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Aretha Franklin Died Without a Will: Why It's Important for Everyone to Have a Plan

BY MICHAEL D. BROCKELMAN • SEPTEMBER 19, 2018

Many people will balk at the thought of signing their will at an elderly age, thinking that they're "signing up for death." Did Aretha Franklin think that?

While it may seem like something you don't need to worry about until you're older, a will is important to establish early on, as it tells the world how, in the event of your death, you want your property disposed of, and to whom. You can also name your personal representative, which is the person (or persons) who will be responsible for handling the estate. Any property that is owned in the decedent's name alone is disposed of by the will. The will has to be admitted to probate and the personal representative is appointed by the Probate Court.

It is often advised to set up a revocable trust to fund the trust with their assets during their lifetime. In that instance, any assets in the trust do not have to go through the probate process with a will. Similarly, people will frequently have property owned jointly with their spouse or their children and these surviving joint owners accede to the property and that property is not subject to probate either. The same obtains for assets that are disposed of by beneficiary designations – like life insurance and individual retirement accounts.

The problem is that no matter how hard one tries, individuals will frequently miss assets. Those assets have to be probated. Also, a joint owner could predecease the client and the client might no longer be able to make a will. If there's no will, the property passes to the deceased's heirs, as determined by the laws of intestacy of that state. In many instances, the heirs-at-law are not the only people the decedent wanted to benefit. In addition, different states have different intestacy laws. Even if the heirs are the persons the decedent would want to benefit, without naming the personal representative of the estate, you can spark a controversy as to which of the heirs is going to be named the personal representative.

The bottom line is, everybody needs a will, and it's better to be prepared earlier in life, rather than later.

