

WHAT IS PROBATE?

Your estate can only be transferred by your executor to your beneficiaries once the Court has confirmed both the appointment of your executor and the validity of your will. The process of submitting your will to the Court and formally appointing an executor is called “probate.”

Birdsell Grant can continue to assist your estate after your death by:

- Obtaining probate and ensuring the process goes smoothly and efficiently.
- Providing advice to your executor to administer your estate or trusts created by your will.
- Representing executors or beneficiaries if your estate becomes involved in a dispute or litigation.



WHEN SHOULD I UPDATE AN EXISTING WILL?

You should update your will when your life changes. Some of the circumstances that should prompt you to see a lawyer to review or update your will include:

- Marriage or remarriage.
- Divorce.
- Birth or adoption of children.
- Minor children reaching the age of majority.
- Death of a beneficiary or an executor.
- An increase or decrease in your wealth.
- Acquiring real estate or other assets, or acquiring a business, particularly if it is outside Alberta.
- A change in the laws governing wills in Alberta.

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Why Do I Need a Will?



If death and taxes are two of life's certainties, why are they so hard to plan for? At Birdsell Grant, our goal is to guide you through the decisions and challenges of planning an estate so you can have peace of mind knowing that your family will be provided for just as you intend.



Birdsell Grant LLP
Barristers and Solicitors

WHY SHOULD I HAVE A WILL?

A will leaves clear written instructions with your final wishes. Your estate will be distributed as you intend, and not as provincial legislation directs for people who die without a will.

A will can help avoid family conflict and help ensure that only the minimum required taxes are paid. Trust arrangements can make sure your minor or dependent children receive benefits when you think they will be ready. A will can help ensure your business or farm is handled in the most efficient and practical way and allows you to decide who will look after your estate by appointing an executor.

If you work, have insurance, or pension benefits, RRSP or RRIF investments, if you have a house or recreation property and especially if you have children, you should have a will. No matter how big or how small your estate is, you should be the person who decides who receives it after your death.

WHAT IF I DIE WITHOUT A WILL?

If you die without a will you are “intestate.” Your property will be distributed according to provincial law. This means:

- Your property will not necessarily go entirely to your surviving spouse or partner.
- Your minor children will receive their entire share at age 18, not when you think they should.
- You cannot choose a guardian for your minor or dependent children and you will not control who benefits from your estate.

The Court will appoint a personal representative to deal with your estate but this may not be the person you would have chosen. This person will not have the same ability to deal with your estate as would an executor appointed by a will.

To learn how your situation may be affected if you die without a will, consult a lawyer.

WHY SHOULD I SEE A LAWYER TO DRAFT MY WILL?

There are many options for preparing a will that do not involve consulting a lawyer. Unfortunately these resources may not help you ensure that your will is properly signed and legally enforceable, or that you have considered and properly dealt with all of the circumstances that are unique to your estate.

A lawyer is trained to make sure:

- That your wishes are clearly described in your will and that all legal requirements are met.
- That you have considered alternatives if your intended beneficiaries die before you do.
- That your will is properly signed so that it is valid and enforceable.



A lawyer can help avoid misunderstandings or conflicts that can result from an improperly drafted will. If your will has inaccuracies or ambiguities it may cost more in legal fees to properly interpret it than it would have cost to draft the will properly with a lawyer. Since most of the problems in your will won't be discovered until after your death, the costs of solving any issues can fall on your family or on your estate. When you see a lawyer, you will have the peace of mind that comes from knowing that you have done all you can to be sure your estate is handled the way you want it to be.

A lawyer can also help determine if you need an Enduring Power of Attorney and a Personal Directive. These documents appoint someone to handle your legal and personal affairs in case you become mentally incapacitated and provide direction for your medical care if you are unable to make decisions for yourself.

HOW CAN BIRDSSELL GRANT HELP ME WITH MY WILL?

At Birdsell Grant we recognize the importance a will has to you and your beneficiaries. Our experienced and professional advice will help you prepare a will that takes care of your beneficiaries and your estate.

CHOOSING THE RIGHT PEOPLE:

A lawyer at Birdsell Grant will assist you in considering the best parties to appoint to act as:

- The executor of your estate.
- A guardian for your children.
- A trustee for any trust created by your will.

DISTRIBUTING ALL YOUR PROPERTY:

A lawyer at Birdsell Grant will help ensure that the following items are distributed in a way that avoids conflict and misunderstandings after your death:

- Sentimental items, collectibles or family heirlooms.
- Life insurance, pensions, RRSPs, RIFs or other investments.
- Debts.
- A family vacation property.
- Charitable donations/legacies.
- A family business or family farm. We will ensure the business or farm can be operated, transferred, sold or wound up according to your wishes.

CONSIDERING ALL THE CONSEQUENCES

We can help you consider the consequences or effect of the following circumstances:

- Divorce or remarriage.
- Blended families.
- Common law relationships.
- Beneficiaries with special issues such as a disability or illness, a substance abuse problem or an inability to handle money. It may be impractical for these parties to directly receive a portion of your estate.
- Leaving certain parties out of your will and why the law may require that party to receive a portion of your estate.