



Wills and Trusts

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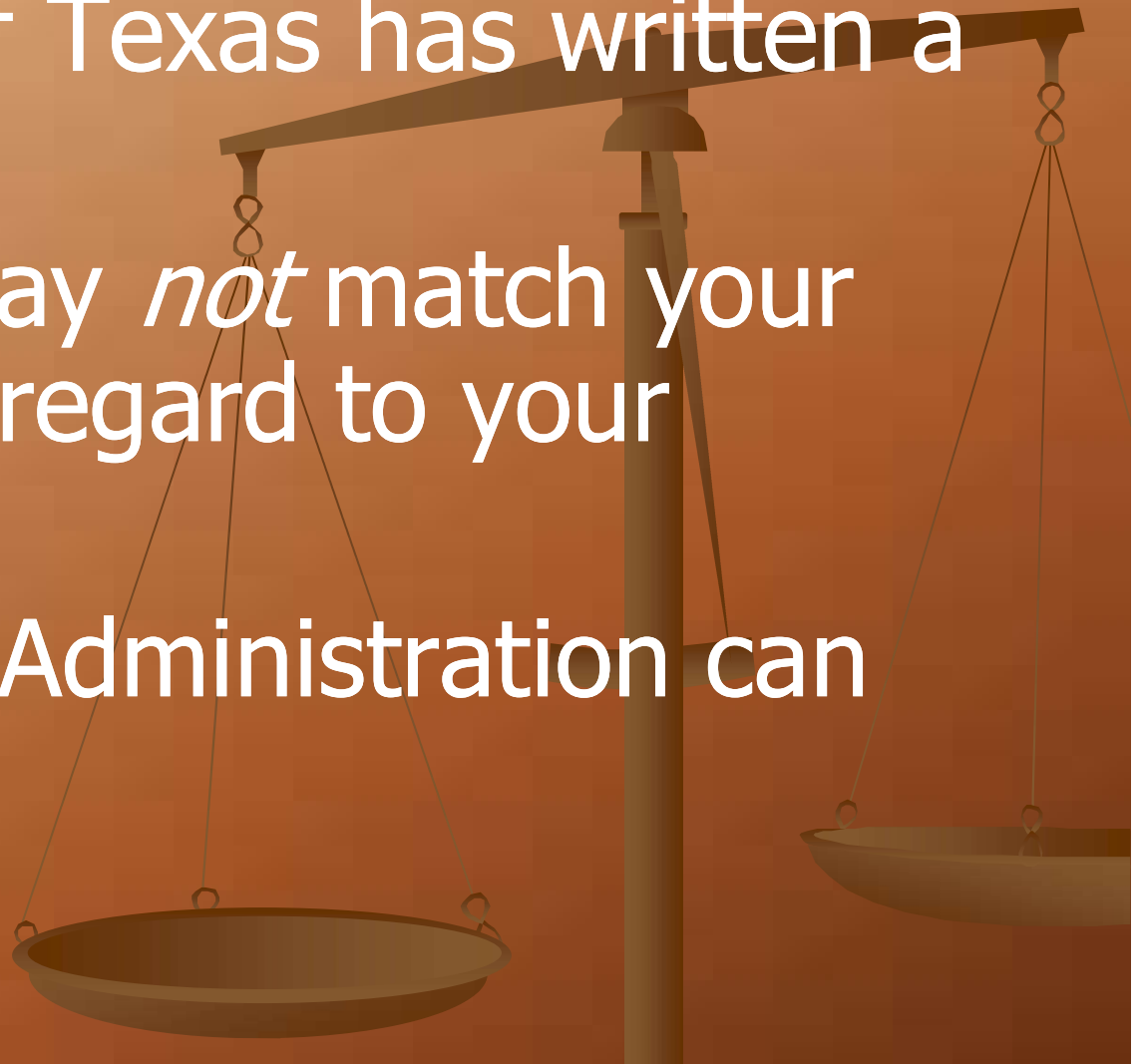
How Is Property Transferred on Death?

- Intestate Succession (State provided will.)
- Will
- Trust
- Non-probate Transfers



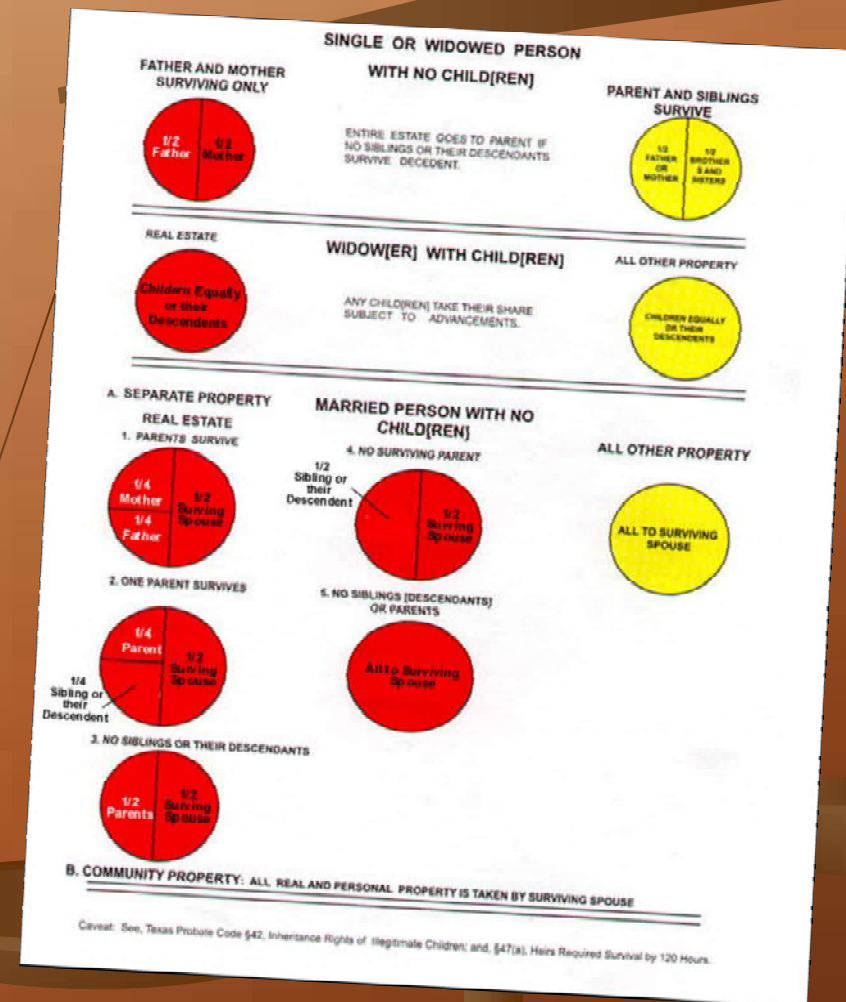
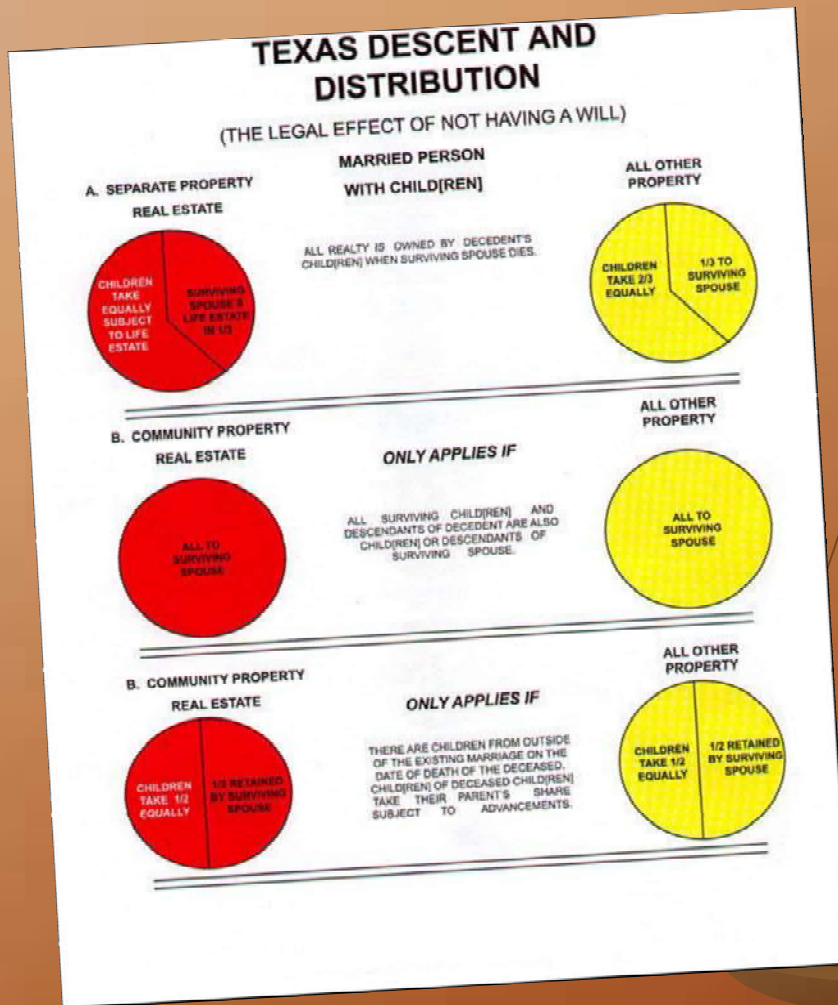
Intestate Succession

- The State of Texas has written a will for you.
- It may or may *not* match your desires with regard to your property.
- Issues with Administration can arise.



