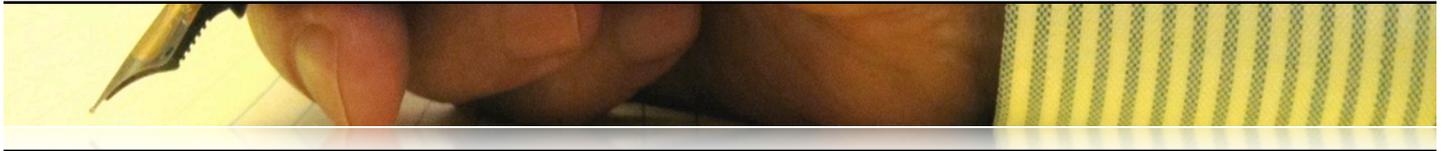


FAQ: Wills & Wishes

Teaching workshops about middle-class milestones, I answer a lot of questions for people. This is one of them.



Question: Can I file my Last Will in the county records for safekeeping?

Answer: Yes. It's a useful option for some purposes.

If you decide to do it, you must seal the will in an envelope before deposit. Your name and the names of up to three persons will be recorded on the outside of the envelope. The clerk's office will issue a claim check to you, which you must turn in to retrieve the Last Will. If you lose the claim check, you must file an affidavit to get your Last Will back.

After your death, and only if someone notifies the clerk of your death, the clerk sends notice to the person or persons designated on the envelope. That designee can pick up the Last Will. If the designee fails, then the clerk will open the envelope and read the Last Will, then send notice to the executor or the beneficiaries.

Depositing the Last Will with the county clerk does not give it any special legal status. You can still revoke it with a new Last Will or amend it with a Codicil, and the new Last Will or Codicil does not have to be deposited with the clerk.

The best feature of this is that it prevents your Last Will from being lost. If you tell your executor that the Last Will is on file, then the executor won't have to search your house for it.

What could go wrong? A few things.

You won't have ready access to your Last Will when the clerk's office is closed.

Your notice could be mailed to an old address.

Notice could be mailed to one or more persons you later removed from your estate plan.

Your will could be left unclaimed at the clerk's office, because no one remembers to ask for it there, leaving your estate to pass through the heirship proceeding.

If you later make a new Last Will revoking the old one, and the new Last Will is lost, the old one could be revived by default.

Source: Texas Estates Code § 252.001 et seq.

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