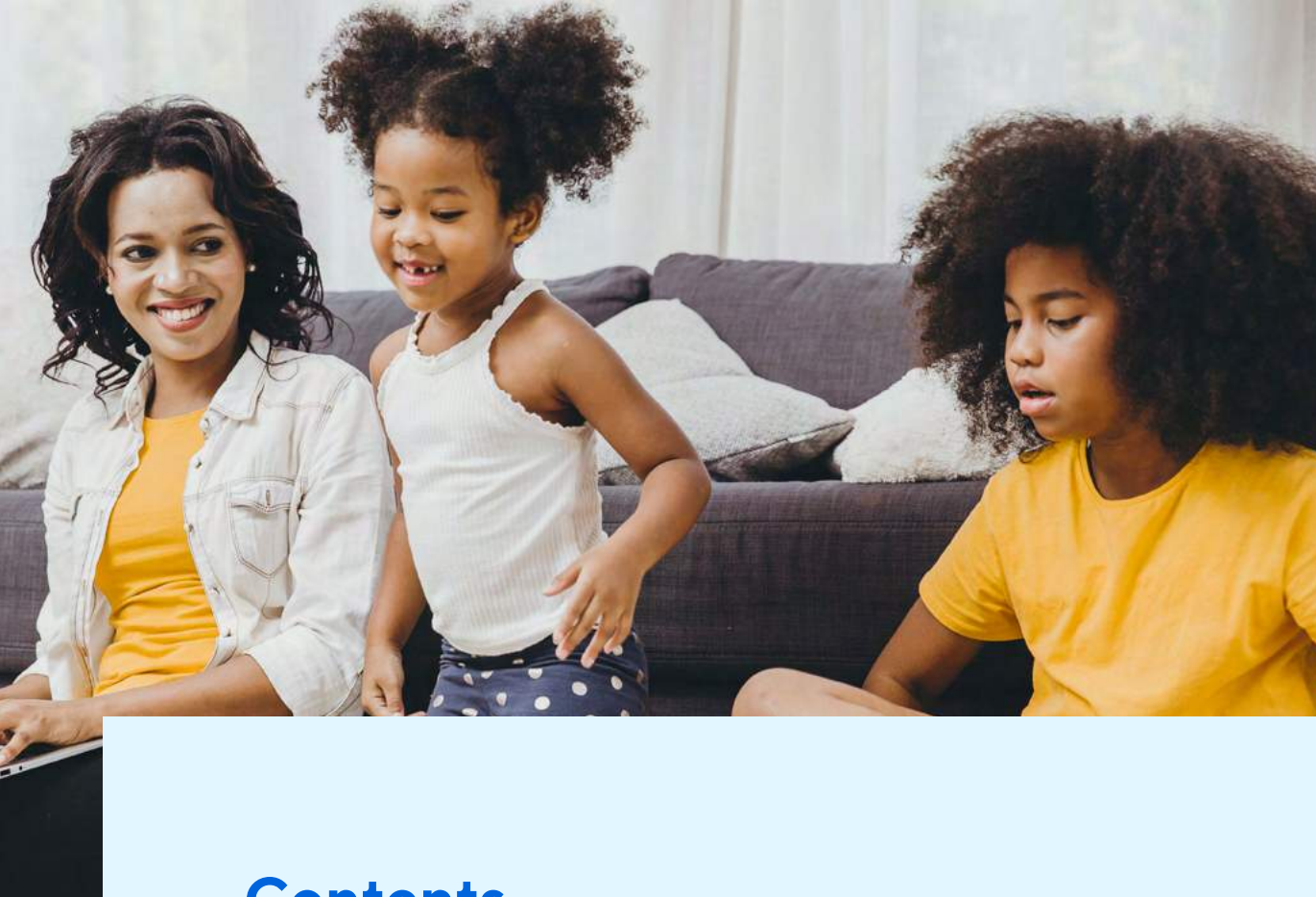


**willful.**



# Estate Planning 101: A Simple Guide To Wills & Estate Planning In Canada

**PLAN TODAY FOR PEACE OF MIND TOMORROW**



## Contents

<b>What Is Estate Planning?</b>	<b>4</b>
<b>Last Wills And Testaments</b>	<b>5</b>
<b>Power of Attorney</b>	<b>8</b>
<b>Identifying The Key People In Your Will</b>	<b>10</b>
<b>Common Myths And Misconceptions On Wills Debunked</b>	<b>12</b>
<b>Making A Will In Six Simple Steps</b>	<b>13</b>
<b>The Checklist For Writing Your Will</b>	<b>14</b>
<b>Frequently Asked Questions</b>	<b>15</b>



## Leaving A Lasting Legacy

**If your head is spinning at the thought of making your will and power of attorney documents. We get it – you’re not alone!**

How many of us have put off end-of-life planning, either because it’s uncomfortable to think about, or because we don’t know where to start? Not having a plan means not protecting your family, which is why we set out to make estate planning simple, convenient, and easy to understand.