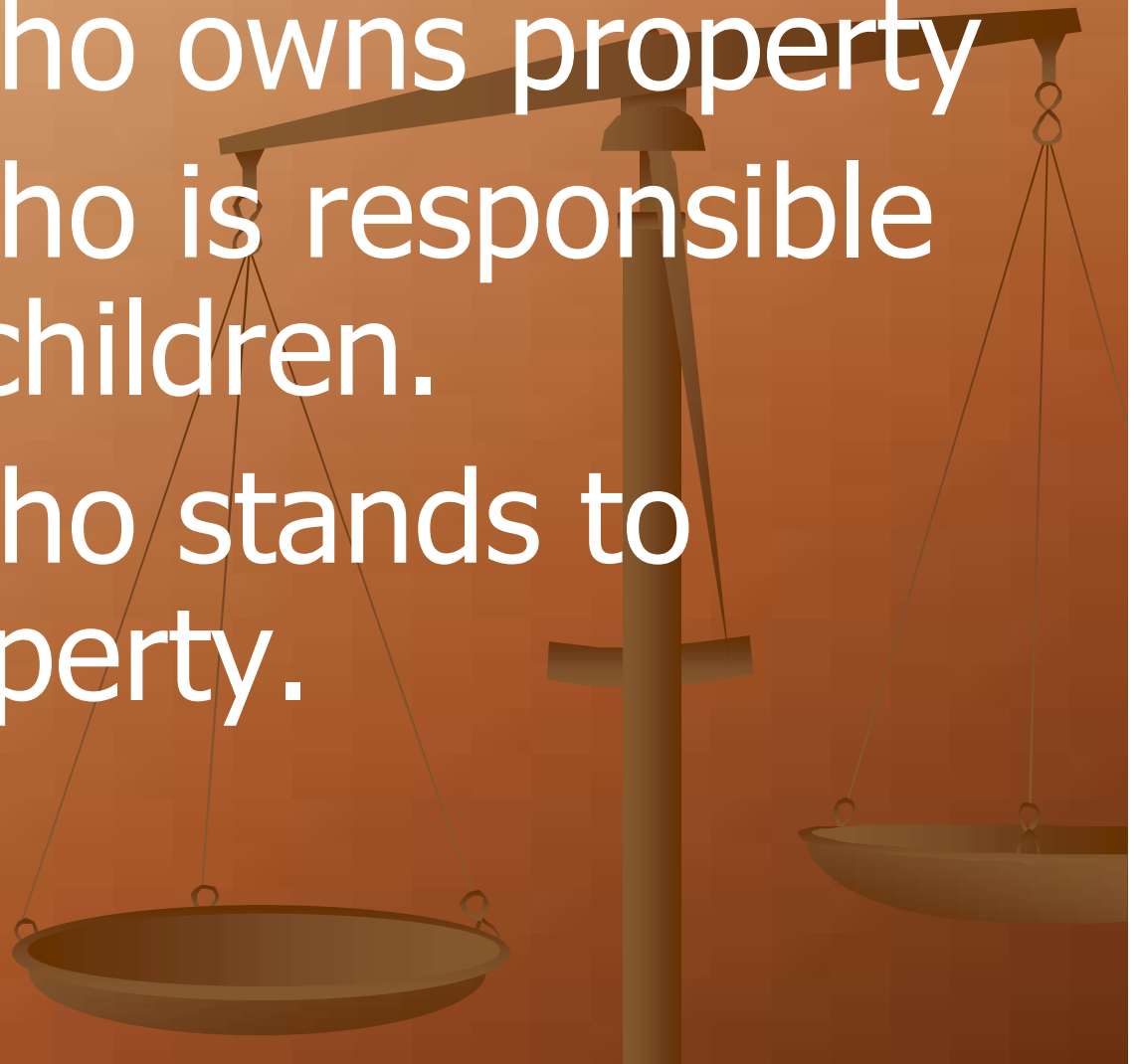
Intestate Succession

Your Statutory Will!



Who Needs a Will?

- Anyone who owns property
- Anyone who is responsible for minor children.
- Anyone who stands to inherit property.

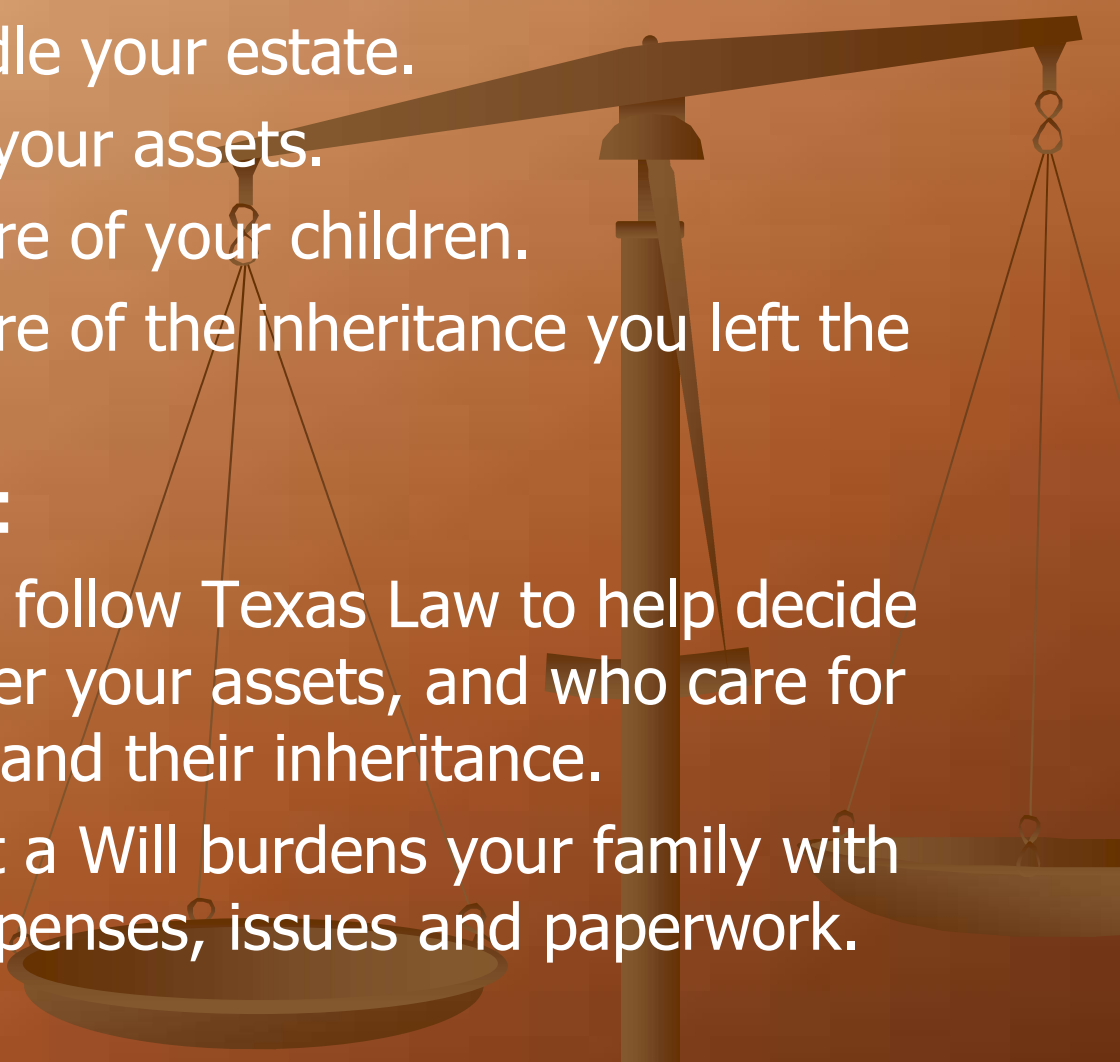


Wills and Terminology

- × Will provides for a Testamentary disposition of property by the Testator (one making the will).
 - + A will is the final declaration of how a person desires to have his or her property disposed of after death.
- × Die *testate* (One who dies after having made a valid will) or *intestate* (without a will).
- × Executor is a personal representative named in the will.
- × Administrator appointed by court.



What is a Will & Why Do I Need a Will?

