

DO I REALLY NEED A WILL?

A Last Will and Testament, generally called a "Will" by most people, is the document that we generally use to settle all our affairs upon our death. Therefore, whether or not you need a Will depends upon what affairs you have to settle when you die. The following are a few basic considerations in whether you need to have a Will:

Do I need to make a Will?

The short answer is 'Maybe.' A Will is a voluntary document, you must decide if you need and want one. You are entitled to a Will while on active duty, but the preferable option, by far, is to consider if you need/want one and make an appointment at the legal office.

I'm a single Soldier, do I need a Will?

A Will simplifies probate for your parents, but most single Soldiers do not need a Will. You have your SGLI life insurance (controlled by the SGLI form, not your Will) your death gratuity (controlled by the form, not your Will) and your bank accounts (most accounts have a payable upon death (POD) person listed, controlled by the form, not by the Will.) If these are your three big assets, you have already handled your significant Estate matters.

I'm a single Soldier and I'm not close to my father. Do I need a Will to make sure he doesn't get anything?

If you have listed your mother or other person on your SGLI, Death Gratuity and bank accounts, you have safeguarded most of your assets. However, if you want to make certain your father does not get anything – personal possessions, and so forth – you will need a Will.

I did a Will three years ago, but everything is the same. Do I need to do another one?

No. Unlike a power of attorney, a Will doesn't expire. If the Will suits your needs and gives your property to the correct people, just check to make sure it's still in your possession. If so, you don't need a Will unless something significant changes.

I've done a Will before, but I've had another child. Do I need another Will?

Probably not. Check your Will. If it was prepared by a military legal office, the section listing your children by name should say "and any child here after born" or similar language. If you have that language, then legally your new child is already included in your Will. The child will inherit with your other children. While it is nice to have all of the children listed by name, it is not a legal requirement.

What if this is my first child?

You need a Will. Think about guardians, the people you entrust to raise your children in the event of your death and a trust for your child that will be used to raise them and what friend or relative can take on those duties for you. If you are married, the Will is an important back up plan if you and your spouse are in an accident. Without a Will, your relatives can petition the court to be appointed to manage your SGLI and care for your

child. Wouldn't you rather make that choice yourself and not have the grandparents fight over guardianship?

I have children, but they don't live with me, do I need a Will?

Most likely. You could leave a portion or full amount of your SGLI to your children, but they can't receive and manage it until they are 18. Furthermore, you could have a court ordered custodian appointed to receive it, but they would need to post a bond and make quarterly filings on the account management with the court. If you don't want them to receive a large sum of money until they are older than 18, you need a Will. We will help you create a trust fund in the Will.

If I have a Will with a Trust for my children, I don't need to do anything with my SGLI beneficiary designations, right?

WRONG! Remember, the Will does not control the SGLI, you have to use the beneficiary election form. If you decide on a trust for your children in your Will, and you need to put your SGLI money in to fund it, we will give you language for your SGLI form. Such language might say "To the trust created in my Last Will and Testament for the benefit of my children Gomez and Morticia Adams" or "To my trustee Joe Smith, to fund a trust created in my Will for the benefit of my children John and Joanna Smith." After we prepare the Will, we will give you the exact language you need.

I named my mother the guardian of my children in my Will, so I can just put her by name on my SGLI as my mother. I know she'll take care of it, right?

This is a dangerous course of action. On paper, all of that money belongs to your mother and no one knows what the two of you discussed or decided. If your mother is in a bad car wreck and sued, the money could be taken in the lawsuit. If your mother dies, your SGLI money could go through her Will to other people. You should list her as custodian or trustee after consulting with our attorneys.

I did a Will at the JAG Office, but I can't find it. You have a copy on file that the court can use, right?

Nope. The court will need the original document, with notary seal and witness signatures. If you can't find it, you need to make another Will. Make sure you keep your Will in a safe place and review it from time to time. The Will does not expire, so you do not need to make a new Will unless you've lost the old one, or something significant in your life has changed – marriage, divorce, birth or adoption of a child, death or incompetence of your Executor, need to disinherit someone, etc..

I have done four or five Wills, they are somewhere in my house, but I always misplace them when I PCS. I'm safe if I just do another one, right?

Maybe. The Probate Court will accept the latest Will as the true Will. But if someone finds one of the old Wills after you die, they might stop looking for a later Will. Your best option is to make a new Will, and when you find the old ones, shred them, burn them, or make large a large red X on every page showing that it is invalid. And put this one in a safe place (a fireproof safe) and let someone else know where you are storing your Will (and provide them with the key or combination to the safe...)

My company commander says I have to have a Will to deploy, but it gives me bad vibes and I really don't want one. Do I have to have one?

No. Your Will is not a military requirement, it's a voluntary legal document for a civilian court. One of the questions we ask before you sign the Will is "Are you doing this freely and voluntarily, because you wish to have a Will?" Being forced to sign a Will or signing it unwillingly or under duress, can invalidate the document. Let us discuss your situation with you in a private area and come up with a solution.

I have a Will but I need a few minor changes, I can just cross some things out and write the corrections in the margins. That's okay, right?

Nope, it's a nuclear bad idea. After you die, no one can tell who made the changes and your actions could invalidate the entire Will. It's also messy. Since your Will is free through the legal office, come in and let us make your changes by drafting and executing a new one.

I don't know if I want a Will from a military legal office, can I get one from a civilian attorney?

Sure, but it will cost you. Depending on the area, having your Will and associated documents prepared by your military legal office can save you, conservatively, \$500 to \$1,000 in legal fees. Our program is the same program that many civilian attorneys use and we are here to help – at no cost to you