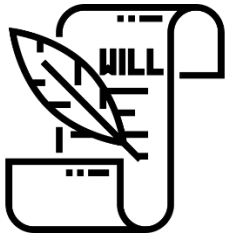
Type of law:
**CIVIL LAW**

**A 2023 Alberta Guide to the Law**

# Wills
# Personal Directives
# Powers of Attorney

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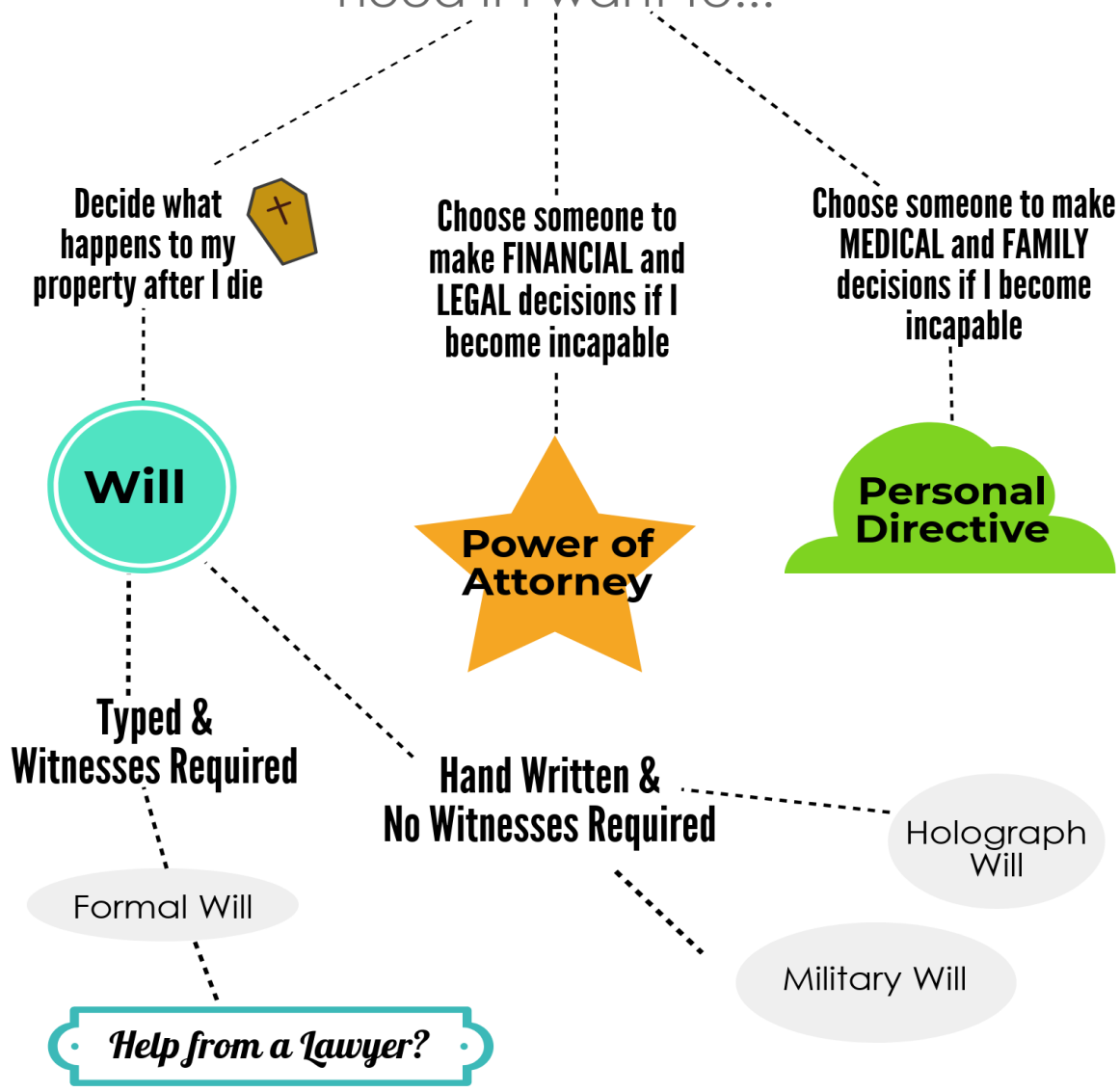


## What if I die without a will?

If you do not have a will OR the will is incomplete OR lacks the necessary formalities, any property that is not dealt with in the will is distributed according to the Alberta Wills and Succession Act.