From frequently asked questions to common myths, we’re breaking it all down for you – no law degree required. With any luck, you’ll dive right into estate planning at the end of this Guide feeling confident and empowered.



# What Is Estate Planning?

First thing first – your estate consists of everything you own or owe at your time of death. When the time comes to pass on, you need to have an estate plan in place that properly outlines your wishes. This includes how you want your assets distributed, wishes regarding healthcare decisions, personal finances, carrying out donations to organizations you care about and more.

## Why is it important?

Creating an estate plan allows you to distribute your assets according to your wishes while you're alive. It gives you a sense of security because you can request who will be in charge of your care close to the end of your life. If you're a business owner, an estate plan helps take care of business arrangements, ensuring that your business is placed into the hands of someone you trust.

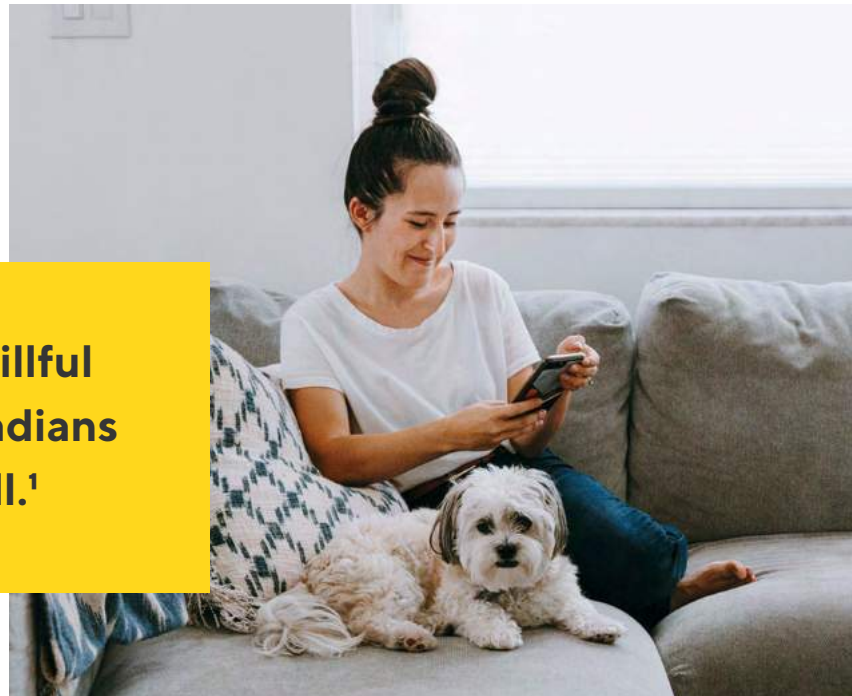
Although there are no estate taxes in Canada; proper estate planning can also help reduce fees and taxes in your final tax return.

**A study commissioned by Willful found that over 64% of Canadians don't have an up-to-date will.<sup>1</sup>**

## ESTATE PLANNING DOCUMENTS

There are typically two primary documents that you may find in a good estate plan:

1. **Last will and testament** – a critical component of the estate planning process because it outlines all your wishes to be carried out after death. We dive further into last wills and testaments on page 6.
2. **Power of attorney** – grants someone the right to make decisions about your legal, financial affairs, personal, health, and property affairs, in the event, you become incapacitated. We dive further into power of attorney on page 10.



# Last Wills And Testaments

**Wills and estate planning can feel extremely overwhelming, but it's a lot simpler than most people think. Let's hop right in.**

## What is a will?

Your last will and testament (often simply referred to as a will) is a legal document that outlines how you wish to distribute your assets such as property, money, or care of minor children after you die. Your estate includes all your assets— anything you possess of financial or other value.

Your will is also where you name your executor who will be in charge of settling your affairs on your behalf.



## What makes a will legal in Canada?

- You must be the age of majority in your province
- Written by you in sound mind
- Signed with a wet signature in the presence of two witnesses
- Signed by two witnesses in the presence of the testator

\*There are minor nuances across provinces, but the general requirements are the same.