- Generally, the Will covers:
 - Who will handle your estate.
 - Who inherits your assets.
 - Who takes care of your children.
 - Who takes care of the inheritance you left the children.
 - Without a Will:
 - The court will follow Texas Law to help decide how to transfer your assets, and who care for your children and their inheritance.
 - Dying without a Will burdens your family with extra legal expenses, issues and paperwork.
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Valid will: Requirements

- **Testamentary Capacity and Intent.**
 - *The "Sound Mind" requirement.*
- **Writing Requirements.**
- **Signature Requirements.**
- **Witness Requirements.**
- **Publication Requirements**



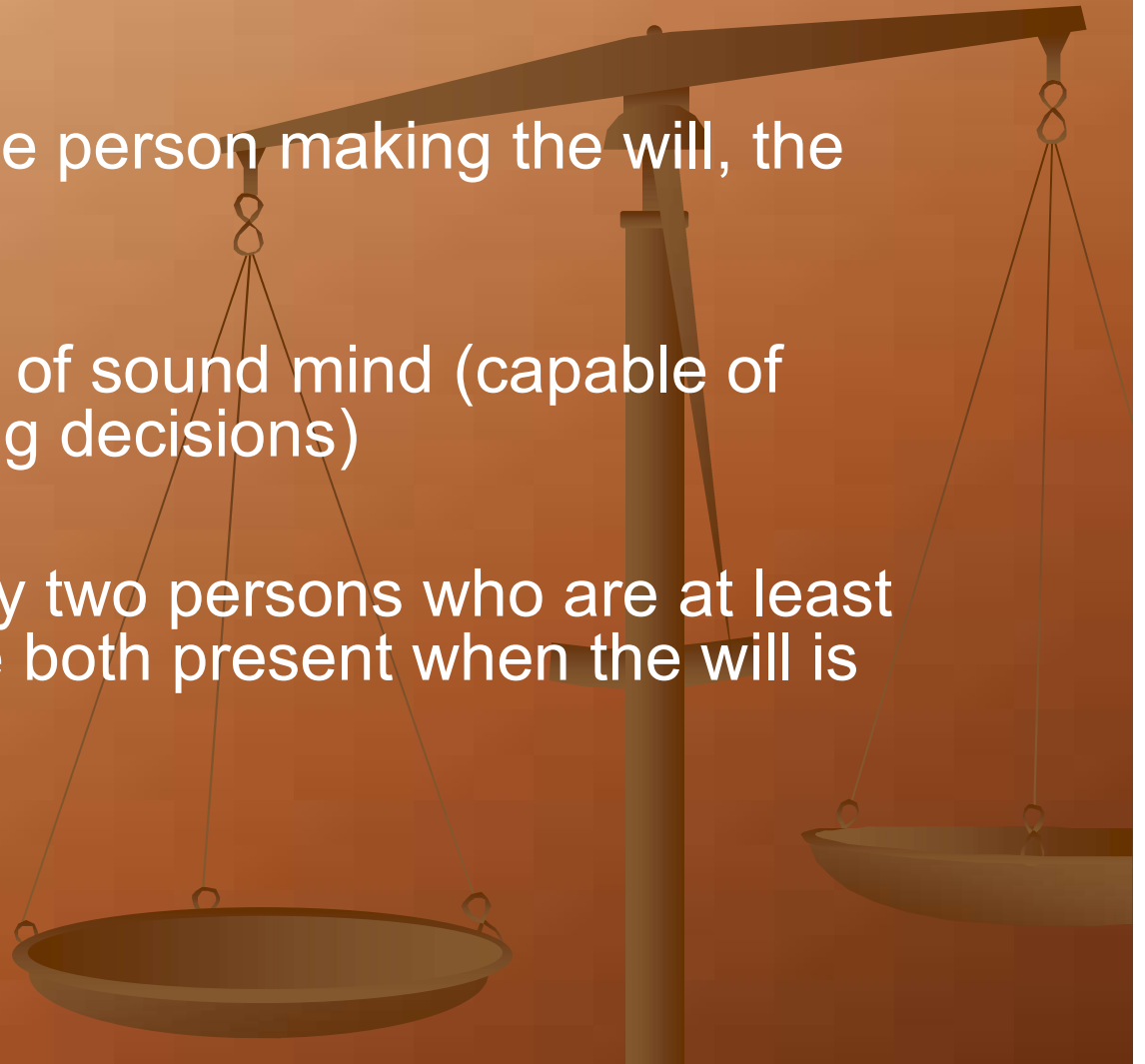
Last Will and Testament

- A written document stating your desires concerning your property and/or minor children.
- It is a contract with the state to allow the transfer of property after you die.



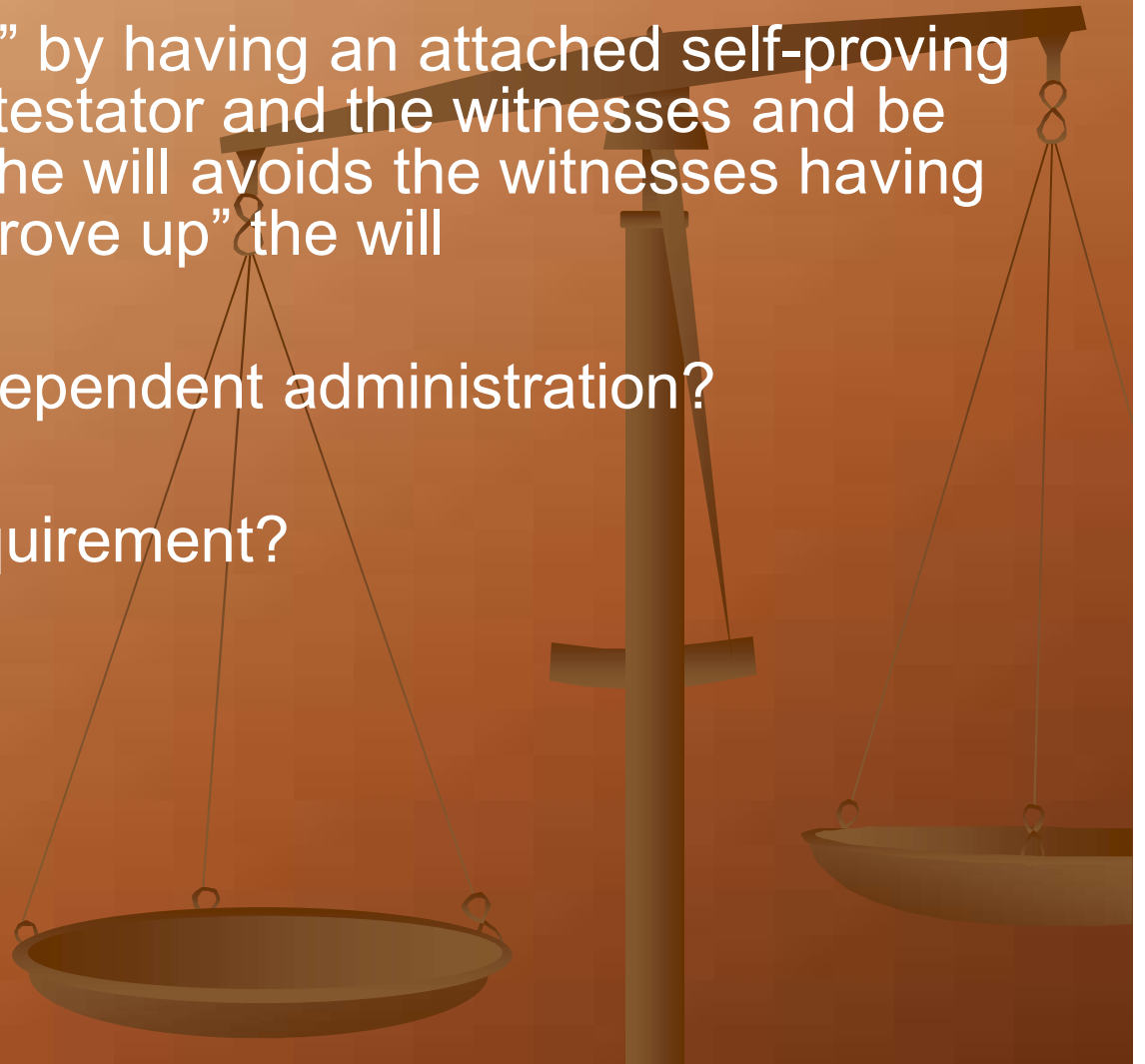
Important Elements of a Will

- Must be signed by the person making the will, the “testator”
- The testator must be of sound mind (capable of reasoning and making decisions)
- Must be witnessed by two persons who are at least age fourteen and are both present when the will is signed

