

The best reason for making a will is to avoid what happens if you die without one. By not having a will you give up the right to choose who will inherit your property, the amount each person will get, and when they will get it (i.e. immediately or at a future time).

If you die without a will, these decisions are made under Ontario's succession laws. For example, if you are married but have no children at the time of your death, Ontario's *Succession Law Reform Act* says that your spouse would be entitled to all your remaining property after payment of your funeral expenses, debts and taxes. If at your death you leave behind a spouse by marriage and children, your spouse would be entitled to the first \$200,000.00 worth of property, with the remainder being shared between your spouse and children.

But what happens if you are not married to your partner and you are living in a common law relationship? Under Ontario's succession laws only spouses by marriage have a statutory right to share in the deceased's estate. Common law spouses do not have that right, but in certain circumstances they can make a claim for support.

If you were not survived by a married spouse or by any children, grandchildren, great grandchildren, etc., your estate could go to your parents, if alive, and if not, then to your surviving brothers and sisters or their children, if any, and so on. Where there are no surviving kin, and no will, your property would go to the government of Ontario!

Another huge challenge is that without a will there is nobody with the legal authority to deal with your property or financial affairs. In a will you can appoint an Executor or Estate Trustee who immediately upon your death has the power to deal with your estate. Without a will, no one has that authority until someone (usually a relative) is appointed by the court. Having to go to court can cause lengthy delays resulting in unnecessary hardship and expense for your family.

Providing for our loved ones on death may not, as this column illustrates, be quite as simple as you might have thought. Clearly, we should all take advantage of the opportunity to make a will. Additionally if you want to be sure that your will complies with the law and is effective to carry out your wishes, you should consult a lawyer.

You can find more information about wills online. Justice Ontario's website (http://www.attorneygeneral.jus.gov.on.ca/english/justice-ont/estate_planning.asp) contains a lot of information about wills and estates. The Advocacy Centre for the Elderly also has an informative website: http://www.ancelaw.ca/estates_introduction.php. Another great resource with lots of links to information is <http://yourlegalrights.on.ca/wills-and-estates>. Finally, you can consult our website (<http://www.communitylegalcentre.ca/referrals/POA.htm>) for links to these, and other resources.

This column is not intended to provide legal advice; it is just general legal information provided by volunteer local lawyers and the staff of community legal clinics and Legal Aid Ontario. The law can change. You must contact a lawyer to determine your legal rights and obligations. If you are living on a low income, you may be eligible for free legal help from Legal Aid Ontario (criminal, family or immigration) or your local community legal clinic (income security programs, employment law, tenants' rights, or human rights). You can reach Legal Aid Ontario at 1-800-668-8258 or visit them online at www.legalaid.on.ca. Contact the Community Advocacy & Legal Centre at 1-877-966-8686 for more information or visit www.communitylegalcentre.ca.

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