

Your Will Making Sense of the Terms & Processes



WARSHAW
BURSTEIN

Kadeen Wong, Esq.
Warshaw Burstein, LLP
575 Lexington Avenue, 7th Floor
New York, NY 10022; www.wbny.com
Direct Telephone: 212-984-7742
Facsimile: 212-972-9150
E-Mail: kwong@wbny.com; wongkadeen@gmail.com



Introduction

Creating an estate plan offers you the opportunity to craft a legacy to ensure you provide for:

- Family members and friends
- Incapacity
- Protection against creditors and predators
- Designation of beneficiaries for retirement benefits
- An executor or trustee to wind up your affairs

Agenda

Topic one: Common Terms Defined

Topic two: What's in Your Estate Plan

Topic three: Surrogate's Court Proceedings

Topic four: What You Can Do to Prepare Now





Topic one

Common Terms Defined

Common Terms Defined

Last Will and Testament a written document that is validly executed and specifies how you wish your assets distributed in the event of your death

Testate
decedent died leaving a will

Intestate
when a person dies without leaving behind a will

Decedent
refers to the person who died

Surrogate's Court
this court decides what happens to a person's property at death

Probate or Administration Proceeding
proceeding brought in surrogate's court to appoint someone to represent and distribute assets of a deceased person's estate

Executor/Administrator
the person appointed by the court to manage and distribute a decedent's estate upon death

Trustee
the person in charge of controlling the assets in a trust

Beneficiary
the people or organizations you choose to give your assets

Distributee
the family members who are ***entitled*** to a share of the decedent's estate by law when there is no will

Grantor/Settlor
the person who creates a trust and funds the trust with assets

Probate Assets
assets titled in your name with no beneficiary named to receive the property

Non-Probate Assets
assets held jointly with someone else, or which has a beneficiary named

Trust Assets
property that was placed into the trust.





Topic two

**WHAT'S IN YOUR
ESTATE PLAN**



Last Will and Testament



Trust



Financial Accounts



Health Care Decisions
Burial Directions
Guardians for Minors

WHAT'S IN YOUR ESTATE PLAN

Last Will and Testament

Your will specifies where and to whom you wish your property and possessions distributed in the event of your death.

For your will to be legally binding, it needs to be validly executed, properly witnessed by at least two witnesses and signed by you.

You appoint at least one executor in your will. This person will be responsible for managing and distributing the assets of your estate.

You can change your will at any time before you die. As your mind and your life circumstances change it may become necessary to change your will to accommodate for births, deaths and divorces.

Any new will you make supersedes any previous versions, and once the new will is signed, it revokes the contents of such prior will.

Your last will and testament have no legal authority prior to your death.



WHAT IS IN YOUR ESTATE PLAN

Last Will and Testament

Family or Relevant Beneficiary's Information

Tangible Personal Property (jewelry, books, art, clothing, etc.)

Real Property (land, house, condo)

Cash Bequests or Stocks

Gifts of Pets

Gifts to Charities

Residue (Remaining property)

Executor / Trustee Appointments

General Provisions and Fiduciary Powers

Guardians/ Guardians in Surrogacy matters



DYING WITHOUT A WILL

Who gets what depends on who the living relatives are and their relationship to the Decedent.

If the Decedent has...	then
a spouse (husband or wife) and no children	the spouse inherits everything
spouse and children (or grandchildren if a child is deceased)	the spouse inherits the first \$50,000 plus half of the balance. The children inherit everything else.
children but no spouse (or grandchildren if a child is deceased)	children inherit everything
parents but no spouse and no children or grandchildren	the parents inherit everything
siblings (brothers or sisters) but no spouse, children, grandchildren or parents	the siblings inherit everything
The list is followed by grandparents and then by the next closest relatives	Inheritance will depend on the degree of relationship and the amount determined by statute



TRUSTS

Living Trust – Created during your life and can be revocable or irrevocable:

- *Revocable Trusts* – you can revoke or amend the trust. You retain complete control over the trust during your lifetime.
- *Irrevocable Trusts* – unable to revoke or amend without the consent of all beneficiaries pursuant to statute.

Testamentary Trust – created under your will and effective upon death. The surrogate's court may review trustee transactions.

WHAT IS IN YOUR ESTATE PLAN

Financial, Health Care, and Burial Directions



Power of Attorneys. You name an agent to help you manage your financial affairs if you become incapacitated.

Health Care Proxy. This document appoints the person you choose to help you make medical decisions if you become incapacitated. Only one person may serve at a time to avoid conflicting directions.

Living Will. In your Living Will, you provide instructions to your health care agent.

Health Insurance Portability and Accountability Act. This document authorizes the individuals named to obtain copies of your medical information, speak with your doctors and deal with insurance companies on your behalf.

