



# Wills & Trusts: Where You Begin



*Long Beach, CA 90802  
(562) 479-0900*

# LA Law Library Locations

## Main Library:

(Corner of 1st & Hill)  
301 W. First Street  
Los Angeles, CA 90012  
(213) 785-2529

Mon, Wed, Thu, Fri: 8:30–6:00pm  
Tue: 8:30–8:00 pm  
Sat: 9:00–5:00 pm



## Courthouse Branch Locations:

Long Beach, Torrance

## Courthouse eBranch Locations:

Long Beach, Norwalk, Pomona, Torrance, Santa Monica

## Public Library Partnerships:

Compton, Lancaster, Pasadena, Pomona, Van Nuys, West Covina,  
Santa Monica



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# Remote Locations

- **Courthouse Branch Locations:**  
Long Beach, Norwalk, Pomona and Torrance
- **Public Library Partnerships:**  
Compton Library, Lancaster Regional Library,  
Norwalk Public Library, Pasadena Public Library, Pomona  
Public Library, Los Angeles Public Library Van Nuys Branch  
(No. Hollywood)  
West Covina Public Library, Santa Monica Public Library

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## Overview

- The LA Law Library was established in 1891
- The current building was opened in 1953
- Largest print collection in a public law library west of the Mississippi River
  - Seven floors
  - 35 miles of shelving
  - 1,000,000 equivalent volumes including print and digital



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## Print Collection

- Primary and secondary legal materials for all 50 states, federal and multi-state  
Foreign and International materials
- Extensive historical collection including early California and state colonial materials
- California and Ninth Circuit Appellate and Supreme Court briefs



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## Electronic Databases

- California State Briefs
- CEB OnLAW
- EBSCO Legal Information Center
- Foreign Law Guide
- HeinOnline
- Index to Foreign Legal Periodicals
- LA Law Library Catalog
- LLMC - Digital
- LegalTrac
- Lexis
- SmartRules
- Thomson Reuters Westlaw
- Wolters Kluwer – Cheetah
- Xspouse



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## What We Do

- Suggest research avenues and sources for research, identify and locate citations
- Explain how to use legal materials
- Explain the law-making process
- Assist in finding forms
- Aid in the use of electronic resources including Westlaw and Lexis (online databases that contain cases, codes, and statutes for all 50 states and secondary materials), CEB OnLAW and HeinOnline
- Teach public classes



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## Library Services

- Reference Service
  - in library, by phone, email, mail and live chat through 24/7 Reference Cooperative
- Document Delivery Service
- Members Program
  - Open to members of the State Bar of California
- Computer Services
- Circulation
  - Borrower registration program
  - Reserve books and more...
- Facility Rentals
  - Training Center
  - Conference Rooms
  - Office Space
  - Private Events (up to 500 ppl)
- Instruction
  - Public training classes
  - MCLE courses
  - Tours



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# Is it time to have my will or trust prepared?



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## Overview

- What is a Will
- What is a Trust
- Do I Need One
- Should I Prepare My Own
- Key Terms and Phrases
- Other Things You Should Know

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# What is a Will

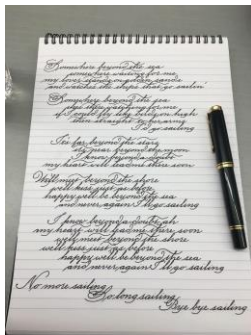
- A will is a document that specifies who will receive your assets and when
- It will appoint someone to handle your affairs



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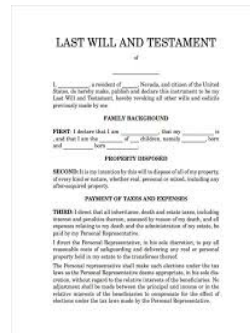
# Types of Wills

## Holographic Will



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## Printed Will



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## Holographic Will

- Needs to be in your own handwriting
- Needs to be signed and dated by you
- Key terms need to be in your handwriting
- Does NOT need to be witnessed

*Probate Code Section 6111*



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## Printed Will

- Should specify that it is your Last Will and Testament (or testamentary intent is clear)
- Must be signed by you in the presence of 2 witnesses
- Those witnesses must sign and date

*Probate Code Section 6110*



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## Self Proving Printed Will

A will is self proving when the witness signs under penalty of perjury that they witnessed the will maker sign the document and the will maker told them it was his will.