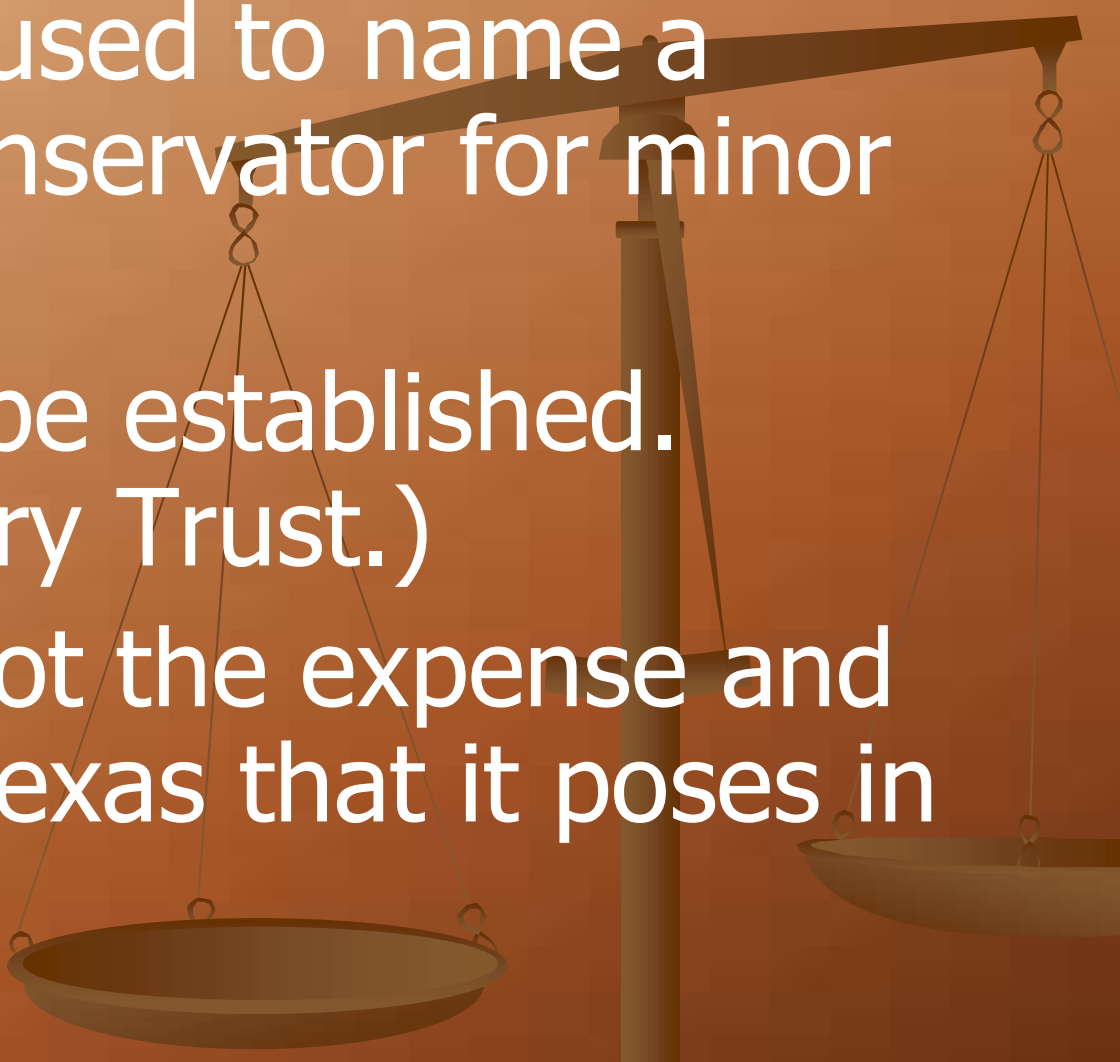


Important Elements of a Will

- Should be “self-proved” by having an attached self-proving affidavit signed by the testator and the witnesses and be notarized. Notarizing the will avoids the witnesses having to appear in court to “prove up” the will
- Should provide for “independent administration?”
- Should waive bond requirement?

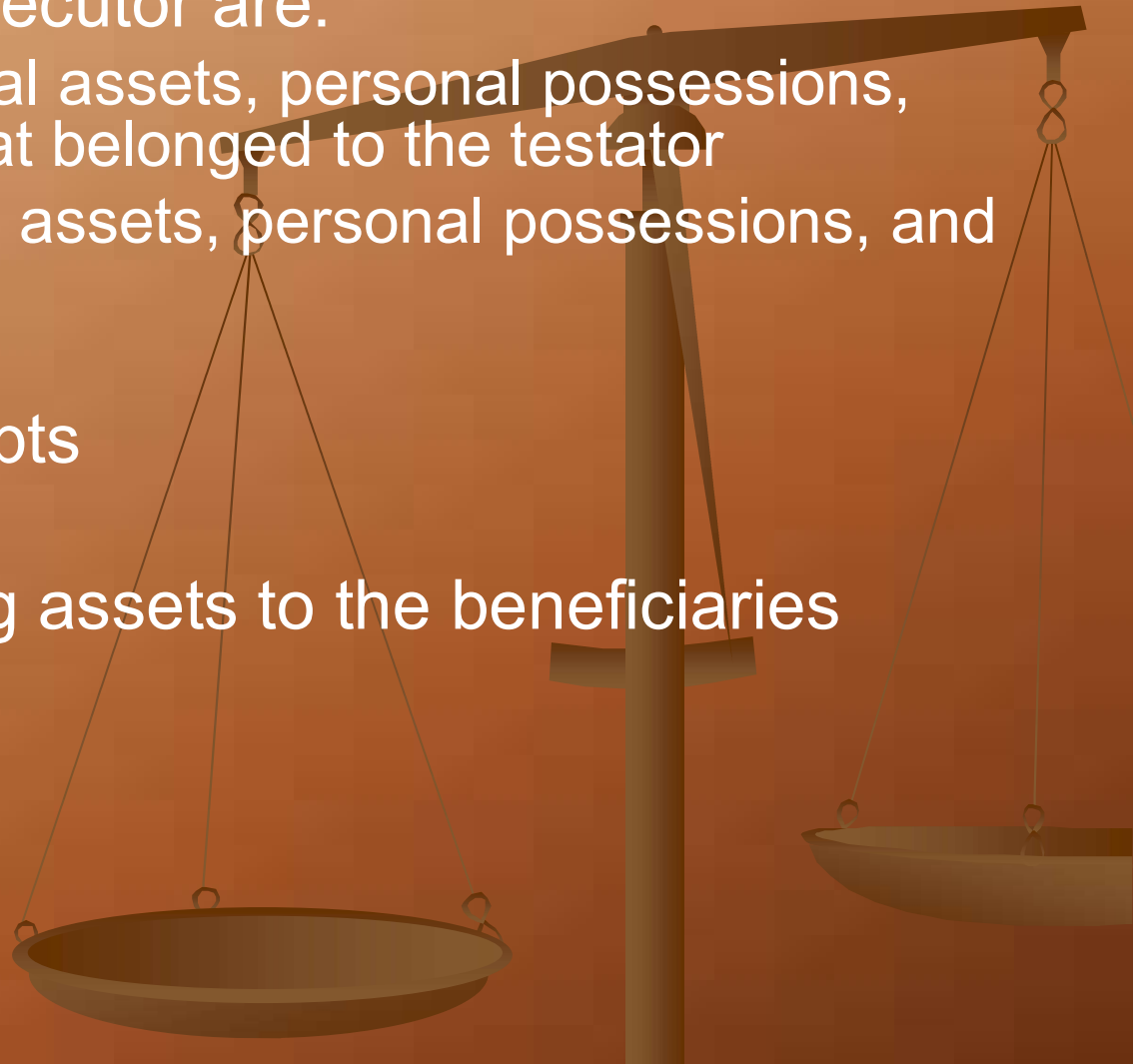


Wills

- Will can be used to name a Guardian/Conservator for minor children.
 - A trust can be established. (Testamentary Trust.)
 - Probate is not the expense and problem in Texas that it poses in other states.
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Duties of Executor

- The duties of an Executor are:
 - Gather the financial assets, personal possessions, and real estate that belonged to the testator
 - Inventory financial assets, personal possessions, and real estate
- Pay appropriate debts
- Distribute remaining assets to the beneficiaries named in the will



Comparison ...

Without a Will

Court approves Executor

Distribution of the assets is generally delayed.

Higher Probate Cost

Less \$\$ to your family

Guardians and Trustees will need to approved by the court.

With a Will

You select Executor

Quicker

Lower Probate Cost

More \$\$ to your family

You pick the Guardians and Trustees.



Non-Probate Transfers

- Joint Tenancy
- Payable on Death
- Life Insurance
- Retirement Plans
- Transfer on Death Deed