Burial Directives. A standalone document detailing your burial instructions could be important in avoiding a situation where your will or trust instruments are read after your burial arrangements have been completed.

Topic three

THE SURROGATE'S COURT PROCESS

- Small Estate Proceeding
- Probate Proceeding
- Administration Proceeding

THE SURROGATE'S COURT PROCESS

If the Decedent had...	then file...
less than \$50,000 of personal property	for small estate , also called a voluntary administration
had a Will,	for probate
didn't have a Will,	for administration

***Personal property are things that belong to a person not including real property. For example: cash, bank accounts, bonds, car, boat, and artwork are personal property. House and land are examples of real property.**



Topic four

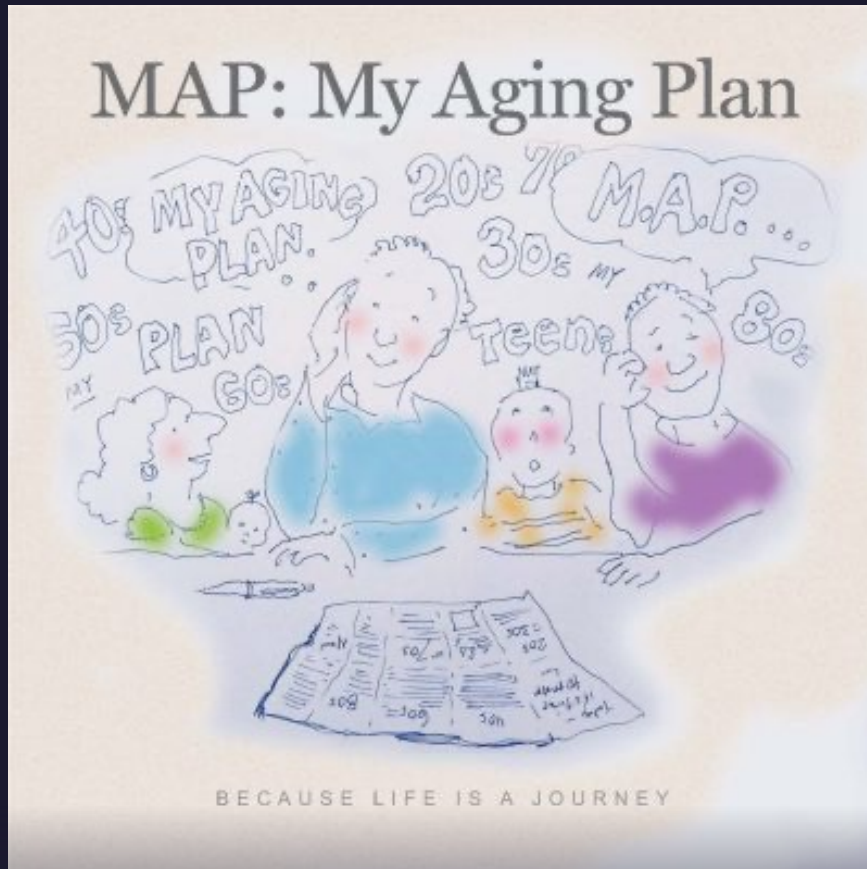
What You Can Do to Prepare Now

The way to get started is to quit talking and begin doing. Walt Disney



MAKE A LIST OF ALL YOUR ASSETS

My Aging Plan helps you to prepare for the road ahead by mapping different ages and suggested actions for each phase.



Download the complete planning checklist or you can click the different tabs to see what sorts of information you should collect. <https://www.seniorlawday.info/senior-law-day-planning-checklist/>

→ DOWNLOAD THE COMPLETE PLANNING CHECKLIST

Click the different tabs to see whats of information you should collect

- + YOUR PROFESSIONAL TEAM
- + ADVANCE DIRECTIVES
- + BANK ACCOUNTS
- + CREDIT CARDS
- + PROOF OF IDENTITY
- + HOUSEHOLD BILLS
- + MEDICATIONS
- + BENEFICIARY DESIGNATIONS ACCOUNT TITLING
- + MORTGAGES OR LOANS
- + TAX RETURNS
- + PENSION PLANS & RETIREMENT BENEFIT INFORMATION
- + TITLES OR DEEDS
- + FUNERAL DIRECTIVES
- + DIGITAL FOOTPRINT

Thank You

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NEW YORK AND FEDERAL ESTATE TAX

❖ Effective January 1, 2022, the **federal estate tax exemption** is **\$12,060,000** (double the amount if married). The federal estate tax exemption will sunset and revert to \$5,490,000.00 by December 31, 2025.

❖ The New York State **Basic Exclusion Amount** is **\$6,110,000** for dates of death on or after January 1, 2022 and before December 31, 2022.