This act can be found online at http://www.qp.alberta.ca

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## Legislation Regarding Wills

The Alberta legislature has made significant changes to the laws governing wills and estates. The *Wills and Succession Act* combines the old laws dealing with wills, support for surviving dependents, and the distribution of intestate estates into one act. Specific sections of the new Act only apply if the will was made after February 1, 2012. If you wrote a will before February 1, 2012, it is generally recommended that you review it to see if the changes affect you or seek legal counsel to determine how you may be impacted.

The *Trustee Act* and the *Estate Administration Act* also concern the rights of an individual regarding the making and execution of a will. The *Trustee Act* sets out how trustees, acting under a will or other trust, must carry out their duties. The *Estate Administration Act* governs the tasks required for the personal representative to carry out the administration of the estate. If you are a trustee or personal representative under a will you can consult these Acts in order to know your responsibilities and how to carry them out.

## Important Terms 

**Administrator:** Fulfills the role of a personal representative but is appointed by the Court when a personal representative is not named by the testator in their will or the named personal representative cannot serve their duties as such or no will exists.

**Adult Interdependent Partners:** A partnership that imposes some but not all of the obligations and benefits of marriage.

- Previously referred to as “Common Law” partners in Alberta.
- You can enter into an Adult Interdependent Partnership, regardless of gender, in any of these three ways:
    1. Live with that person in a “relationship of interdependence” for at least 3 years continuously.
        a. A “relationship of interdependence” means that two people:
            i. Share in one another’s lives;
            ii. Are emotionally committed to one another; and
            iii. Function as an economic and domestic unit.
    2. Live with that person in a “relationship of interdependence” that is somewhat permanent where there is a child by birth or adoption.
    3. Make an adult interdependent partner agreement with the other person.

**Beneficiary:** An individual who is entitled to the estate, or a portion of the estate.

**Estate:** ALL the property owned by a person at the time of that person's death.

**Family Members** (previously referred to as dependants)

- A child of the testator under the age of 18;
- A child who is at least 18 years of age and unable to earn a living because of a mental or physical disability;
- A child between the ages of 18-22 who are full-time students;
- A grandchild or great-grandchild, under 18, where the testator has assumed the role of a parent;
- A spouse; or
- An adult interdependent partner.

**Intestate:** A person who dies without allocating their property in a will.

- Complete intestacy: occurs when a person has not allocated any of their property through a will.
- Incomplete intestacy: occurs when a person has only allocated a portion of their property through a will.
- A person who dies intestate in Alberta AFTER February 2012 will have his or her property distributed in accordance with Part III of the *Wills and Succession Act* (see the section on Dying Without a Will for more information).

**Minor:** Persons under 18 years of age.

**Net Value:** The value of the testator's estate after payment of the charges, debts, funeral expenses, and administration expenses arising from the estate.

**Personal Representative (Executor):** A person named by the testator to gather the assets (property) of the estate, pay all outstanding debts of the estate, and ensure the distribution in accordance with the terms of the wills.

**Simultaneous Death:** Occurs when two or more deaths occur at the same time, or when it is uncertain which person died first. When this happens, if the will does not demonstrate a contrary intention, *courts will distribute the property as if one person died before the other(s)*.

**Testator:** A person who made a will and whose estate is to be distributed according to the provisions in the will.

**Trustee:** Person that holds and administers property or assets for the benefit of a third party (beneficiary).

## What is a Will?

A will is a written legal document(s) that establishes how a testator's property will be divided when the testator dies. All wills must be in writing and be signed by the testator making it apparent that the testator intended for the written document to be the will. A will must follow the formal requirements specified in the *Wills and Succession Act* to be valid.

Having a will is important because it can ensure that your property will go to those whom you want to receive it after your death. Any property not dealt with in a will shall be distributed in accordance with Part III of the *Wills and Succession Act* (see the section *Dying Without a Will* for more information).

There are a few situations where a person's will can be overridden. A court can alter a will to provide for the proper care and support of family members (see the section *Application for Maintenance and Support of a Family Member* for more information). Also, creditors (people to whom the testator owes money) are to be paid before any beneficiary receives any property from the will. Therefore, the value of the estate will be decreased in accordance with its debts, before being distributed.

There are 3 types of wills in Alberta:

1. Formal Wills;
2. Holograph Wills; and
3. Military Wills.

## Formal Wills

Formal wills are generally written with the help of lawyers.

