



# KLF Legal Briefs

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## SPECIAL POINTS OF INTEREST:

- Plan for making a will when you are young.
- A will gives you control over who gets your assets and who cares for your children.
- Pay particular attention to providing for the care of your minor children.
- Consider other essential estate planning documents in the process.

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## Why You Need a Will

It never fails to amaze me how many people I come across who do not have a will. This is even particularly true of those that are married; have substantial assets that are not jointly titled or beneficiary designated; or still have minor children in their care. If these people knew what could happen to their estate (or minor children) if they pass away without a will, they might think twice.

If you die without a will, your estate is governed by the intestacy laws of Pennsylvania. This state statute then controls everything from who administers your estate, who inherits your estate assets, and who cares for your minor children.

A simple will gives you the opportunity to plan for your estate

in the manner that you want. In a simple will you can appoint who you want to be the executor in charge of administering your estate. A will can provide for specific bequests of your property, so if you want to leave real estate or cash to a family member, you can designate that in the will.

A will can also protect your



spouse by providing that certain property not jointly owned pass to him or her.

If you have a minor child, a will allows you to appoint a guardian of your child's person. This person will then be responsible for taking care of your child should you and your spouse both pass away (upon the death of only one parent, the surviving parent continues as the natural guardian).

You also have the right in a will to appoint the guardian of your minor child's estate. This guardian is responsible for managing the assets that a minor inherits until that minor reaches a certain age into adulthood.

So as you can see, a simple will gives you the power to make a lot of important decisions in the event of your death. Take the time to consult with an attorney and make these decisions now.

## Essential Estate Planning Documents

Along with a will, there are several other essential estate planning documents that you may need to consider. Generally speaking, a Durable Power of Attorney grants to your agent the power to make certain financial and legal decisions on your behalf. A Health Care Power of

Attorney grants to your agent the right to make health care decisions on your behalf should you become incapacitated. A Living Will allows you to express your wishes concerning certain life-sustaining procedures and end-of-life decisions. An Advance Health Care Directive

document combines elements of a Health Care Power of Attorney with that of a Living Will. Lastly, Trusts can help you manage your property during your lifetime, protect certain assets in the event of your death, or provide for a family member with Special Needs.



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The Koeberle Law firm is a boutique law firm catering to the legal needs of businesses and individuals. We concentrate our practice in the following areas:

- **Business/Corporate Law**
- **Estate Planning/Estate Administration**
- **Real Estate Law**
- **Sports & Entertainment Law**

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## Buying and Selling a Business

During my career as a business attorney, I have had the privilege and pleasure of assisting a number of my clients in either buying or selling a business. One issue that needs addressed at the very beginning of the proposed transaction is whether to structure the deal as an asset sale or stock sale. Below is an overview of some, but not all, of the issues involved in that analysis:

### **Asset Sale**

- Buyer typically prefers an asset sale over a stock sale.
- Somewhat more involved than a stock sale due to the additional documents required to transfer assets.
- Third party consents may be required to transfer contracts and leases.
- Buyer may be able to obtain a step-up in tax basis of assets purchased.

### **Stock Sale**

- Seller typically prefers a stock sale over an asset sale.
- Simple process; just transfer stock.
- Third party consents may not be required to transfer contracts or leases.
- Seller taxation is more favorable; any gain is taxed at favorable capital gains rates.

**This newsletter is intended for general informational purposes only and is not intended to provide specific legal advice. If you have a specific legal issue or question, you should consult with an attorney licensed to practice law in your state or jurisdiction.**