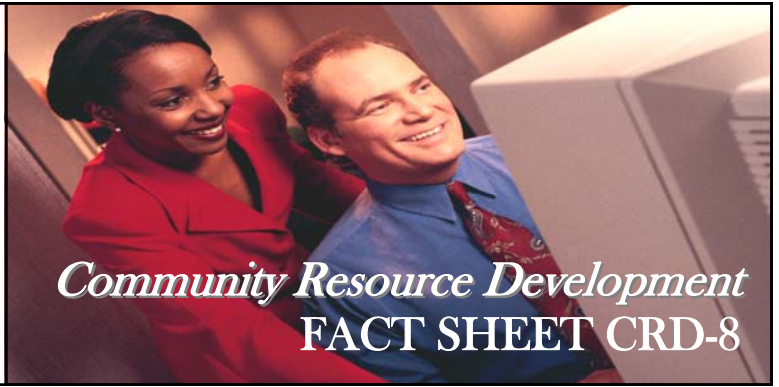




Cooperative Extension Program

An Outreach Education Program Serving Limited Resource Individuals, Small Farmers, Families, and Communities



Wills

Alvin Wade, Associate Professor

The simplest way to ensure the manner in which your funds, property and personal effects will be distributed after your death according to your wishes is to prepare a will. A will is a legal document designating the transfer of your property and assets after you die.

Usually, wills can be written by any person over the age of 18 who is mentally capable, commonly stated as “being of sound mind and memory.” Although wills are simple to create, about half of all Americans die without one (or intestate). Without a will to indicate your wishes, the court steps in and distributes your property according to the laws of your state.

Types of Wills

Formal

A “formal will” is one that is drawn by an attorney and must be witnessed by two or more people. A “formal will” should contain a list of family, friends, or organizations to whom you wish to leave your property. A person can change a “formal will” as many times as he or she likes.

Nuncupative

When a person is seriously ill, he or she might be too ill to write a will. A “nuncupative will” is one that is made in anticipation of death. It must be heard by two people, and it must be put in writing within 30 days. This method of devising a will should only be used in urgent situations, for it might lead to family disputes about the deceased’s true intentions.

Holographic

A person has the option of writing out his/her will in longhand. A holographic will is one that is unwitnessed, and handwritten. The advantage of a “holographic will” is that you can freely change it at

anytime without going through a formal process. The disadvantage is that it is more easily challenged by individuals unhappy with your wishes.

Wills are not just for the rich; the amount of property you have is irrelevant. A will ensures that what assets you do have will be given to family members or other beneficiaries you designate. If you have no apparent heirs and die without a will, it’s even possible the state may claim your estate.

Here are the basic elements generally included in a will:

- Your name and place of residence
- A brief description of your assets
- Names of spouse, children and other beneficiaries, such as charities or friends
- Alternate beneficiaries, in the event a beneficiary dies before you do
- Specific gifts, such as an auto or residence
- Establishment of trusts, if desired
- Name of an executor to manage the estate
- Name of a guardian for minor children
- Name of an alternative guardian, in the event your first choice is unable or unwilling to act
- Your signature
- Witnesses’ signatures

Once your will is written, store it in a safe place that is accessible to others after your death. If you name a trust company as executor, it will hold your will in safekeeping. You can keep it in your safe deposit box, but be aware that some states will seal your safe deposit box upon your death, so this may not always be the safest place to store your will. Make sure a close friend or relative knows where to find your will. If you had an attorney prepare your will, have him or her retain a copy with a note stating where the original can be found.

This *Community Resource Development* Fact Sheet is part of a series prepared by the Cooperative Extension Program at Tennessee State University.

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Clyde E. Chesney, *Administrator*
Latif Lighari, *Associate Administrator*