to happen to your property. You may identify specific bequests; that is, you direct that specific items of property, often of great sentimental value, go to a specific individual. You also identify in a more general way how the property is to be divided; i.e., what percentage of the total that individuals will take.

Identification of beneficiaries Specifically naming beneficiaries through a will is increasingly important, as family relationships become more and more complex due to divorce, remarriage, adoptions and the like. Your will, by naming the beneficiaries, also indicates who will not receive property. (The power disinherit certain people, such as a spouse, may be limited by state law.) If you die intestate, there will be no specific bequests. Further, you may be giving property to relatives you don't even know, such as the parent you haven't seen since he/she abused and then abandoned you as a young child. Additionally, state intestate succession schemes can be cumbersome. For example, in North Carolina, personal property over \$15,000 and any real estate of those who die intestate is shared by the surviving spouse and child. With a child, perhaps even a baby, as part owner, sale or other distribution of the property can be difficult.

Identification of Executor Through your will, you identify the person who shall carry out your instructions and determine whether, and how much, the executor should be paid from your estate. From your estate, the executor will ensure that creditors are paid and gifts are distributed. Despite the instructions in the will, there will always be decisions for the executor to make: does the ring go to John or Jane? Should the ring be sold and the profits divided between them? Without a will, the court appoints some one, perhaps a stranger, to administer your estate and determines the rules that administrator should follow.

Identification of Guardian Ordinarily, your spouse will take care of your children when you pass away. But what happens if you are a single parent or you and your spouse die in a common disaster? The court will have to name a guardian for your children. The

choice you make in your will, while not binding, will be very persuasive to the judge who must make this decision.

Trust provisions You may establish a trust through your will. In a trust, you give your certain property to one person (the trustee) to hold for another (the beneficiary). You identify the rules the trustee must follow; such as when portions may be withdrawn for the beneficiary. You also identify a specific date or event; such as the beneficiary reaching age 18, or graduating from high school when the entire amount will be distributed to the beneficiary. Such a trust provision may be useful in taking care of a sick or mentally ill relative, or a minor child.

Tax Avoidance Estate planning, including the preparation of the appropriate will, can often avoid taxes associated with the transfer of property from one person to another. Tax concerns are particularly important where the estate exceeds \$1.5 million. In calculating your taxable estate, be sure to include such matters as life insurance proceeds and real estate.

Legal Assistance Available Units and individuals should not wait until the last moment. **PLAN AHEAD.** The Camp Lejeune Consolidated Legal Assistance Office (CLAO) gives classes concerning wills Mondays, Wednesdays, and Fridays and 10:00 at the office of the Base Staff Judge Advocate, building 66 (limited seating) and Tuesdays at 1300 at the Base Theater. No appointment is necessary. Call to confirm times and dates. On request, CLAO will also provide classes for units on site. Information concerning wills and powers of attorney (as well as other deployment legal matters) is provided. Attendees may fill out a worksheet from which a will and other documents can be prepared and reviewed by counsel. At a later date, the completed CLAO will assist in executing the wills and advance medical directives. (Will execution is the process of reading, signing, witnessing and notarizing the will). Powers of attorney are typically executed immediately after the briefs.