

What MyLawBC doesn't cover

Your situation may require you to find more information than this guided pathway can provide. For all of these situations, it's wise to talk to a lawyer or a notary to complete your will.

Both lawyers and notaries are trained to do wills. Their fees for simple wills are generally pretty similar. Lawyers are better for more complicated situations, especially if family law is involved. Notaries aren't trained in the area of family law.



MyLawBC is not for you if you're in any of these situations:

- **You don't want your spouse or child(ren) to receive any of your property or only a very small portion of it.** Cutting out family members entirely is complicated because the law expects you to include them in your will. MyLawBC doesn't have the capacity to assist you in such situations. This type of will could be challenged in court, and you need advice from a lawyer.
- You want to include **stepchildren** in your will who you haven't adopted. Stepchildren who you haven't adopted are regarded differently under the law than biological or adopted children.
- **Your spouse doesn't want to make a will, or you want to make different wills.**
- You want to name as your beneficiaries **special-needs children** or **adults who require your ongoing financial support**. To do this, you need to set up a special type of trust in your will. Please contact a lawyer or a notary to help you do this properly.
- **You want to name minors (under 19) who aren't your children as your main beneficiaries.** Arranging trusts for them can get complicated. However, you can name minors to be your *backup* beneficiaries. For example, you can set up your will so your grandchildren get your child's share if your child dies.
- You want an underage beneficiary to receive the rest of the trust fund when they're **older than 19**. (In a MyLawBC will, the funds are released once they turn 19.) Also, please get help from a lawyer if you want someone other than the executor to take care of this trust fund, or if you want to specify how the funds should be used to benefit the person before the funds are released.
- **Your underage child has a child** (or children), and you want these grandchildren to be the backup beneficiary if your child dies. In a MyLawBC will, if your underage child dies before you or at the same time, your child's share would go to your other children, or to someone else you choose.
- You want to donate to **charity**. Donations to charity can be complicated for a couple of reasons. One reason is that you have to identify the organization properly. You need to talk to somebody at the organization about it or check their website. As well, you may want to ensure that your estate gets a charitable tax receipt to reduce the taxes your estate must pay. Not all organizations can give tax receipts. Talk to a lawyer, notary, or accountant for more information.
- **All that you own consists of the contents of your home and less than \$25,000 in the bank, and you have nobody to be the executor.** You may want to get advice from a free legal clinic to see what's best for you.
- You're in the middle of a **divorce** or a **legal dispute about the custody of the children** after separating from your spouse. If the divorce or legal dispute will affect your assets or your children, you need to settle that legal action first. You can do a will in anticipation of divorce but it's better to get family law advice first.
- **You're a status Indian living on reserve or Crown lands, or you live on band land and don't have status.** If so, special laws apply. See the website [Aboriginal Legal Aid in BC](#).
- You own property (a house, condo, apartment, etc.) with others as a **tenant-in-common** (which is different from owning a house as a **joint tenant**). There may be complications with handing down your share of the property, or when your executor tries to sell it.
- You own **recreational property**, such as a cottage. Because this property isn't where you usually live ("principal residence"), there will likely be a capital gains tax that your estate will owe when you die. You may want to get legal or tax advice before writing your will.
- You have **real estate outside of BC**. If so, you need to consult with a lawyer or notary. A will made in BC doesn't cover real estate outside BC, unless it has been approved by a court where the real estate is located. It's simpler to make a will just for that real estate according to the laws of the area in which it is located. Note that MyLawBC wills would cancel wills you've made outside of BC.
- You'll owe **income tax in another country** when you die. A lawyer can explain the consequences for your estate.
- **You're unable to sign the will yourself** because of illness or disability. If so, you need a will in a special format that allows someone other than the will-maker to sign. You'd ask someone to sign it for you, in front of you and your witnesses. You can get it from a lawyer or notary.
- You want to name an **organization** such as your bank as your executor, or **more than one executor** (co-executors).
- You own a **business** or you own **shares of a business**. Your wishes for the business must be properly expressed in your will. Get help from an accountant or lawyer.
- You've set up an **RESP (Registered Education Savings Plan)** for someone, and you'd like them to still benefit from these funds. You'll need a lawyer or notary to add specific paragraphs to your will. Otherwise, the RESP will just form part of your general estate, and your estate will have to pay back the Canada Education Savings Grants as well as pay taxes and penalties.
- Before you die, you loan money to someone receiving a gift in the will, and **you want the executor to deduct the loan from their share of the inheritance**. If you don't say anything about this, your executor has to figure out whether to collect or forgive the debt based on the type of loan, whether there was anything about it in writing, the length of time since it was made, the amount already collected, and so on.
- You have specific wishes for who should take care of your **pets** when you die, and/or you want to set up a pet fund in your will. A lawyer or notary can help you with this.
- Your executor *isn't* one of your main beneficiaries but you're giving them a gift of cash or something valuable in your will, and **you want them to receive extra compensation in the form of the executor's fee**. This fee is a percentage of the estate (2% to 5%) that's set out in the legislation. If you want them to receive this, maybe because you think your estate is going to be a lot of work, please get help from a lawyer or notary.