*Probate Code Section 6110; 8220*

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## Self Proving Printed Will

Witnesses must also sign in the presence of one another and the will maker

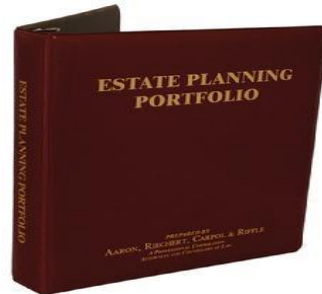
*Probate Code Section 6110*

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# What is a Trust

A contract you make with yourself wherein you specify who will receive your assets and when they will receive them



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# A Trust May Also

Plan for Incapacity  
Designate Guardians for Minors  
Protect Assets  
Avoid Tax Consequences



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# Two Main Types of Trusts

- Revocable Trusts
- Irrevocable Trusts



# Most Common Trust

Revocable Living Trust



# Irrevocable Trust

Not Revocable (of course there are exceptions)

Used primarily for asset protection and  
avoiding certain tax consequences



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## Benefits to Having a Trust

- Avoids probate
- May also use it to plan for possible incapacity (avoids need for Conservatorship)
- Protects Assets from MediCal Recovery
- Transfers and Protects Generational Wealth
- Asset Protection
- Minimize or Avoid Tax Consequences



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# A Will Alone Does Not Avoid Probate

Probate is a court supervised process that takes time and money.



Required if someone passes away with assets over \$150,000 in their estate.

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## What does Probate Costs

CA law states that probate attorneys receive a percentage of the gross value of the estate.

4% of the first \$100,000

3% of the next \$100,000

2% of the next \$800,000



\$23,000 in Attorneys Fees for a \$900,000 Estate

Probate Code Section 10810

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## DO I NEED A WILL OR TRUST?

- I have children and I own a home. Should I have a trust?
- I don't have children and I own a home. Should I have a trust?
- I have a retirement account and several investments. Should I have a trust?
- I have a developmentally disabled child and I own a home. Should I have a trust?



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## DIY

Should I prepare my own will or trust?



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# Would you cut or color your own hair?



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# Would you repair your own car?



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Most people probably would not!

BUT....

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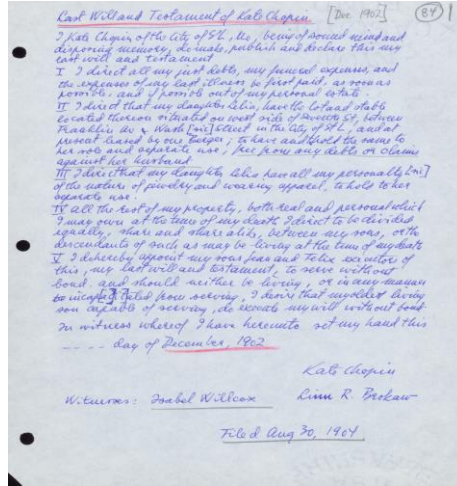




# What To Know If Preparing a Will Yourself

## 1. Decide on the type of Will

*Holographic*  
or  
*Printed*



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# What to Know if Preparing a Will Yourself

## 2. Know the keywords

- Executor
- Beneficiary
- Witness
- Devise
- Devisee

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## What to include in your Will

Name the person who is to be executor and what their duties are

- Do they have a key to your apartment, condo or home?
- Do they have a copy of your will?
- If not, do they know where to find it?

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## What to include in your Will

Be specific about what you want to give and who you want to give it to

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# What to know before having your Trust prepared



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## Trust Terms

- Grantor/ Trustor- **the person that creates the trust**
- Trustee- **person who manages the trust property**
- Successor Trustee- **person who takes over after initial trustee resigns, dies or is incapacitated**
- Beneficiary- **person who receives the trust property**

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## Trustee Powers

Giftng Powers	Digital and Electronic Communications
Asset Title	
Bank Accounts	Distribution
Contracts	(Just to name a few)

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## Decisions to Make

<b>Should your Trustee:</b>	<b>How to distribute:</b>
<ul style="list-style-type: none"> <li>• Serve With Bond or Without Bond</li> <li>• Be Paid or Not Paid</li> </ul>	<ul style="list-style-type: none"> <li>• Specific Distribution</li> <li>• Percentage Distribution</li> <li>• Equal Distribution</li> </ul>

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# To Whom Are you Distributing?

Is your beneficiary?

- Under the age of 18
- An Adult
- Receiving Government Assistance
- Suffering from an addiction
- A Charity or Non Profit



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## What else does a trust package typically include?



