

Will Signing Details

How and what do I sign?

For your Will to be legally valid and enforceable, you must arrange for witnesses before you sign it yourself. You must sign the Will in front of the two witnesses, and you must tell the witnesses that the Will is yours. You and your witnesses must also initial or sign each page. The Will must have the date you signed it included on it. The lawyer or notary or staff who work at their office can be a witness.

A witness must be a mentally capable adult (19 years of age or older) and must not be a beneficiary or a beneficiary's spouse (or an alternate beneficiary or an alternate beneficiary's spouse) or an executor or executor's spouse. (If a couple has lived together for two years, they're considered spouses. If a couple separates, including married couples, they're no longer spouses.) The witnesses don't have to read the Will. They just have to know who you are and that you're signing a Will in their presence.

If your will is not witnessed

If witnesses don't sign your Will, it isn't a valid Will. But the document is still evidence of your wishes. Even if you can't get witnesses to sign, it's a good idea to make a Will.

If you can't get your Will witnessed, add a paragraph that states you have not been able to arrange to have your Will witnessed, but your Will is a true reflection of your wishes and intentions.

Do I have to file my Will?

The government of BC operates the Wills Registry. It is for registering information about your Will (date made, location). It does not store a copy of your Will.

You do not have to file your Will with any court system or government body. However, be aware that after you have passed away, your Trustee may need to probate your Will as part of settling your estate. Your Trustee must include the results of an Application for Search of Wills Notice with the application for probate.

What law will apply concerning my Will?

In BC, the governing law for your Will and any Codicils attached to it is the *Wills, Estates and Succession Act* (WESA).

Sources: Legal Aid BC <https://mylawbc.com/paths/wills/>
NIDUS http://www.nidus.ca/PDFs/Nidus_Info_TipsMakingWill.pdf
People's Law School <https://www.peopleslawschool.ca/category/wills-estates/>

Can a beneficiary witness my Will?

If one of your witnesses is also a beneficiary, then your Will is still valid, but any gift to a witness may be reduced in value to that permitted by law. In general, where a witness is also a beneficiary, this can create a presumption that the gift was given under duress.

To ensure that your Will is followed exactly, your witnesses should not be any person to whom you leave anything, nor the spouse of any person to whom you have left anything.

Can my Trustee witness my Will?

Yes, but only if the Trustee is not a beneficiary in your Will.

Store your Will

You would be wise to keep your Will in a fireproof (metal) box such as a metal filing cabinet or cash box or even in your home freezer in a zip-lock bag. Give your Trustee a copy and let them know exactly where you are keeping your Will. It's not a good idea to keep the Will in your safety deposit box unless the Trustee also has a key to the box. Without a key, the Trustee has to prove that they're the Trustee before the bank will give them access to the box.

Keep a record

Keep an up-to-date, detailed record of all that you own and all that you owe. What you own includes bank accounts, RRSPs, RRIFs, TFSAs, and other investments, insurance, real estate, and pension benefits. What you owe may include credit-card debts, a line of credit, personal loans, mortgage loans, and payments under a court order. Keep notes of anything that is owned in joint tenancy or that names a specific beneficiary. While these are dealt with outside the estate (not by your Will) and your Trustee doesn't have to manage them, your Trustee must know how to locate them.

Talk to family members, the beneficiaries, or anyone who may be entitled to a share of your estate. Explain what your plans are. This will help manage expectations and prevent problems later.

Wills, Estates and Succession Act: https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/09013_01