

LAST WILL & TESTAMENT INSTRUCTIONS

Congrats on creating your custom Last Will & Testament! The final step in this process would be to have the will signed in front of witnesses and finalize the document.

The will needs to be signed in front of 2 witnesses. A person should not be a witness to a will if they will be benefitting from it, so it is best to use 2 different people to act as the witnesses. The witnesses will sign in the witness boxes and will be put under oath themselves by a notary. The witnesses should confirm the identity of the person whose will it is by examining their driver's license or other ID unless they know them personally. The witnesses should not sign the document until they are in the presence of the notary who will acknowledge the witnesses' signatures. They CAN witness the testator's signature before being sworn themselves, but it is always preferable to do it all at once if possible. Once you have the fully executed Last Will and Testament, it should be stored in a safe place.

One of the most common questions that arises in the execution of a last will and testament is the definition of "per stirpes" and "per capita"

Per stirpes means "by branch" in Latin. This means that each descendant of a decedent gets an equal share according to their generation. Per capita would mean that every descendant would get the same no matter what generation they belong to.

To further explain, here is an example:

Bob had 2 children (Mary and John) and both have 2 children as well. When Bob dies, if both Mary and John are alive, they would get 50% of the estate because they are equal to each other generationally. This is per stirpes.

If John predeceases Bob, the division of the estate would be as follows: 50% to Mary, 25% to John Child 1, and 25% to John Child 2. This is per stirpes. If this was per capita, it would have been split 33.3% Mary, 33.3% John Child 1, 33.3% John Child 2, and that was not the intent of the will.

If you have any questions about this document, or need to speak to an attorney about your decisions, please contact me.

Good luck!

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