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Wills: Common Questions



Setting the Scene

**What kinds of wills are valid?
What is probate? Can I change
my will?**

**This pamphlet answers these
and other questions.**

**The law changes. This pamphlet is up
to date to March 23, 2017**

It has general information only. If you
need legal advice on a specific situation,
consult a lawyer or notary.

Learn more at educaloi.qc.ca:

- dying without a will
- life insurance
- dealing with a death
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Three Kinds

In Quebec, there are three ways to make a will:

1. Holograph: written completely by you by hand and signed. (You can't use a computer or a form.)
2. Before two witnesses: written by hand or typed, then signed in front of two witnesses. You can make it yourself or ask a lawyer to do it.
3. Notarized: made by a notary

Main Differences

Cost

1. Holograph will: Free
2. Will before witnesses: Free if you do it yourself, or the lawyer's fees if you use a lawyer.
3. Notarized: An uncomplicated one might cost between \$300 and \$400.

Probate

Holograph wills and wills before witnesses must be probated after death. Notarized wills don't have to be.

Probate is a legal process. It confirms the will was made by the deceased, is the most recent one and respects the rules for that kind of will.

Probate can be done directly with a court, or through a notary.

Probate costs money (at least \$1,000 if done with a notary) and takes time.

Registries

Notarized wills and wills before witnesses made by lawyers are put in a registry. A registry is an official kind of list.

This means people looking for the will can know where to get a copy.

Changing a Will

Once you've made a will, can you change it? Yes, but be careful how you do it.

Changes can be made in one of the three ways you can make a will in the first place.

But if you change a notarized will yourself, it can lose the advantages of being notarized. In particular, the non-notarized part must be probated.

If you want to make big changes, it can be a good idea to make a new will. This way, there is no confusion about whether parts of the old one still apply.

What is a codicil?

It is a document added on to a will. It can be used to make small changes to the will, such as changing the liquidator. (This is person who will settle your affairs after you die, also known as the executor.)

Someone I Named Died Before Me

What happens if you name someone in your will, but that person dies before you?

It depends on how your will was written, and what type of inheritance you were giving to the person who died.

It is a good idea to get legal advice about this.

Thing Mentioned in Will No Longer Exists

What if you no longer own something mentioned in your will?

When you die, it is as if that gift was not included in the will. So, you don't have to change your will to remove it.

Wills Made Elsewhere

What if you die in Quebec with a will made somewhere else?

If the will was valid where it was made, it can be recognized in Quebec. But there could be extra steps involved, such as providing proof of the law in that other place, or translating the will into French or English.

Who Can Have a Copy

During your lifetime, your will is confidential, unless you chose to give people copies.

After your death, the liquidator (executor) and the people named to inherit can have a copy.

People entitled to a specific gift only (as opposed to a share of your property) can usually only have the part of the will that mentions their gift.

Dying Without a Will

If you die without a will, the law decides who inherits and how much.

Who inherits depends on your situation. Are you married? Do you have children? Are your parents alive? Etc.

Important!

If you live with someone but are not married, your partner doesn't inherit if you die without a will. Unmarried couples are sometimes called "common-law" couples. In these situations, it's especially important to make a will.