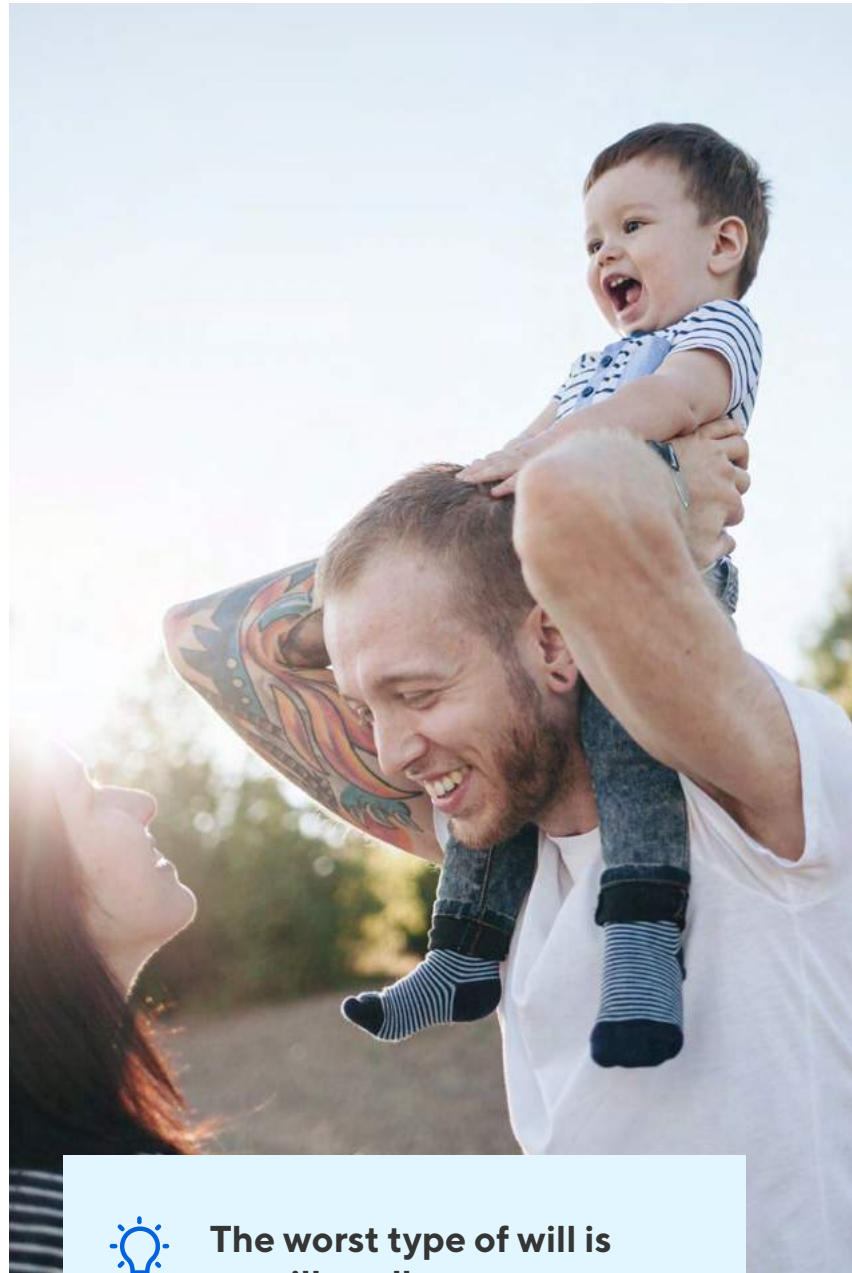
If you need a refresher on key terms, visit our glossary for estate planning terms on our [Learn Centre](#)<sup>2</sup>.

## When and why make a will?

Life is unpredictable but having a will can help you prepare for the unexpected and protect your loved ones from future chaos and complications. You can create a will once you reach the age of majority in your province or territory. Assigning an executor (instead of waiting for the courts to do so) helps provide access to the necessary accounts and property to settle your estate.

### Here are some key factors that drive people to create their will:

- You recently got married or remarried
- You are currently in a common-law marriage
- You recently went through a common-law separation or divorce
- You have assets such as a home or multiple properties
- You have a child(ren) and/or other dependents
- You own valuable or sentimental heirlooms such as art or jewelry
- You have assets that as a result of your death may cause tension among surviving family
- You own a business or investments
- You have a cause that really matters to you that you wish to donate to



### The worst type of will is no will at all

Our research shows two-thirds of Canadian adults don't have an up-to-date will, and that means a lot of families aren't protected. Remember that tomorrow isn't always guaranteed, so once you've decided how to make your will - be certain you actually get it done!