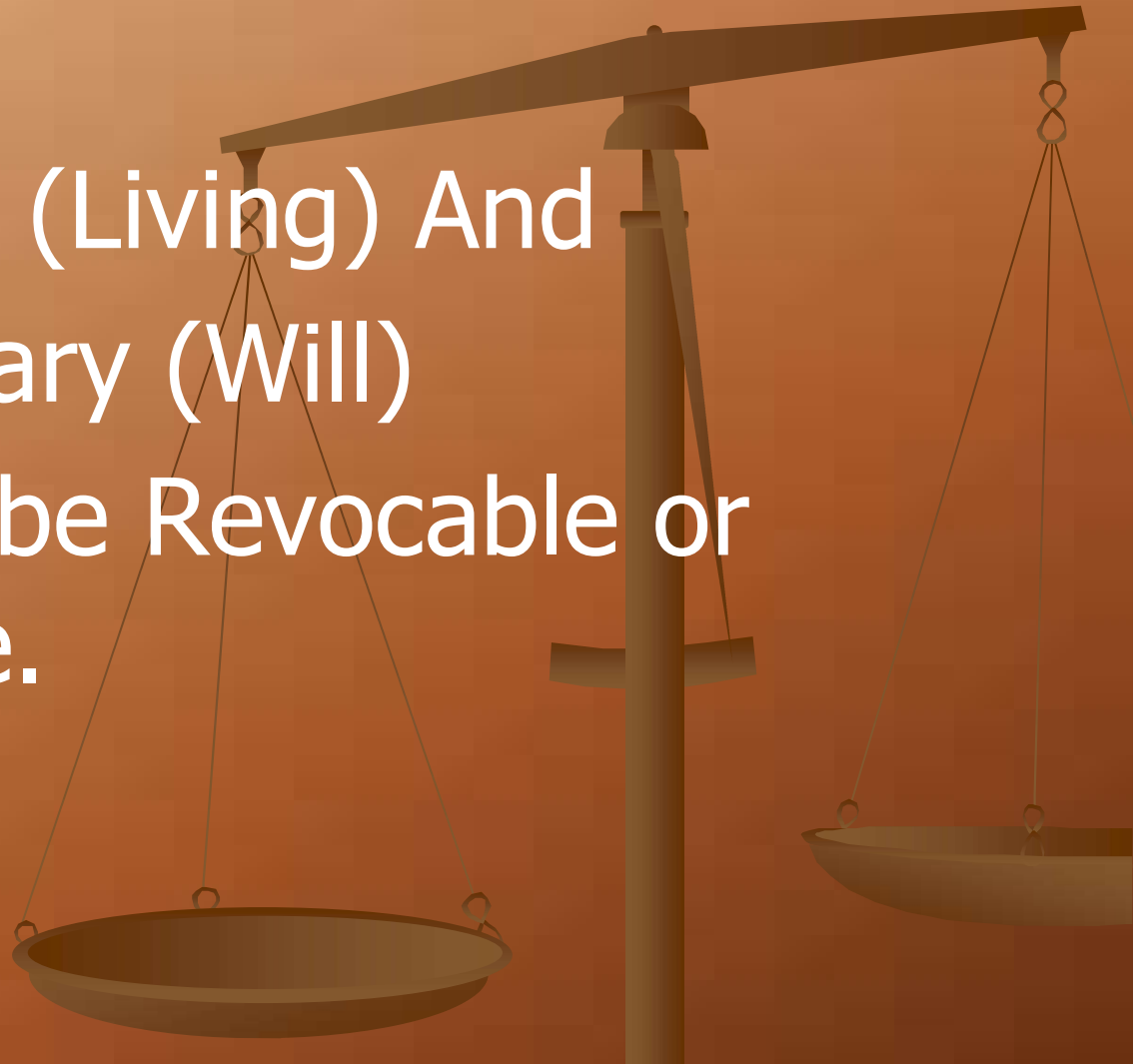
Trusts

- Complicated – Expensive - Unnatural
- Living Trusts
- Homestead Disqualification



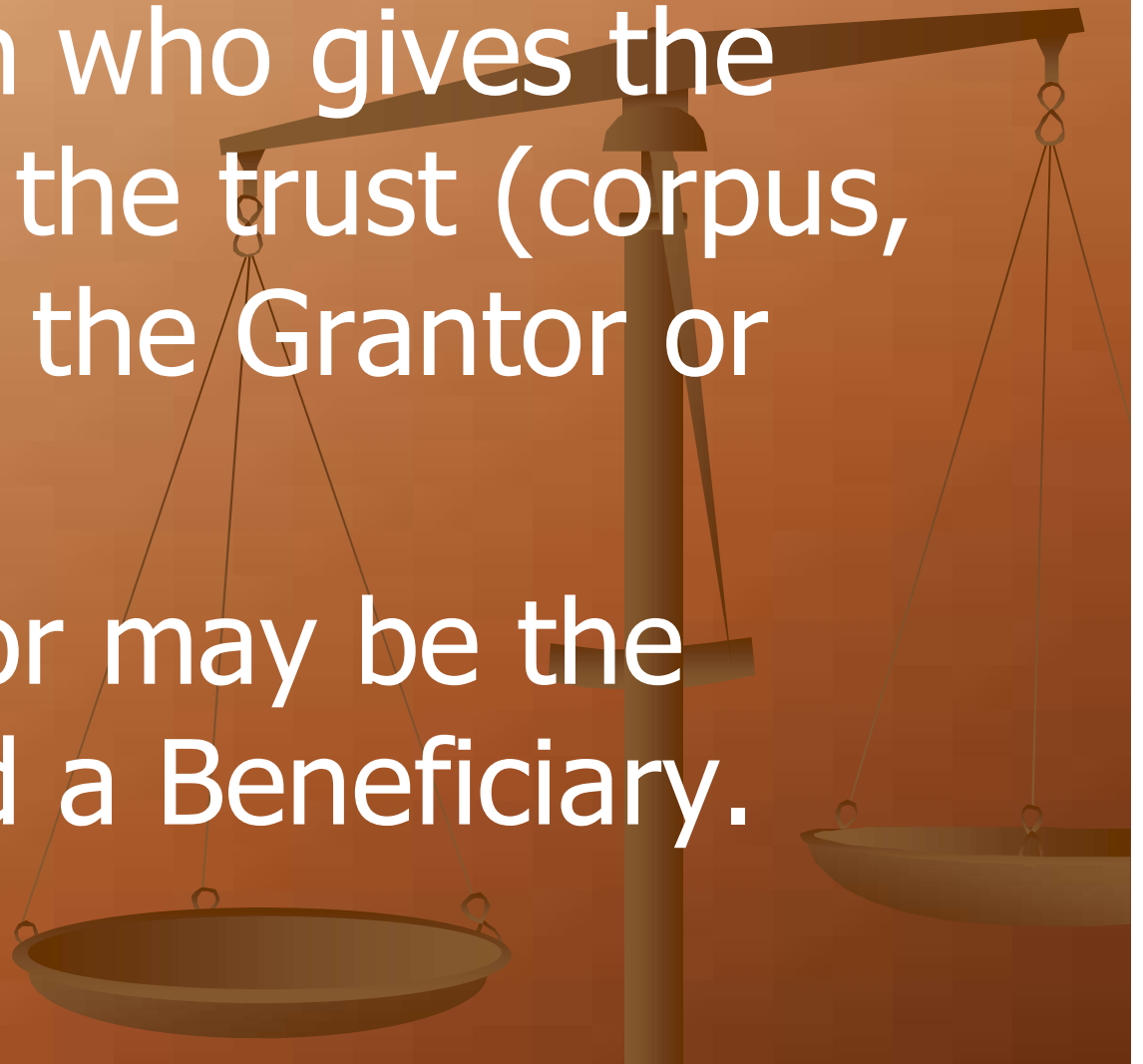
Trusts

- Types:
 - Inter Vivos (Living) And
 - Testamentary (Will)
 - Trust may be Revocable or Irrevocable.



Trusts

- The person who gives the property to the trust (corpus, principle) is the Grantor or Settlor.
- The Grantor may be the Trustee and a Beneficiary.



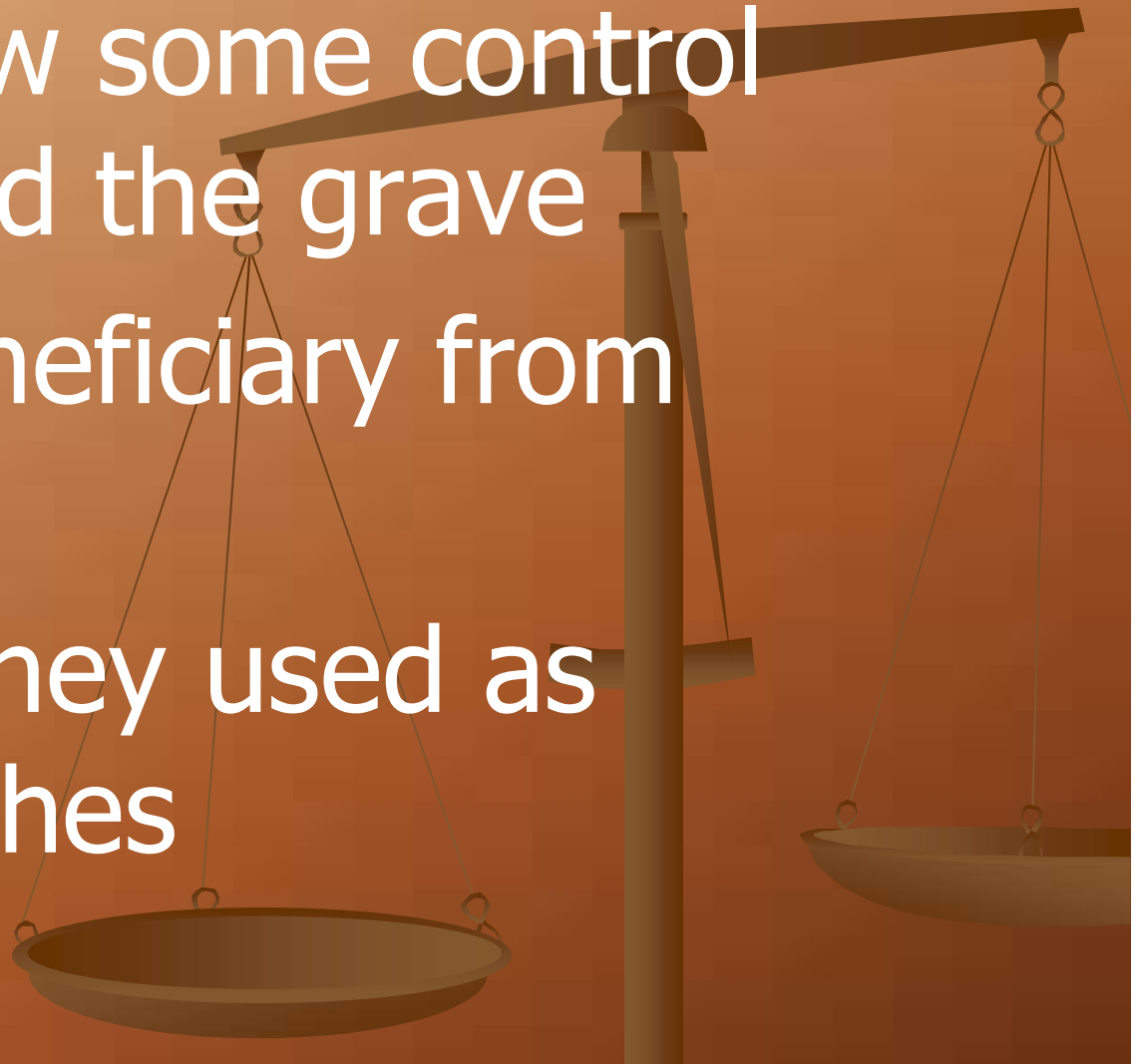
Trusts

- Trusts are excellent tool for:
 - Incapacity planning
 - Business Succession Planning
 - Quick, private non-probate transfers



