



**Minnesota National Guard  
Office of the Staff Judge Advocate  
Legal Assistance Information Sheet**

## **Will**

This fact sheet is for information purposes only. It is not intended to constitute legal advice and is not a substitute for speaking with a judge advocate.

- 1. What is a will?** A will is a legal document that will direct how you want your property distributed upon your death. You can also name a personal representative to administer your estate and be responsible for distributing the assets to the beneficiaries you name.
- 2. Does a will transfer all my property at the time of my death?** A will does not govern the disposition of all your property at your death. These assets pass automatically at death to another person, and your Will is not applicable to them unless they are payable to your estate by the terms of the beneficiary designations for them. Such assets include property titled in joint names with rights of survivorship, payable on death accounts, life insurance, retirement plans and accounts, and employee death benefits.
- 3. What happens if you die without a will?** Dying without a will is known as dying “intestate,” which means state law will determine who receives your property by default. These laws vary from state to state, but typically the distribution would be to your spouse and children, or if none, to other family members.
- 4. Do I need a will?** Only you can ultimately answer that question. An attorney can advise you about the relevant law, but you must decide whether you want to distribute your property through a will or by the provisions of the intestacy laws of your state. For some people their state intestacy laws are adequate, but for many a well-drafted will is the best way to be sure that property will be given to the right people. It is recommended that you discuss your situation with the legal assistance attorney before making a final decision.
- 5. Where should I keep my will?** You should keep your will in a safe place (e.g., fireproof safe) where others can find it after your death. It is not recommended to keep it in a safe deposit box. Make sure your personal representative(s) know where to find it and can access it.
- 6. When should I update my will?** You may want to update or change your will if:
  - ✓ Your marital status changes.
  - ✓ After the birth of a child or grandchild.
  - ✓ A person you named as a beneficiary dies.
  - ✓ You move to a new state.
  - ✓ The value and kind of property you own changes substantially.
  - ✓ Your personal representative moves away or dies.