

# The Best Way to Revoke a Will Is to Make A New One

By [Wesley E. Wright](#) and [Molly Dear Abshire](#), as published in the Houston Chronicle Senior Living Section on November 18, 2013.

There are several ways to revoke your existing Will in Texas. The best way to get rid of your current Will is to create a new one and specifically provide a provision in your new Will stating that you are revoking all prior Wills and codicils. Without specifically revoking all other Wills, the prior Will may still be valid. Additionally, merely destroying an original Will that you do not like, may not be enough to get rid of it.

Circumstances change and most people make more than one Will in their lifetime. We marry, have children, obtain and dispose of different assets and properties, move from state to state, divorce or are widowed and experience legislative changes in estate law—these are all circumstances that affect our Wills. Typically, Wills should be reviewed and updated every few years.

There are several ways to revoke your Will in Texas. The first and best way is to create a new Will specifically revoking the old one. The Probate Code in Texas states that no Will shall be revoked except by a subsequent Will, codicil, or written declaration, executed with all the requisite formalities. So, a Will cannot be revoked verbally or just by typing out an email or writing a note to your attorney that you are revoking your Will.

There are other ways to revoke a Will that are not as intentional. One, perhaps accidental, way is to create a new Will that does not contain a clause revoking the earlier Will. Then the two testamentary documents would both control with the latter Will acting as a codicil to the earlier Will. Also, sometimes prior Wills are inadvertently revoked by creating an inconsistent codicil to the existing Will. Again, to the extent possible, the two Wills would be read together with the latter document acting as a codicil to the earlier Will. The earlier Will would only be revoked to the extent that it was inconsistent with the codicil. Thus, this is a revocation by implication due to the wording in the new document.

Finally, there is the ill-advised way of physically destroying your Will. Destroying your Will includes acts such as tearing it up, burning it, and marking out or cutting out the signature line. This physical act of destroying the Will has to be done by the testator, or at the testator's direction. But if you take this route you should destroy not only the original Will but also all of the copies of the document. If you destroy only the original Will but there are copies of your Will in various places or being held by various persons, such as a named Executor or a former attorney, you run the risk of the copy being admitted into probate, if there is a good enough reason to do so.

Generally, courts presume that if only a copy of a Will can be produced, then perhaps the Testator destroyed the original Will if it was last in his possession. If a copy of a Will is offered for probate, courts generally require that a good reason is shown why only a copy is submitted. For example, perhaps, the original Will was never kept by the Testator but instead was kept by an attorney or an adult child who inadvertently lost the important document.

And, there is a risk to just destroying your Will, without creating a new one, even if you destroy all of the copies. If your existing Will is destroyed and a new Will is not created, then perhaps an even older prior

Will with even more out of date provisions will be offered for probate at your death.

If you decide that the Will you have no longer reflects your wishes, don't just tear it up. Contact your estate planning attorney and make a new one.