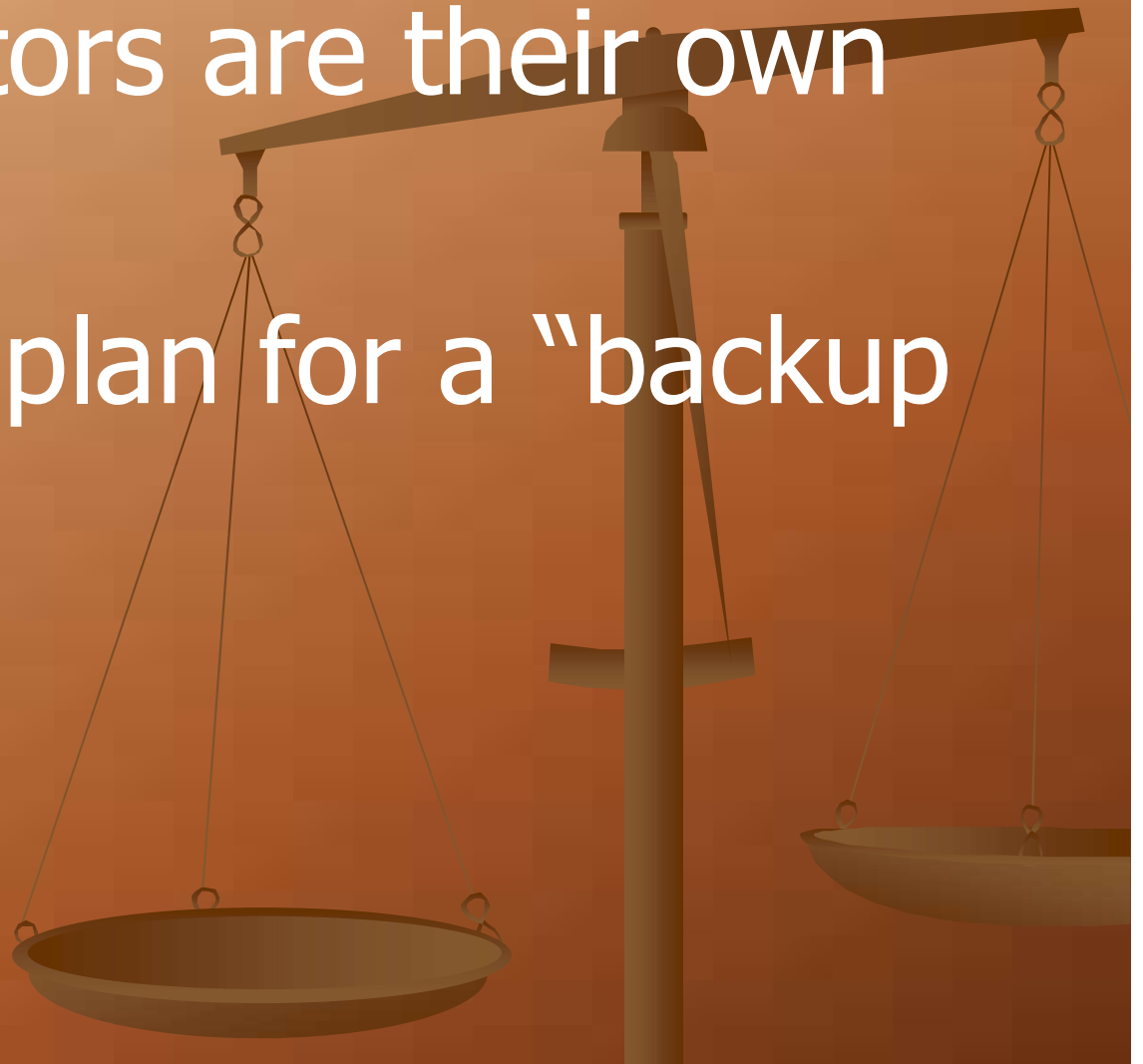
Trusts

- Trusts allow some control from beyond the grave
- Protect beneficiary from himself
- Assure money used as Grantor wishes



Trusts

- Most Grantors are their own trustees
- Be sure to plan for a “backup trustee”

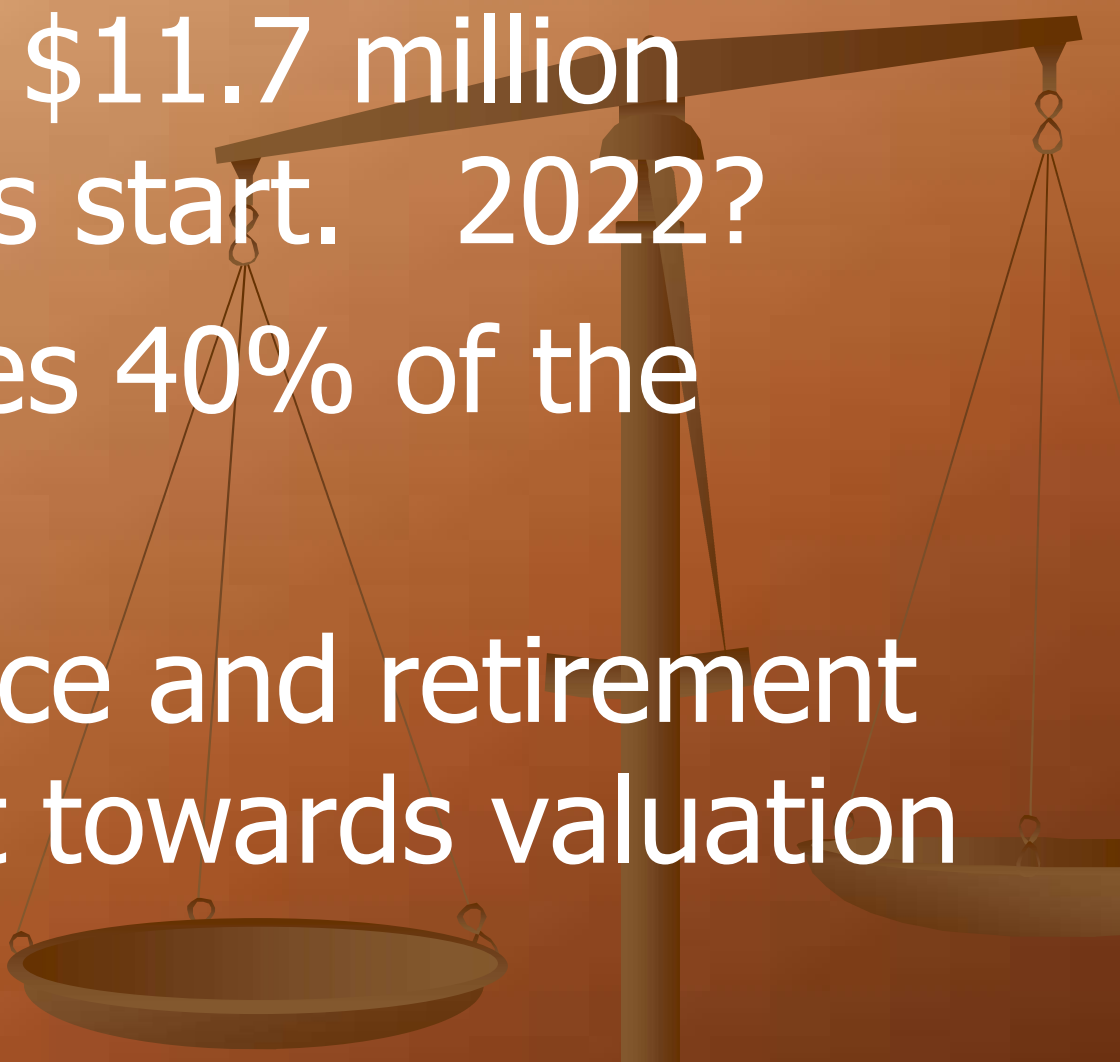


Use of Trusts

- Avoid Probate
- Asset Protection
- Special Needs
- Minor Children
- Income Tax Reduction
- Minimize Estate Tax