## Dying without a will

If you die without a will, you're considered to have died intestate. While the government doesn't automatically get your estate, it does get to use provincial laws to decide how to distribute your estate and appoint your executor. It may be very different from what you would have wanted since the government doesn't take into account the specific needs of individual families.

Having a will also allows for someone to begin acting on your behalf immediately after you die, instead of waiting for the courts to appoint an executor.

If your dependent children don't have another surviving parent, the court will decide on a guardian (learn more on page 10) for your children. This person gains all of the rights and responsibilities of a parent - and it may not be the person you believe will do the best job.

## Leaving specific gifts

Take a tour around your home, and make a list of valuables that you'd like to leave as specific gifts in your will.

Some specific gifts include:

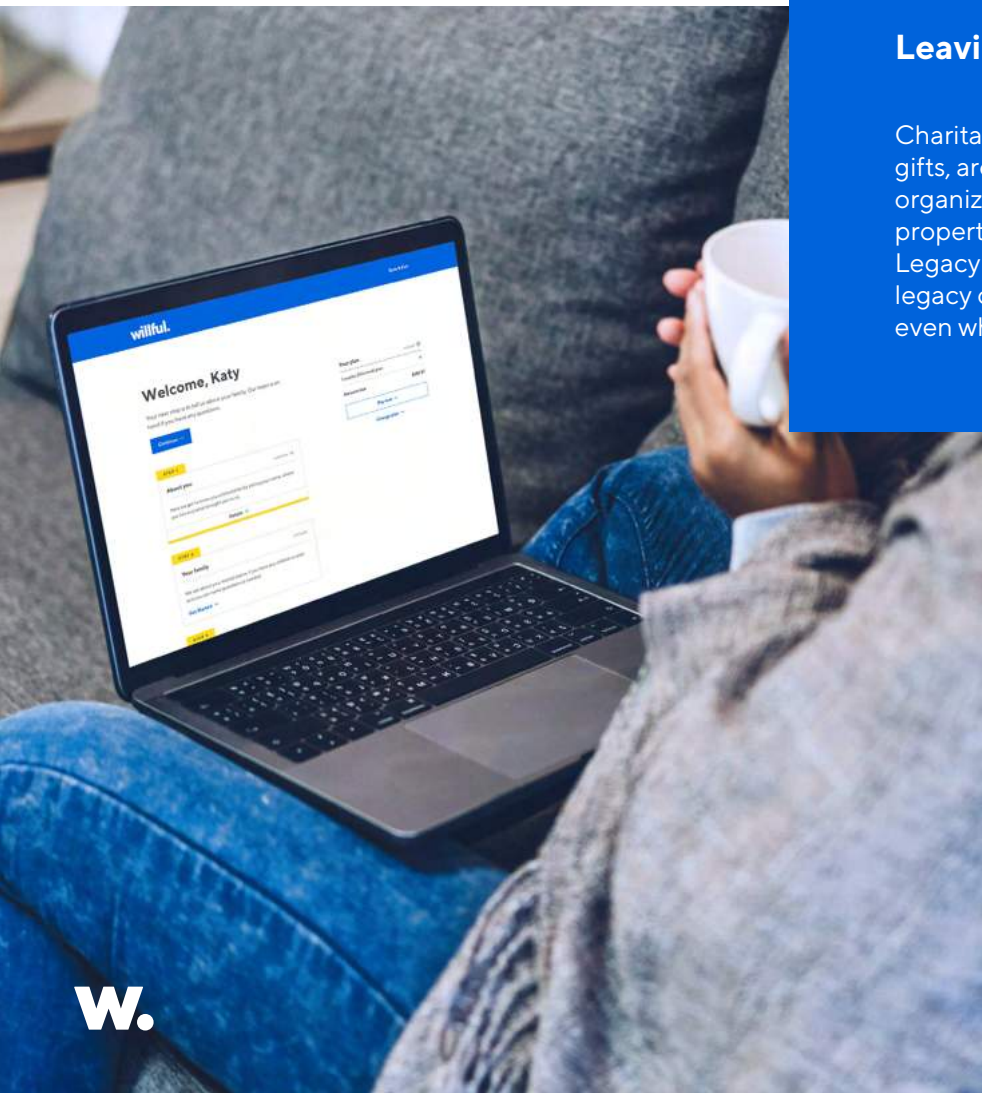
- Moveable possessions like a car, jewelry, furniture, electronics, clothing, etc.
- A business
- Money held in a specific bank account
- A home or real estate property
- Cash

There are also assets that you can't leave as gifts in your will:

- RRSPs, a pension plan, or life insurance
- Jointly owned property
- Jointly owned bank accounts
- Property in a trust

## Leaving charitable donations

Charitable donations, also known as legacy gifts, are a gift to a charity or non-profit organization in your will. It can be a piece of property, cash, or a percentage of your estate. Legacy giving is a way to leave a lasting legacy of generosity and make a difference even when you're gone.