A formal will requires certain formalities to be valid. The formalities include:

1. The will must be in writing.
2. The will must be signed, either by the testator or someone on behalf of and in the presence of the testator.
    a. The signature must be placed in a way that it is clear that the signature applies to all of the writing in the will. The signature is usually at or near the end of the document.
    b. A signature will not give effect to provisions made underneath the signature or that were added to the document after it was signed.
3. A formal will requires two witnesses to be valid.
    a. Witnesses can either be present to watch the testator sign their will, OR the testator can sign the will alone and then later acknowledge to

the witnesses that they have signed the will. However, the witnesses must both be present when the acknowledgement is made AND the witnesses must sign the will in the presence of the testator.

These formalities safeguard against fraud, forgery, and third-party pressure. The formalities establish the intention of the testator to create a will and help to highlight the seriousness and importance of making a will. A formal will that does not have these formalities is invalid.

## Holograph Wills

Holograph wills are entirely handwritten by the testator and signed by them. No witnesses are required. There CANNOT be any typing in a holograph will. Because they are informal, holograph wills are often incomplete.

Common problems associated with holograph wills include:

- A failure by the testator to distribute the entire estate (resulting in intestacy).
- Being difficult for a Court to interpret.
    - Often the testator does not have enough legal knowledge to make their intentions clear. To reduce uncertainty, some people use phrasing like: “I bequeath when I die…”

Holograph wills are often appropriate in emergencies when people do not have time to create a formal will.

## Military Wills

Members of the Canadian Armed Forces or any other naval, land or air force may make a will using a written document signed by themselves or by someone on their behalf. No witnesses are required to create this type of will.

The formal requirements are:

1. It must be signed either by the testator or an agent of the testator.
    a. If a person signs the will on the testator’s behalf, the person must be in the presence of the testator and do so at the direction of the testator.
2. The testator must be on **active service** (employed full-time by the military) at the time the will is created.
    a. For proof of active duty, Courts may obtain a certificate signed by the officer who has the records of the person at the time that the will was

made. This document must state that the person was in active service at the time of the will's creation.

OR

b. If this certificate is not available, a testator may be deemed to be in active service if they took steps to get ready for active service under the orders of a superior officer.

## Mutual & Joint Wills 

**Mutual Will:** A will executed by a married or committed couple that is mutually binding. After one party dies, the remaining party is bound by the terms of the mutual will.

Requirements for a mutual will:

1. Disposition of mutual property by two individuals (usually committed/married couple) according to an agreed upon will.
2. The parties intend to create a mutual will. This intention must be precise and certain.
3. Each person must leave everything in their estate to the surviving individual.
    a. After the death of the surviving member, the property is disposed of to the agreed-upon persons according to the identical wills.
4. Both individuals agree to not alter or revoke the will without the consent of the other.
    a. The promise not to revoke may not be absolutely binding. If reasonable notice is given to the other party that one person wants to change or revoke the mutual will, the Courts may accept this revocation.

**Joint Will:** A will contained in a single document, executed by two or more testators, disposing of either of their separate properties or their joint property.

Requirements for a joint will:

1. Each party signs the <u>one document</u>.
2. By signing the document, both parties demonstrate their intention to be bound by the will and their intention not to revoke the will.
3. To revoke a joint will, reasonable notice must be given to the other person.

There is a common issue with both mutual and joint wills—it is very difficult to ensure that all parties involved can sufficiently express their wishes in the will.

Instead, it is usually considered easier and more effective to draft your own, separate will to ensure that your interests are represented.

## Application for Maintenance & Support of a Family Member

If a testator has not made adequate provisions for proper care and support of their family members (for example: the testator failed to leave anything to their minor children), the family members can make an application for maintenance and support under the *Wills and Succession Act* s. 88.

The appropriate amount of maintenance and support is determined by considering all the circumstances of the applicant.

Factors Include:

- The nature and length of the applicant's relationship with the deceased;
- The applicant's age and state of health;
- The applicant's ability to support themselves;
- The estate's legal obligation to support any other family member;
- The deceased's reasons for making or not making dispositions of property; to the applicant (including any signed written reasons);
- Any relevant agreements or waivers made between the deceased and the applicant;
- The size and nature of the estate;
- The nature and number of gifts made to entitled beneficiaries from the deceased's estate;
- Any trust properties that the deceased intended for the applicant or other beneficiaries to benefit from; or
- Any property or benefit that the applicant is entitled to receive under other legislation (*Family Property Act, Dower Act*, other sections of the *Wills and Succession Act*).