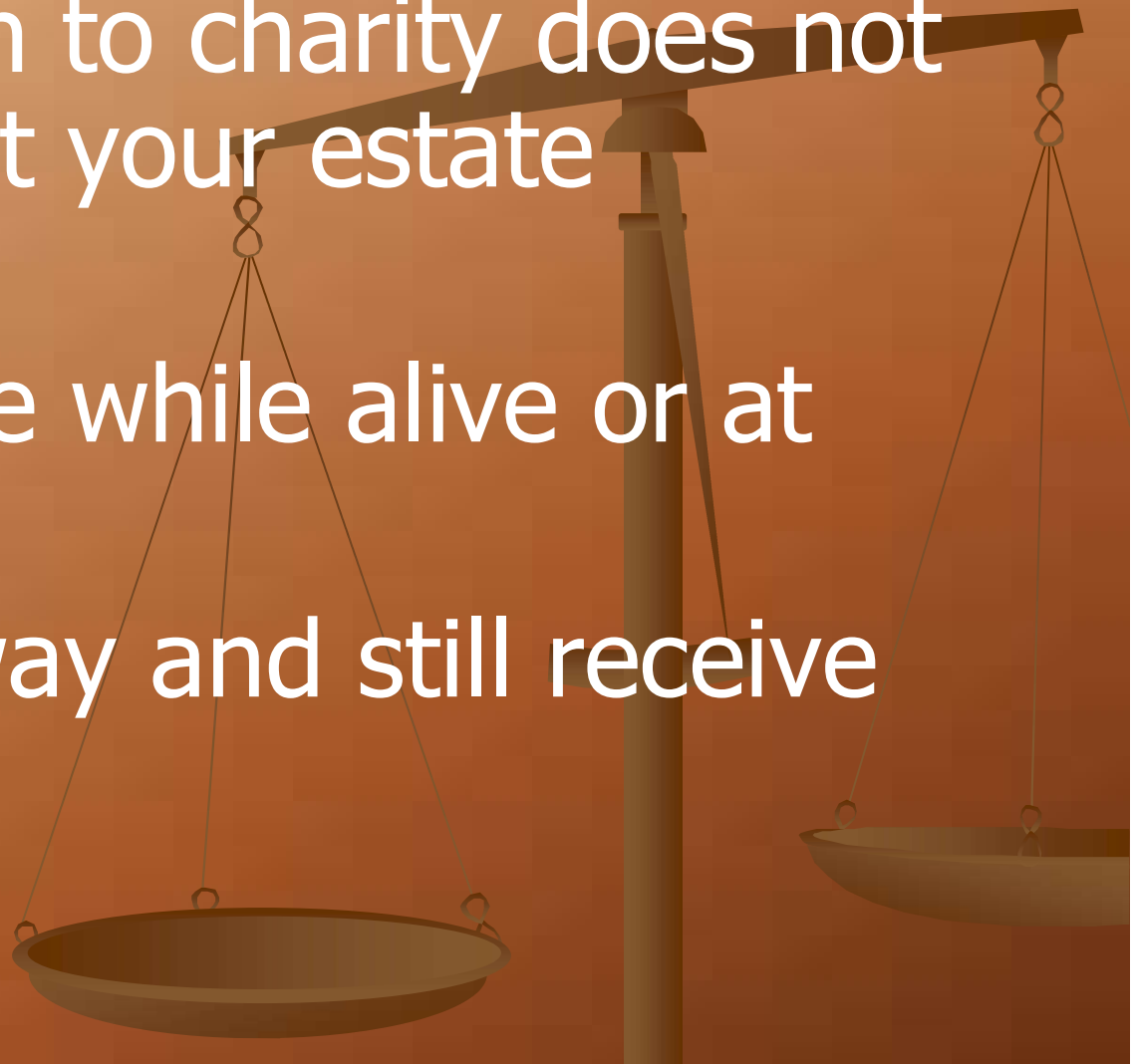


Taxes

- 2019 limit: \$11.7 million before taxes start. 2022?
 - Quickly takes 40% of the estate
 - Life insurance and retirement funds count towards valuation
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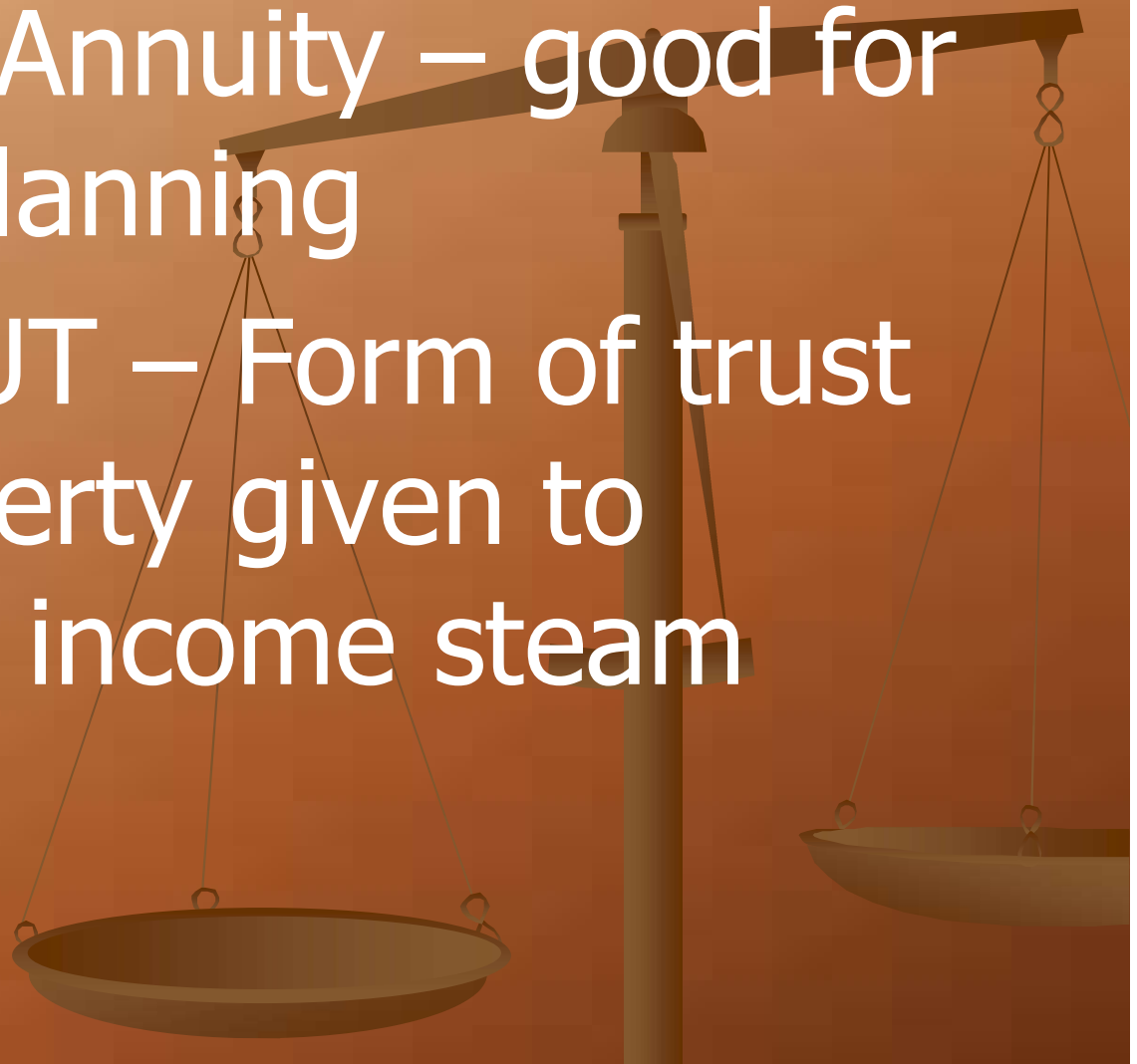
Charitable Giving

- Money given to charity does not count against your estate evaluation
- You can give while alive or at death
- Can give away and still receive money.



Charitable Giving

- Charitable Annuity – good for Medicare planning
- GRAT, GRUT – Form of trust where property given to charity, but income stream reserved