# Power Of Attorney



**In situations where you may become physically or mentally incapacitated, a power of attorney (POA) provides certainty that your affairs will be taken care of.**

## What is a Power of Attorney?

A power of attorney is an important document needed to protect your finances, health, and personal decisions as you age and as life takes place. It's a separate written, legal document that authorizes another person to make financial and legal decisions on your behalf.

## When and why do I need a Power of Attorney?

An attorney will make decisions (that you have already outlined in your documents) in the event of an emergency if you are unable to do so yourself. Think of your POA as a form of disability insurance (it takes care of you while you're alive) and your will as a form of life insurance (it takes care of your loved ones after you pass away).

Every adult should have power of attorney documents covering the legal, financial, personal, and medical spheres of their life.

## Power of Attorney Documents

There are two main types of power of attorney:

### 1. A power of attorney for personal care

This individual can make decisions regarding your health care, housing, nutrition, hygiene, and safety if you're unable to communicate in this document. This person will also communicate which life support measure you have outlined in your will.

### 2. A power of attorney for property

The appointed individual will make decisions about your property and finances, such as paying your bills, managing your investments and collecting any money owed to you, if you are medically unable to do so yourself.



## Creating a Power of Attorney

Certain provinces may have different signing requirements for power of attorney documents, and the documents and roles may have different names. You can learn more about the different signing requirements for POA documents in each province [here](#)<sup>3</sup>.

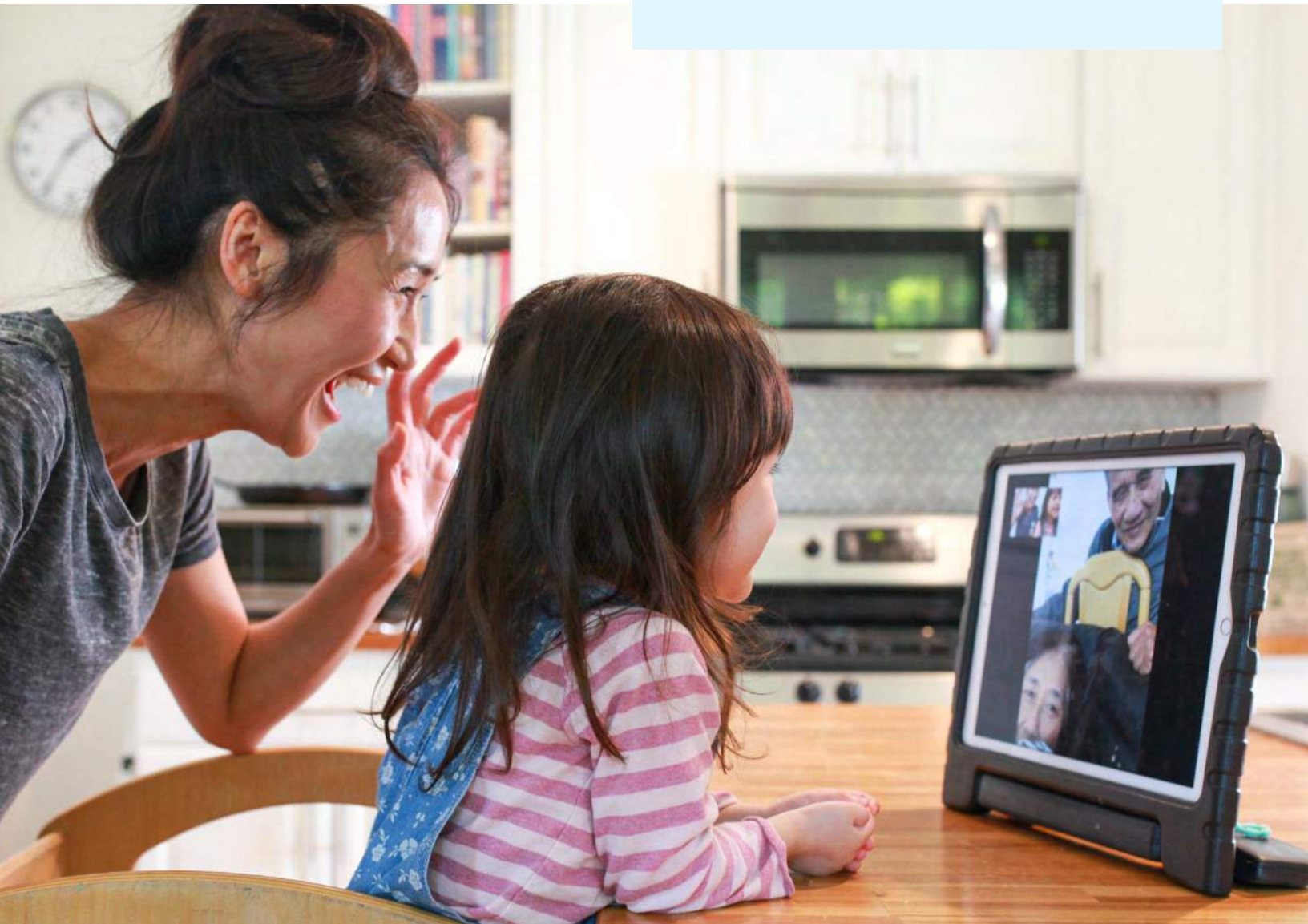
Similar to executing a will, you will need two witnesses when signing your power of attorney documents (this may vary based on province). Witnesses must be present with you when you sign, and they must also sign the documents themselves.