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## Power of Attorney

- Gives power to your agent to manage your financial affairs while you are living



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## Advanced Health Care Directive

Gives power to your agent to make medical decisions for you in the event you are not able to do so

- DNR
- Life Support



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## Trust Transfer Deed

Transfers property to your trust. You must have this in order to transfer your home or other real estate into the name of the trust.

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## Is there an alternate to having a trust prepared?



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# Transfer on Death Deed

CA now has a deed that will allow you to transfer your home to someone upon your death



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# Transfer on Death Deed

## Pros

- Protects property from probate
- Inexpensive and fast
- Fully revocable
- No taxes, its considered a gift

## Cons

- If beneficiary predeceases you, subject to probate
- No ability to plan for incapacity
- Property still subject to MediCal recovery
- If you have a co tenant (owner), won't work

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I have a retirement plan (401K or 453b) should I place this in my trust?



You do **not** want to transfer ownership of your 401K to your trust

BUT

You may want to name your trust as a beneficiary in **SOME** cases



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**Minors or Others that you may not want to receive lump sums**



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## Secure Act of 2019

Do you have a 401K or IRA?

Inherited IRA distribution must now be taken within 10 years

Previously, if you inherited an IRA you could stretch out its distributions



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## Secure Act of 2019

Must withdraw and pay taxes on distributions from inherited IRA's within 10 years after death

Be careful of the type of trust used for this and be aware of 10 year limit



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## 2017 MediCal Recovery Act

OLD LAW - If you received Medi-Cal and you owned a home, the state could recover by attaching a lien to your home

NEW LAW- your home can be protected through a revocable trust



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## Q and A

I only have monetary assets should I have a trust prepared?

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I have minor children and I want to make sure they are cared for if something happens to me. Can I do this in my trust?



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I don't own a home but I have a very valuable doll collection and other collectibles, should I have a trust prepared?



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# Q and A

- I own a home, securities, bank accounts, retirement plan, life insurance, and other investments, should I have my trust prepared or an estate plan?



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**THE  
NEXT  
STEP**



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## Research & Legal Assistance



LA Law Library offers free print and digital access to probate primary and secondary materials

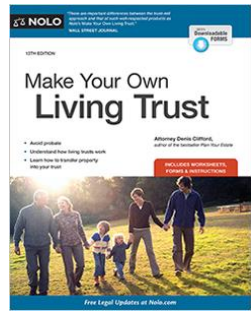
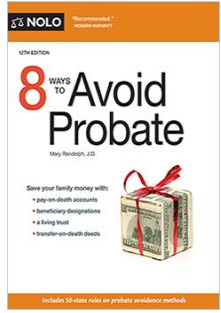
Reference Librarians are available to guide you to these resources Monday – Saturday

(213) 785-2513  
[reference@lalawlibrary.org](mailto:reference@lalawlibrary.org)

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**Alternatives to Probate**

### Nolo Press Publications



- ✓ Set up payable on death accounts
- ✓ Name beneficiaries for assets & accounts
- ✓ Create a living trust

- ✓ Create living trust
- ✓ Transfer assets to your trust
- ✓ Retain absolute control over trust property

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## Access to Nolo Self-Help Books – LA Law Library

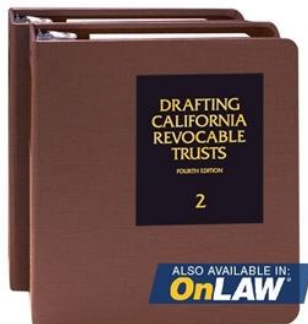
- Go to <http://www.lalawlibrary.org>
- Select Legal Research Screen & Research Databases
- Scroll down to EBSCO Legal Information Research Center
- Click “here” to access database remotely
- Log in according to screen directions
- Select box labelled Wills & Estate Planning to see all Nolo titles on subject.



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## Many Other Resources!



- Practice guides:
  - Checklists, step-by-step guidance
  - Forms and templates
  - Written for attorneys (legalese)
  - Very expensive – but free for anyone to use at law library



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## Where to Get Help? Resources for In-Person Assistance

- **Legal clinics – Free in-person or phone consultations with an attorney:**
  - Lawyers in the Library at LA Law Library
  - Christian Legal Aid, monthly, see [www.cla-la.org](http://www.cla-la.org)
- **My Legal Team, Inc.**
  - Located at: 444 W. Ocean Blvd., Long Beach CA 90802
  - (562) 479-0900
  - We can make accommodations to meet you elsewhere.



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