



Safekeeping of Wills and Powers of Attorney

Having a Will and Powers of Attorney will be of little or no value to you if they cannot be readily located when they are needed. However, it is also important to keep them safe until they need to be used.

Key Considerations

When deciding how to safeguard these documents, keep in mind that:

- You have only one original Will, so it is important to keep it in a place where it cannot be misplaced, stolen, altered, or destroyed
- The documents typically remain “dormant” for a long time before they are used
- You may want to change provisions in the documents in the future, without anyone else knowing
- You want to make sure that when the documents must be used there is no confusion as to which document is the “last” Will or Power of Attorney
- The documents are very private in nature, which usually means you don’t want to risk the possibility of copies falling into the hands of other people, without your consent

Safekeeping of Wills

For these reasons, most people choose to leave their original Will with a lawyer, who will make sure it is kept in a safe place on a confidential basis. No one else will be able to access the Will, while you are alive, without your consent.

Safekeeping of Powers of Attorney

For Powers of Attorney, slightly different considerations apply. Because it can be needed on short notice for medical emergencies or hospitalizations, you should have at least one original of your Power of Attorney for Personal Care in a safe and accessible place in your home. You may also want to consider giving one to your Attorney for Personal Care, as well. Other originals should be left with your lawyer so that, if the ones you have are lost, stolen or destroyed, there are others in safe-keeping that can be activated as needed.

Because your Power of Attorney for Property allows your Attorney (or a fraudster posing as your Attorney) to deal extensively with your assets, the originals of them should not be kept

in an accessible place. It is a good idea to leave the originals with your Will at your lawyer's office. You should also give your lawyer written instructions telling him or her when they can be released. In most cases, you are going to want them kept in safekeeping until your Attorney proves to your lawyer that you can no longer manage your affairs.

Do Not Keep Their Existence or Their Location Secret

The people who will take care of you and your affairs if you become incapacitated or die need to know that you have a Will and Powers of Attorney. They also need to know where to find the originals of them. We recommend that you tell family and friends where to find your copies at home, as well as where the originals are kept. You should also put a note on your copies saying where the originals can be found, just in case anyone has a memory lapse. If you like, you can go so far as to give Attorneys or Estate Trustees copies of the documents. You may choose to give the copies in a sealed envelope with clear instructions that the envelope is not to be opened until the documents need to be activated. Having copies in their hands gives these people immediate access to the terms of the documents when the need arises. Again, these copies should clearly show where the originals can be found. The disadvantage of delivering copies in advance is that, if you change the documents, potentially removing the recipient as an Attorney or Estate Trustee, you need to retrieve these copies. Doing so may lead to questions about the changes that you would rather not address.

Safety Deposit Boxes

Safety Deposit Boxes are an alternative place to store originals of your Will and Powers of Attorney. However, doing so presents some difficulties:

- People can access the Box only if the proper paperwork has been completed at the Bank and they have a key
- Banks are not always open when an Attorney or Estate Trustee needs to get their hands on one of these documents
- The document that allows an Estate Trustee or an Attorney for Property to access your Safety Deposit Box is in the Box itself, a classic "Catch 22" situation

If you choose to use a Safety Deposit Box to store these documents, make sure your Estate Trustee, your Attorneys and your lawyer know that this is where the originals are located. Also give consideration to arranging for another trusted party to be able to access the Box if you die or become incapacitated.

Final Thoughts

Making a Will and Powers of Attorney is only half the battle, the other half is making certain that they will be found and respected. If your situation is unique and does not readily lend itself to what is recommended above, give us a call. We will be pleased to discuss your circumstances and assist you in deciding how to safeguard your important documents and make certain that they will come to the attention of your loved ones at the appropriate time.

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