### What about living wills?

A living will is a document that captures your wishes and preferences for medical and personal care in the event that you're unable to advocate for yourself.

Even though "living will" is commonly recognized, it is not a legal term in Canada. These wishes are commonly included in a power of attorney for personal care (also known as a 'personal directive' or 'advance directive').



# Identifying The Key People In Your Will

## Choosing Your Beneficiaries

The beneficiaries outlined in your will are the individuals to who you choose to pass on your property or belongings when you are no longer living. Naming a beneficiary (or beneficiaries) is your chance to distribute assets, cash, or gifts that you would like to pass on to important individuals, charities or organizations in your life.

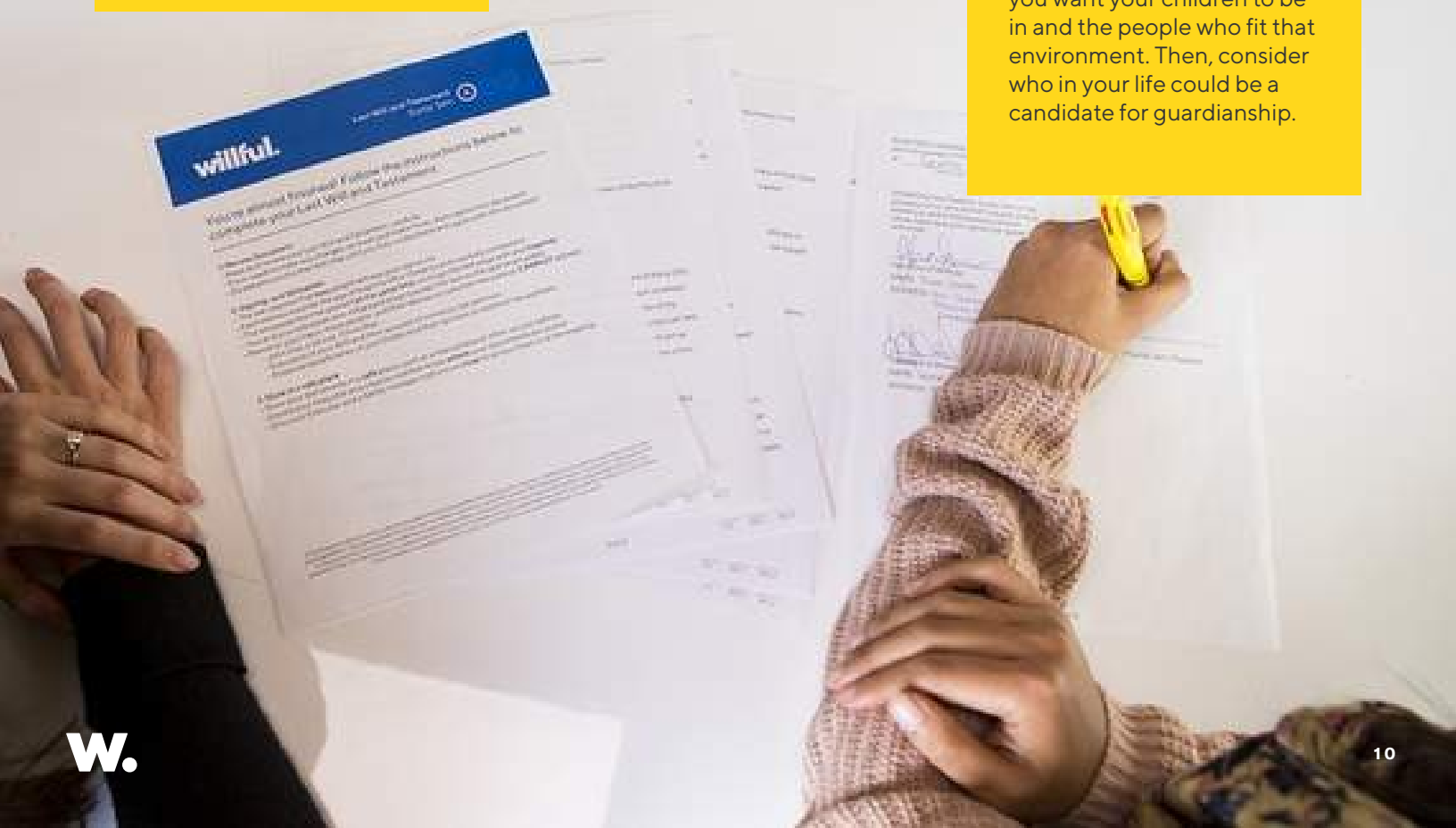
## Choosing Your Executor

An executor of an estate is the person who will help execute the wishes outlined in your will, distribute funds to your beneficiaries, and can act on behalf of your business and financial interests when you die. It's an important job so this person is typically a relative or friend.

## Choosing A Guardian

One of the most important aspects of creating a will is ensuring that your dependents are taken care of. A guardian (and custodian) is a person or typically a couple who will take care of your child/children/pet if you and the other parent pass away.

Before you decide on the 'who', think about what's important to you, such as qualities of the environment you want your children to be in and the people who fit that environment. Then, consider who in your life could be a candidate for guardianship.





## Tips for choosing the key people involved

Below are some factors to consider when choosing an executor, guardian and POA:

### Choose someone comfortable with the responsibility

The individual may need to make critical decisions during a potentially stressful time, such as caring for your children, agreeing or refusing certain medical procedures or managing your property.

### Choose someone you trust

Select someone who has your best interest at heart as they will have very broad powers to make decisions that affect your finances, healthcare, and day-to-day life.

