

Section B-7 Legal Affairs

The contents of this Toolkit have been developed to assist you in your efforts to support family readiness. Every effort has been made to ensure that the information provided is current and accurate. However, because statutory and regulatory changes may have occurred since the publication of this Toolkit, the Office of the Assistant Secretary of Defense for Reserve Affairs cannot assume responsibility for its continued accuracy. Before taking any significant action based on the contents of this Toolkit, you should contact your Family Readiness Program representative or legal officer, as appropriate, to secure the most current information.

Legal Affairs

Estate Planning

Whether you're married or single, have children or not, estate planning should be an essential part of your personal affairs. While no one likes to think of what can go wrong in life, you owe it to your parents, brothers, sisters, spouse, and children to make your desires known. Only by executing specific legal documents can you make sure your wishes are carried out.

A will is a legal document that transfers what you own at the time of your death to people you have designated. While you can buy will kits and software that are supposed to allow you to create your own will, the laws governing estates are complex and it's best to allow a lawyer to write your will using your instructions. A lawyer can help you decide what your will should include and can write your will so that your wishes are carried out. A will can be a relatively simple document that can be quickly and easily created. The more property and assets you have, the more complex the will must be. If you have sizable assets, you should consider a civilian estate planner who can assist you with the often-complicated estate tax considerations.

A detailed will should include a plan for the distribution of your personal assets and is especially important if you own real property. It designates persons who shall inherit property and the specific property each person should receive. However, you can also use a will to pass along other instructions and information as well. Your will can inform the state and your survivors of your wishes regarding burial, custody of your children, and disposition of personal items of sentimental value. If you die without a will, the state will decide how your estate is to be distributed and who will have custody of your children.

No single will form exists that can be used in all parts of the United States. Laws and guidelines vary from state to state. It is important to renew your will regularly or whenever there is a life-changing event such as marriage, separation, divorce, birth, or death in your family. Specifically, what you may desire for your children and family may change throughout the years as your children grow. A will is an important document to maintain and keep up-to-date. Your will should be kept in a safe place, but not in a safe deposit box that will be sealed by the bank upon your death. A will is useless if it can't be found and used.

Finally, if you are married, it is important that both you and your spouse have a will. While no one wants to imagine the worst, it is possible that your spouse could die before you or even die with you. If your spouse has a will, make sure you know where it is stored.

Another often overlooked piece of estate planning is what will happen to you if you are suddenly incapacitated and cannot make your wishes known. Advances in medical technology have brought a new dimension to medical care. You and your closest family members should be able to answer these questions about your health care. If I die, do I want to be an organ donor? If I am incapacitated and have an incurable or irreversible condition that will cause death in a relatively short period of time, do I want life sustaining treatment, such as respirators or feeding

GUARD & RESERVE FAMILY READINESS PROGRAMS TOOLKIT

tubes? These decisions are some of the most personal decisions one makes during life, and should not be ignored or left to chance. Durable powers of attorney, living wills, and military advance medical directives are documents in which you can make your wishes known. It is highly recommended that as you prepare your will you also discuss with your attorney what documents will best suit your desires regarding your health care if you are incapacitated and unable to communicate.