

## California Guide to Creating Your Last Will and Testament

By [www.DocBuilder.com](http://www.DocBuilder.com)

In California, a Will is a very important legal document and it will have enormous implications on your family, heirs and loved ones. You need to think at great length about who you want to provide for and what you would like to leave to specific people. Fortunately, DocBuilder.com has several different Wills to choose from to ensure that the proper structure is in place. More importantly, YOU need to decide how to distribute your assets.

### **Before you Create a New Will, Destroy Every Copy of your Old Wills.**

Keep in mind, you need to “destroy” your old will – simply throwing it in the trash may not be enough (someone could always pull it out). If in doubt, tear it into pieces or burn it. Never rely on the language voiding old wills. Your best bet is to destroy it even though a later will should supersede the earlier document.

### **Always Provide at Least a Token Gift to Each of Your Children.**

The theory here is that if you leave a child completely out, you may actually be giving them more ammunition to contest the Will. You should affirmatively show that you thought about every child and provided for them as you desired (even if it only amounts to a box of matches). Our DocBuilder.com wills have no-contest provisions, however – there is always a chance that a child could contest it on the grounds that you forgot them from your will.

### **Be Clear and Be Specific.**

When in doubt, always strive to make your intentions clear and show that you did not forget anyone. Remember, you won't be around to state *what you meant the document to say*. You need to write out everything you can ahead of time. If you desire to leave a child out of your will, specify it in the will or give a child the gift of \$1 to make your intentions clear.

## **Review Your Will Completely and Correct Typos and Grammar.**

Review all of the contents of your will carefully and ensure that each statement clearly and accurately reflects your intent to the fullest. Typographical or spelling mistakes are permissible, so long as your intent is clear. If a mistake on your will leaves any question, correct that error and re-print the page. Do NOT use Liquid Paper or any correction type product. RE PRINT the correct form of the document.

## **Have your California Will Properly Witnessed.**

California requires two witnesses. We advise you to have **three** witnesses. This may be important if one of your witnesses moves to another state or dies. Choose your witnesses wisely. Never have your children or spouse serve as witnesses. Remember, that witnesses need to be at least be 18 years of age. The most important rule is that you must not have a witness who is a beneficiary to your Will. If your Will is challenged, a court could deny a beneficiary to their share if they served as a witness.

## **Choose an Appropriate Alternate Executor and Executor.**

One important consideration: you may want to choose someone who lives in the same state. The travel expenses will come out of your estate and it could be quite costly to travel for management purposes of the estate. Also, even if waived in your will, sometimes courts will require an out of state executor to post a cash bond.

## **Consider a Self Proving Affidavit.**

Notarizing your Will is generally unnecessary, unless you select to complete a Self-Proving Affidavit in conjunction with the signing of your Will. Self-Proving Affidavits make eliminate the need for your witnesses to appear in court during probate to affirm your Will's validity after your death. The Affidavit could save your beneficiaries and witnesses a great deal of time and effort. The affidavit also provides an extra level of authentication. This alone may help your beneficiaries avoid a costly and long probate process.

### **Final Things to Keep in Mind.**

- Witnesses must be in your immediate presence and must physically observe your actual signing of the Will
- All the witnesses must physically observe the other witnesses signing the Will. You do not need to read your Will to the witnesses.
- Your witnesses do not need to read your Will.
- The witnesses, however, must clearly understand that the document is your Last Will and Testament.
- You must clearly explain to them that you desire and intend the document to function as your Last Will upon your death.
- If your state permits a Self-Proving Affidavit, and if you elect to attach one to your Will, remember that the same witnesses who observed your signing the Will must also observe your signing the Self-Proving Affidavit.
- If using a Self-Proving Affidavit, you must have a notary present at the signing of your Will, and then the notary should sign the Will and the Self-Proving Affidavit at the same time.
- Store your Will in a safe place.
- Tell your executor and alternate executor of its location and access for your will upon your death.