### Choose someone who is legally able to be your attorney

This might seem obvious, but the person you choose should be a responsible adult, ideally someone accessible and living in a nearby city or town to you so they can be contacted quickly. In certain provinces, they must be over the age of majority.

People often appoint their spouse, relative, or a close friend with good judgment as key people in their will.



# Common Myths & Misconceptions On Wills Debunked

For many Canadians, writing a will seems like a daunting process if you don't have accurate information. We're breaking down the top 5 myths and misconceptions so you can make the best decision for yourself and your family.

## WILLS ARE ONLY NEEDED FOR THE VERY WEALTHY.

**FALSE.** Everyone can benefit from estate planning—whether you think you're rich or not! A will does more than distribute your belongings. It's where you can appoint an executor, guardians for children, and even outline funeral and burial wishes.

## I NEED A LAWYER TO WRITE A WILL.

**FALSE.** You do NOT need to visit a lawyer or notary to make a legal will in Canada. As long as you meet your province's requirements, you have a legal will!

## IF I DIE WITHOUT A WILL, THE GOVERNMENT GETS ALL MY MONEY.

**FALSE.** Despite what many people believe, the government doesn't automatically get your estate. It does mean that the courts will use provincial laws to decide how to distribute your assets, in addition to appointing an executor, and guardians for any minor children.

## MY BENEFICIARIES WILL INHERIT MY DEBT.

**FALSE.** Unfortunately, your debts don't just disappear when you pass away. If you pass away and have debt, your executor won't inherit your debt but will be responsible for reconciling your debt and closing any bank and investment accounts. A good estate plan can include a list of all your debts, to help them make this process smoother for your executor.

## I DON'T NEED A WILL, I CAN JUST TELL PEOPLE WHAT I WANT.

**FALSE.** When you create an estate plan, you structure the distribution of your assets in a manner you approve of while you're alive. The process of writing a legal will and putting your decisions down in writing takes the burden off your loved ones to guess or question what your wishes would be.