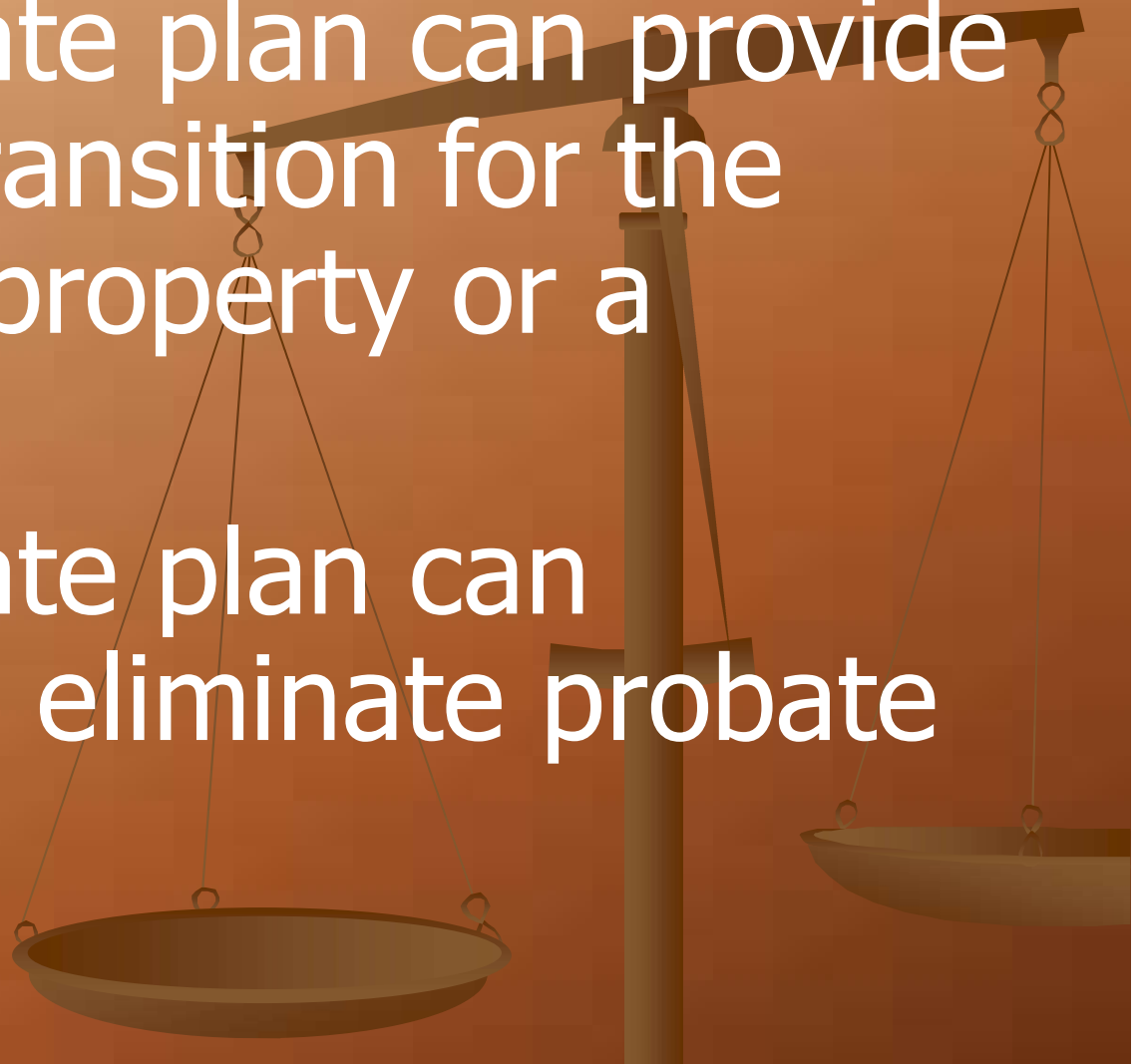
Summary

- Cost of an estate plan is cheap compared to costs of doing nothing
- Reduce or prevent family fights
- Reduce or prevent litigation



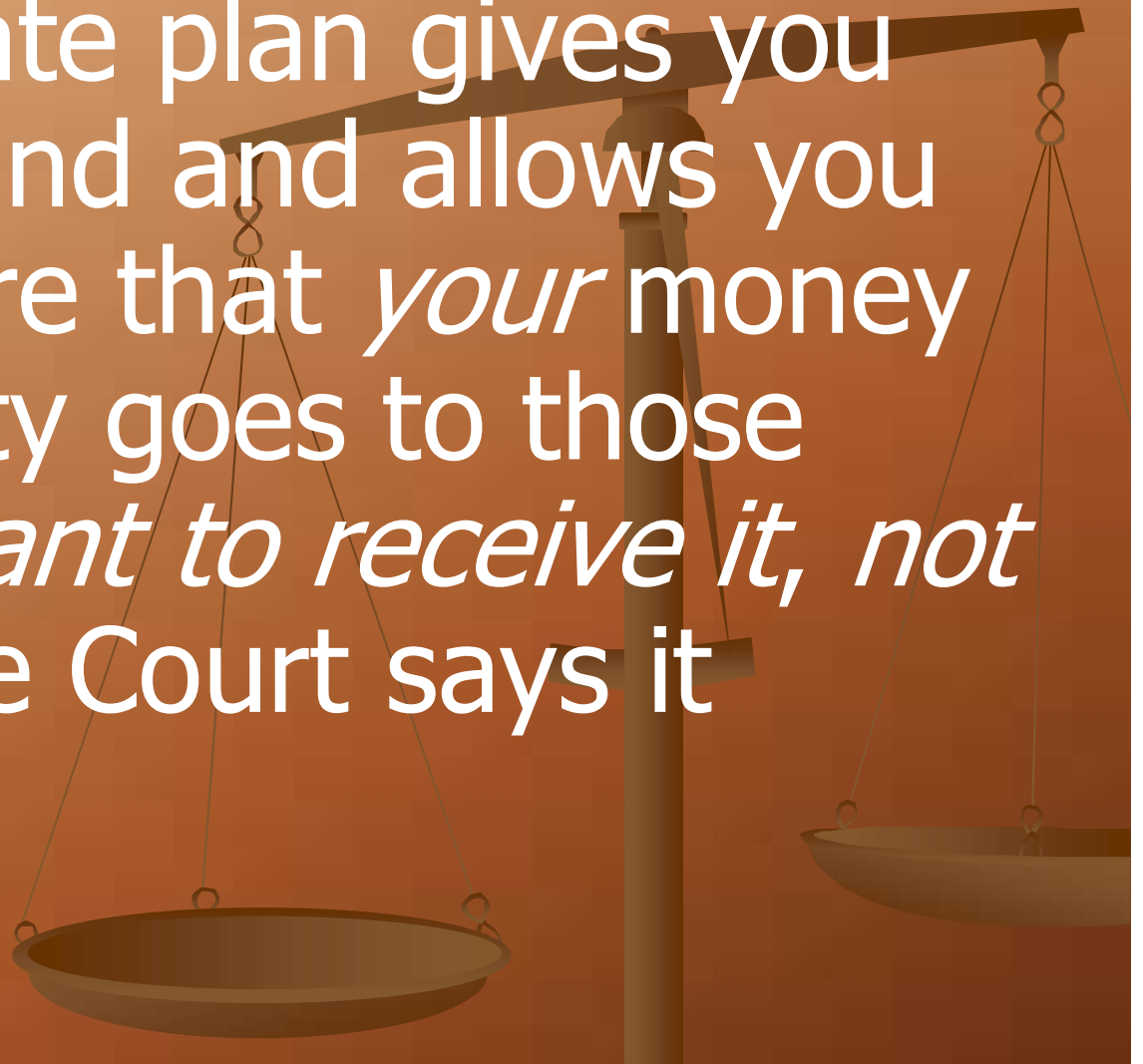
Summary

- A good estate plan can provide a smooth transition for the transfer of property or a business
- A good estate plan can minimize or eliminate probate costs

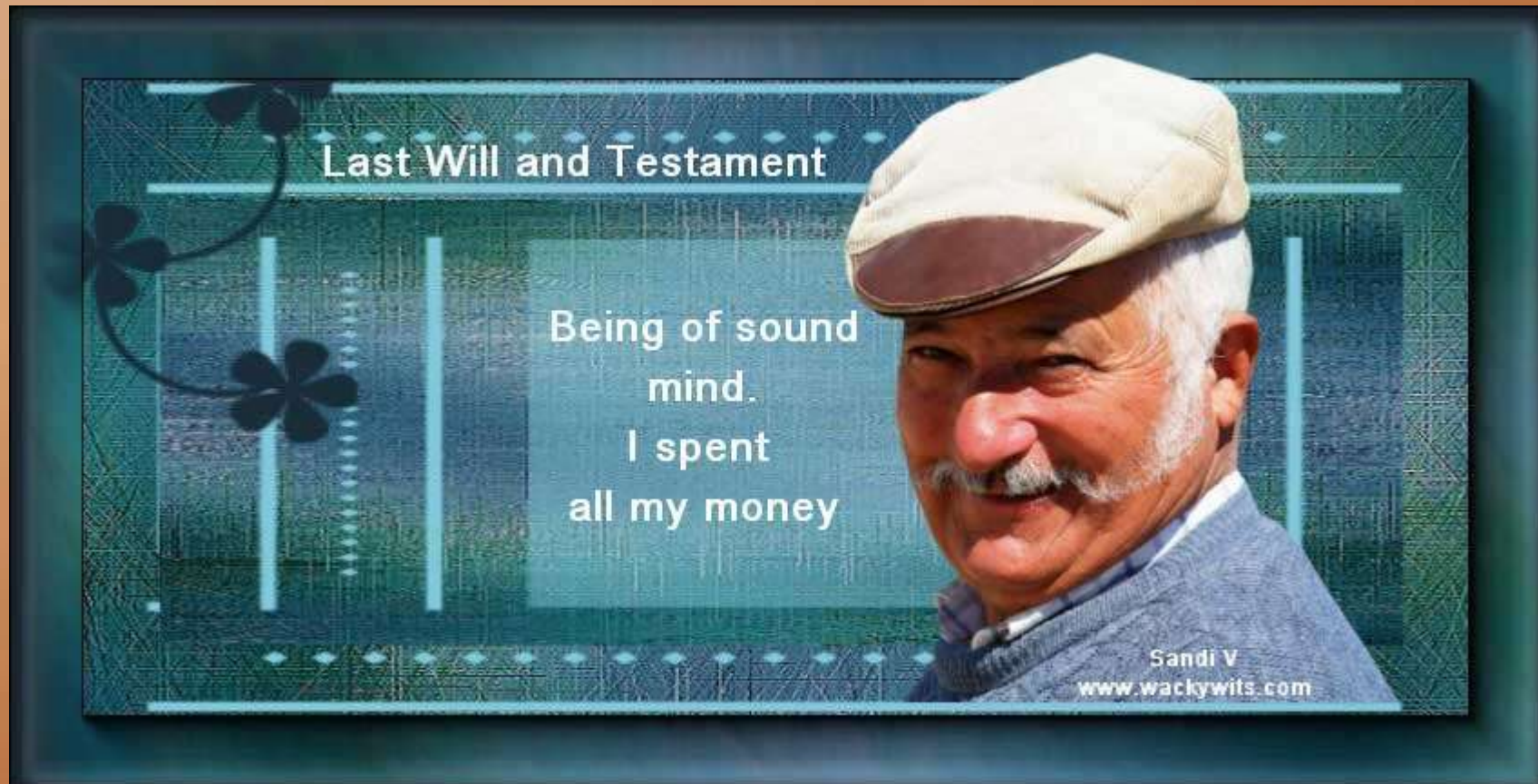


Summary

- A good estate plan gives you peace of mind and allows you to make sure that *your* money and property goes to those who *you want to receive it, not* where some Court says it should go



THEN THERE WAS THE GUY



Thank You!