Who Can Apply for Maintenance & Support?*

- Spouses, partners, and children under 18;
- Children over 18 who are physically or mentally disabled;
- Adult children under 22 who are full-time students;
- Minor grandchildren or great-grandchildren who were dependent on the deceased; or
- A representative applying on behalf of a dependent (for example, a legal guardian applying on behalf of a minor or an incapacitated person).

*The criteria listed above only apply in situations where the testator died after February 1, 2012. Please consult the *Dependents Relief Act* for testator deaths

between June 1, 2003 and February 2012. Consult the *Family Relief Act* as it read before being amended for cases of death occurring on or before June 1, 2003.

## The *Dower Act*

A spouse may be entitled to part of the testator's estate, despite conflicting provisions in the testator's will. Under the *Dower Act*, a spouse is entitled to a life estate in the "homestead". A life estate is the ownership of land for the duration of the surviving spouse's life. A homestead is any home in which both individuals lived during the marriage. This law applies even if the home is owned by only one of the spouses. If the testator owned more than one home, the surviving spouse must choose one.

The **surviving spouse** is entitled to live in the home for the rest of their life and is generally only responsible for ordinary recurring expenses (water, heat, taxes, lawn care, etc.).

When the surviving spouse passes away, the home will go to **the beneficiary** that the testator named in the will. The beneficiary is generally responsible for the other expenses (e.g. a major roof repair).

For example: If John and Jane were married and lived in a house together, that house is the homestead. John passed away and left the house to his son Jack in a will; however, because of the *Dower Act* provisions, Jane will still be allowed to live in the house. Once Jane passes away, Jack will own the home. In the meantime, Jane is only required to pay ordinary recurring expenses. Jack will have to pay any other expenses. If John and Jane had more than one homestead, Jane can only choose one of those houses to live in.

**If there is a conflict between the *Wills and Succession Act* and *Dower Act*, the *Dower Act* is paramount. This means the *Dower Act* may override the terms of a will.**

## Making a Will

Making a will is optional and voluntary. In Alberta, any adult (over the age of 18) who is mentally capable can make a will. A person under the age of 18 can make a will if they have a spouse or adult interdependent partner, are a member on active service with the Canadian Forces, or have the Court's permission.

There are 3 ways to make a will:

1. Retain a lawyer to draft one for you;
2. Purchase and complete a do-it-yourself Will kit; or
3. Write a will entirely in your own handwriting (holograph will)

Lawyers have expertise in drafting wills to help you have your intentions realized correctly and deal with other matters such as trust or tax consequences. Consulting a lawyer may be useful if you have a large complex estate (e.g. own your own business or have children living outside of Canada), are separated or getting a divorce, thinking about getting married or when your mental capacity may be challenged.

A will must be in writing and signed. Additionally, a formal will must be signed by two witnesses. No witness is required for a holograph or military will.

## Altering a Will

A will can be changed. However, the same formalities required to create a will must be followed when making alterations:

- Formal wills require the signature of two witnesses;
- Holograph wills require the testator to handwrite the alteration and sign the document;
- A will may be altered by another will made by the testator; and
- A court may make an order under s. 38 of the *Wills and Succession Act* to validate an alteration that is otherwise invalid.

If the document is physically changed (e.g. a name is removed), and the change is not done following the correct method of alteration for the type of will, then the court may allow for the original words of the will to be determined and restored by any means the court decides appropriate. This also applies to changes to a will that make part of it illegible.

A "**codicil**" is a separate document used to modify a will. It can be used to make minor changes, such as adding, deleting, or changing an existing provision, while leaving the remainder of the will intact. The codicil must refer to the will it is amending and it must be dated, signed, and witnessed in the same way as the will. A testator may make more than one codicil.

Situations where a will might be reviewed and altered are when one becomes separated, divorced, have children, their financial situation changes or there is a death in the family.

## Revoking a Will

A will can be revoked by the testator at any time so long as the individual has the mental capacity to do so and it is done voluntarily and intentionally. A testator can demonstrate an intention to revoke their will by:

- Making a written declaration of their intention to revoke a will;
- Making another will (the newer will revokes the older one); or
- Performing an act of destruction (burning, tearing, shredding the will).
    - The testator must fully destroy the will with the intention of revoking it or give direction to another person to destroy the will.

