

## YOUR FINANCES Control Your Legacy

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# Why You Need A Will: To Stay Out Of Probate

**Aretha Franklin didn't have one, which will likely impact her estate**

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**BY PAUL KATZEFF  
INVESTOR'S BUSINESS DAILY**

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Aretha Franklin, Queen of Soul, was laid to rest in Detroit. She left behind a glorious legacy of music and inspiration. What she did not leave behind was a will detailing her wishes for her assets. By not writing a will, she triggered a process in which her property and money will go through probate.

And that's a lot of property and money. Her estate is worth about \$80 million, according to [gobankingrates.com](http://gobankingrates.com). It will have to go through the potentially expensive and time-consuming bottleneck that probate court can be, on its way to being divided among Franklin's four children.

But probate is not a problem just for the rich and famous. Writing a will is just as important for middleincome and moderately wealthy people. Without a will, your assets will get dished out according to state rules, which may not jibe with your desires. And the process will eat up time and money.

“Two of the biggest drawbacks to dying without a will are the costs and potential lack of following one’s true wishes,” said Jeff Carbone, co-founder and managing partner of Cornerstone Financial Partners in Charlotte, N.C.

### Eliminating Confusion

Frank Moscardini, a partner in Shimanovsky & Moscardini in Chicago, said, “A will often eliminates confusion amongst your family by spelling out your wishes.”

And probate is common, with 50% of all U.S. estates going that route, which the estate of Aretha Franklin now is poised to navigate.

Basically, only assets that were jointly owned with someone else and assets dished out to financial account beneficiaries will likely escape those delays and expenses.

And a will has other functions. Jennifer Guimond-Quigley, of the Chicago law firm bearing her name, said, “A will . . . outlines who will inherit property upon the creator’s death, designates guardians for minor children and appoints a legal representative to make sure wishes are carried out as stated. It goes into effect only after the creator has died.”

“The importance of a will after the loss of a loved one is immeasurable,” said Moscardini, who is also an advisory council member for LegalShield, a prepaid legal service plan.

To create a will, you can use a downloadable form from any number of online sites. Writing a will using a downloadable form is generally quicker and less expensive than using an attorney.

### Impersonal Forms

A drawback to downloadable forms is that they may not be able to address all of your goals and needs. “Generic forms are impersonal, and cannot possibly contemplate all the scenarios or issues in one’s life,” Moscardini said. “A good estate planning attorney has the opportunity to really get to know and understand

what is truly important to his client, and the resulting plan should be an accurate reflection of that client.”

Also, a will must satisfy your state’s rules. Those rules can vary from state to state, says Mark Nelms, assistant general counsel of regulatory compliance for LegalShield.

Nelms said: “Some of the differences, depending on the state, include what is required for a will to be valid, what is required for the execution of a will (for example, the number of witnesses) and whether the state recognizes a handwritten or oral will. Also, state rules vary concerning what happens to the share of inheritance by a person in a will who dies before the person making the will. And the issues of spousal rights related to a will and probate laws (including the proving of a will) may vary.”

Guimond-Quigley describes online wills’ limitations this way: “These websites are not permitted to give legal advice. In fact, they tend to limit their own liability to the cost of the software or program purchased. The slightest mistake can prove disastrous, which is why it is essential to consult an attorney who is familiar with your specific state’s laws.”

In addition, an attorney who helps you craft a will can help you construct an overall estate plan, Carbone says.