

# Safeguarding Will Extremely Important

You have made the decision to make a Last Will and Testament and all of your ancillary documents: a Power of Attorney for Finances, a Power of Attorney for Health Care, a Living Will, a Declaration of Guardian in the event of incapacity, and a HIPAA Privacy Act document.

You review all your various holdings and collect proof of each one: deeds to real property, bank and brokerage accounts which may show your CDs, IRAs, 401ks along with titles to vehicles and interests in business entities and head out to the appointment with the Attorney.

You consult with the Attorney and discuss your various options, and conclude your final plan. The documents are prepared on a subsequent appointment, and are ready to sign.

Assuming you decide to maintain your original Will in your possession, how will you safeguard your Will thereafter?

Some people choose to keep their Will in a fire safe deposit box at a bank. Others store the Will in a fire proof box or home safe.

Safeguarding all of the documents is crucial, but the Will is of special importance.

A client made a Will many years ago with her Attorney. She had been married briefly when young, then divorced and never remarried. She worked all her life and then retired to her house. Her Will stated that she disinherited any heirs she may have and left her entire estate to a designated church.

After her death, neighbors realized that no one was showing up to deal with her lawn, her car and her house. A probate court appointed an administrator to deal with her estate.

After exercising due diligence to search for a Will, the administrator concluded that an original Will could not be found although there was a copy.

Texas law provides an opportunity for probating a copy of a lost or stolen Will; but the law also says that there is a presumption that the Will was destroyed if the Will was last known to be in the possession of the testator, i.e., the maker of the Will at death.

Through the records found in the decedent's house, the administrator was able to track down the drafting Attorney who determined that he didn't keep the original. He remembered that she was adamant about her not wanting any assets to go to her heirs with whom she maintained no contact. Her financial planner and one of the neighbors both said the same thing.

Ultimately, because the deceased woman failed to safeguard her Will, all of her assets passed to the distant heirs and her designated church received nothing.

Is your Will in a safe place?

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