# 6 Simple Steps To Make A Will



## Define your estate planning goals

Depending on your goals and needs, your estate plan may be super simple or require more sophisticated strategies.

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## Identify the key people involved

Name who you'd like to be the executor, beneficiaries and guardians of your will.

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## Block off some quiet time

Find a quiet place and block off between 20 minutes to a couple of hours to complete your will.

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## Make a list of your assets

Make a list of valuables that you'd like to leave as specific gifts in your will.

\*Although not necessary to include a list of assets as part of your legal document, it ensures you don't forget anything and can be helpful for your executor.

## Have the conversations

Speak with the key people involved in your will to ensure they're willing to take on the responsibility.

## Make your will official

Kudos you've reached the final step! Sign and witness your will to make it legally binding.

# The Checklist For Writing Your Will

Using Willful, follow this easy step by step checklist to prepare to write your will.

## Identify key people involved

There are many important roles that you may need to fill when creating your Will. Deciding who these people are in advance will make drafting your Will a breeze.

### Executor and Estate Trustee

This person executes the wishes in your will, distributes funds to your beneficiaries, and can act on behalf of your business and financial interests.

### Emergency Financial Representative

This person will make decisions about your property and finances if you are medically unable to do so yourself.

### Emergency Medical Care Representative

A spouse, relative, or close friend with good judgement, this person will be the voice of your medical decisions if you are unable to communicate.

### Guardian(s) and Trusts

If you have any dependents such as children or pets, the guardian(s) is the person who will take care of them if you and your spouse pass away.

### Choose two witnesses

Your witnesses can be any two adults; friends, neighbors or co-workers. The witness can't be, a beneficiary of the Will, the spouse of a beneficiary or a minor.

### Choose Backups

Specifying backups, will give you peace of mind. Your initial choice may refuse the task, or be unable to act for other reasons which is why it's important to have a plan B.

## Allocate your estate

Willful makes distributing and dividing your estate easy. We've outlined some common options for you to think about.

### Single

Using Willful, you can include multiple beneficiaries such as family members or close friends.

### Couples

Leave your estate to a surviving spouse. If both you and your partner were to pass away, you can add more beneficiaries.

### Parents

If you have a child or children, you can choose to leave your estate to them.

## Optional steps

### Decide on your final wishes

Using Willful, you can outline what you would choose for your final resting place and type of ceremony you would like to have.

### Outline specific gifts

Specific gifts (Bequests) are identifiable pieces of property or monetary amounts such as cash, jewelry or family heirlooms that are gifted to individuals upon your passing.

## Create, print and sign your will

With Willful you can easily complete your Will in less than 20 minutes and your documents should be ready to print and sign. Included are detailed instructions to ensure your documents follow the legal requirements to make them official.

Willful is not a law firm and does not provide any legal advice. If you need legal advice for your specific matter, or if your matter is too complex to be addressed by our tools, you should consult a licensed lawyer in your area.



# Frequently Asked Questions

## Do I need a lawyer or notary to prepare a legal last will and testament?

Canadian law and government regulations do not require you to create your will with a lawyer or notary. A lawyer is a great resource if you need legal advice or have a complex estate, but most Canadians have simple and straightforward estates that do not require legal advice.

## Can I make my will online?

Yes! You can make a legally binding will online with Willful. Simply answer a few questions about yourself and your life situation. Once we have all the information about your end-of-life wishes, we create a customized legal last will and testament for you. Click [here](https://app.willful.co/)<sup>4</sup> to start your will.

## Can I digitally sign and store my will?

In British Columbia, residents can sign, witness, and store their wills completely online. If you live outside of British Columbia, you'll need to grab a pen because digitally-signed wills are not currently recognized as valid in any other Canadian province.

## How often should I update my will?

Your will is a living and breathing document that should be updated as life changes. Some common life events that should have you thinking about updating your will include, marriage, divorce, birth of a child, purchase/sale of an asset and more! At Willful we recommend reviewing your will at least every 6-12 months to ensure everything is up to date.

## How is my will used after I die?

After you pass away, your will acts as a roadmap to help guide your executor as they settle your affairs. The executor of your will is responsible for carrying out the wishes you've outlined which could include transferring ownership, paying off your debts, filing income tax returns, and distributing any remaining assets according to the terms of the will.

**Get peace of mind for you  
and your family by creating  
your will today.**

**Create Your Will Now**

**Questions?**

Visit our Learn Centre online at [willful.co/learn](https://willful.co/learn)  
or chat with our team at [willful.co/support](https://willful.co/support)

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