

# What you need to know about wills and prenups

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Unless you're in the funeral business, most of us do not enjoy talking about death. However, end-of-life decisions are important, especially as people are living longer. Proper planning will ensure your wishes will be carried out while easing the burden on your family.

Tennessee's Right to Natural Death Act authorizes any capable individual the right to execute a living will indicating the individual's preferences with regard to artificial life support procedures. A living will is a written instrument signed by the principal. Tennessee hospitals will not accept the substituted judgment of a close family member. Absent a living will, healthcare facilities will default to administering artificial life support.

A living will provides healthcare providers clear direction as to your wishes, enabling them to give you the best possible care. In addition to instructing a hospital to withhold life support, a living will can direct



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whether the principal wants his or her organs donated for medical research. The principal can specify which organs are to be donated and where. For example, a principal may direct that only his or her liver be donated to Vanderbilt University Medical Center for scientific research.

It is common for living wills to also have a provision, which directs the family where he or she desires to be buried. A misnomer is that burial instructions should be contained in

a traditional will; however, a traditional will becomes operative only at death. A living will is alive now and survives the principal.

A living will may be revoked at any time by the principal orally or in a signed writing. Also known as an advance directive, copies of the document should be on file at the principal's doctor's office, rehabilitation facilities, nursing homes, and area hospitals. Close loved ones and family members should also receive a copy, while the original should remain in a safe place with the principal. When executing a living will, you are taking the guesswork out of what your family thinks you may or may not want.

Power of attorney (POA) is another advanced directive whereby the principal designates an agent to act as his or her attorney-in-fact. With a living will, the principal is making the decisions. With a power of attorney, the agent has the decision-making powers, which is why careful consideration should be taken when selecting the agent.

Traditional wills, also known as

legal wills are important as well. Here are five good reasons to consider having a will:

1. Your children. Who will raise your children if something were to happen to both parents? If minor children are involved and no will has been made, the court-appointed guardian may not share the same beliefs you do.

2. Blended families. If your family is made up of more than one marriage, children from different marriages may not be treated as you wish. A will can fix this.

3. If you do not have a will, the state writes one for you and decides who receives your property.

4. Independent executor. A qualified executor of your choice can serve without bond or accounting to carry out your wishes. Your estate can incur costly hourly fees if you do not appoint one.

5. And finally, planning for the future is the best way to show your loved how much you care, when you no longer can.

In Tennessee, anyone of sound mind, 18 years or older, and capable

of understanding the effects and consequences of his or her actions can make a will. A will can be revoked several ways: writing a new one, signing a revocation instrument, or destroying a will such as burning it or shredding it.

Prenuptial agreements can determine what happens to someone else's property, not just upon divorce, but also upon death. Favored in Tennessee, prenuptial agreements are a popular will substitute. By law, marriage is the equivalent of an absolute gift and right to your spouse's estate. But, a prenuptial agreement can contract around these absolute rights so long as it is entered into freely, knowledgeably, and in good faith.

The defining purpose of an prenuptial agreement is the waiver of spousal rights in an estate. As such, these agreements are popular with individuals who have been married before and have children from a previous marriage.

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