

# Estate Planning and Preparing Your Will: Five pitfalls to avoid

No one wants to plan for her death, but it is one of the most important things you'll ever have to do because your planning shapes the legacy you will leave. If you take certain measures today, you can ensure the administration of your will and estate will go smoothly for your loved ones and your wishes will be carried out.

After practising as a lawyer for more than two decades, I have encountered a number of unpleasant, often painful situations that could have been avoided. The following five pitfalls are ones that I have encountered time and time again.

- 1 Will validity issues:** Validity of wills challenges are often focused on the key issues of capacity to make a will and undue influence. There are many situations where people need good advice to understand their potential rights in a difficult time, especially when they are at odds with others in their family or close family contacts over the issue of the validity/invalidity of a will.
- 2 Handwritten wills:** While handwritten wills (called holograph wills in Manitoba) are capable of being valid in Manitoba, many questions can arise which may affect validity of them so that it is necessary to have the court rule on validity of handwritten wills. Don't leave your legacy in the hands of the courts; take measures today to ensure there is no question about the validity.
- 3 Ambiguous or problematic wording:** One of the common mistakes I see when people make their own wills is ambiguous or problematic wording. These matters are often complex and costly to sort out, particularly if they go to court. The best way to avoid this pitfall is to engage a lawyer to ensure your intent is clear and can be carried out.
- 4 Estate administration:** Executors and administrators, whose job it is to administer estates whether a will exists or not, need advice and legal services to assist with the completion of estate work. To successfully complete the job, each person needs to be fully informed and have a good understating of what he or she is undertaking. Sometimes beneficiaries need advice, where an executor is not doing the job properly. Even in average-sized estates, issues can arise, but you can avoid issues by involving a professional from the outset.
- 5 Control of Infants' Estates:** There are special rules and laws governing the management and control of monies held in trust for persons under the age of majority. Taking the right steps protects the legal guardian of the infant's property, and, of course, the infant.



When it comes to your legacy, don't leave anything to chance. Seek out advice from a lawyer with expertise in wills and estate matters. Every one of these pitfalls may have been avoided if a lawyer was engaged from the outset, avoiding costly litigation and emotional stress.

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