**Also note the special provisions for revoking a mutual or joint will as discussed above.

Generally, if the testator makes a will and before they die they end a marriage or adult interdependent relationship, the provisions in the will giving property or general or special power of appointment to the former spouse or adult interdependent partner is revoked. Gifts to ex-spouses or former adult interdependent partners are generally presumed to be revoked if the parties were divorced or ceased to be interdependent partners before the testator's death. If the beginning or breakdown of the marriage/relationship occurred prior to February 1, 2012, consult the *Wills and Intestate Succession Act* to see how the old rules apply.

NOTE:getting married or starting an adult interdependent partnership no longer automatically revokes a will (if the marriage or new relationship began after February 1, 2012). Additionally, the revocation of a will does not revive any earlier will.

## General Issues

The Testator

A testator must have the mental capacity to make a will. This means the testator must understand:

- What a will is;
- That they are making a will
- What property they have to dispose of;
- The identity of the beneficiaries; and
- The ability to consider the relationship between the beneficiary and the property they are receiving

It is a good idea to write your will while you are still in good health. A grave illness or mental infirmity can raise issues with your mental capacity. An individual may have capacity some of the time, while not having it at other times.

If you are unsure whether the testator has the mental capacity to make a will or had it at the time the will was created, you can consult with the testator's doctor or have legal counsel address the matter.

If the testator loses mental capacity after the will is made, the will is still valid. However, if the testator did not have the mental capacity at the time the will was made, then that will is invalid. In such cases, the testator will die intestate if they did not have a prior valid will.

Witnesses

If beneficiaries or spouses act as witnesses to the will, the gifts to them are void. However, if only two witnesses are required and the beneficiary signs as a third witness, their gift is still valid. Where no witnesses are required, as for holograph and military wills, a beneficiary may sign as a witness.

A will is not invalidated because one of the witnesses was, or has since become, incompetent (lacks capacity to understand the document because of mental or physical disability).

If your will is not signed by the requisite number of witnesses, as required by the *Wills and Succession Act,* it is invalid. Therefore, you may die either intestate or the courts may honour a prior valid will.

Minors

Generally, minors cannot make a will, unless they:

- Have or had a spouse or adult interdependent partner
- Are on active service with the Canadian Military Forces; or
- Have approval from the Court.

A minor may apply to the Court to make a will under s. 36 of the *Wills and Succession Act*. In the application, a minor must demonstrate that they have the mental capacity to make a will, the will reflects the minor's intention, and the request is reasonable.

Informing Others About Your Will

Informing other people that you have written a will and where it is located can help ensure that your intentions are followed upon your death. It may also be a good idea to keep a list of all your property (including debts) with your will to make sure that all your property is found and distributed.

Wills are often stored in a safe location because if they are lost or destroyed then it cannot be used to distribute your property. If this occurs, the rules used for people who die intestate (discussed below in *Dying without a Will*) will be applied instead.

## Dying Without a Will

A person is "**intestate**" if part or all their estate is not disposed of in a will upon their death. In Alberta, an intestate estate is distributed under Part III of the *Wills and Succession Act*. **The rules below apply to deaths that occurred after February 1, 2012.** For deaths that occurred prior to February 1, 2012, please consult the *Intestate Succession Act*.

If a person dies:

a. **With a surviving spouse or adult interdependent partner but no children** then the entire estate passes to the surviving spouse or adult interdependent partner;
b. **With a surviving spouse or adult interdependent partner and surviving children:**
    i. If the children are also the children of the surviving spouse/adult interdependent partner, then the entire estate goes to the surviving spouse/adult interdependent partner;
    ii. If the children are not descendants of the surviving spouse/partner:
        a) The surviving spouse/partner receives $150,000 or 50% of the estate, whichever amount is larger;
        b) The remainder is distributed between the children;
c. **With both a surviving spouse and an adult interdependent partner, AND**
    i. No children → the estate will be divided with ½ going to the spouse and ½ going to the adult interdependent partner;

ii. With children → the amount of $150,000 or 50% of the estate, whichever is greater, will be divided 50/50 between the spouse and the adult interdependent partner;

d. When the testator and the surviving spouse have been living apart for at least 2 years at the time of the testator's death, OR have a "declaration of irreconcilability" under the *Family Law Act*, OR are under an agreement showing the intention to end the marriage, the surviving spouse is not entitled to any gifts from the testator's estate;

**e. Without a surviving spouse but with children still alive**

i. Each child receives a share of the estate according to the number of living children;

ii. Each deceased child receives a share of the estate to be divided among the deceased child's descendants;

**f. Without a surviving spouse, adult interdependent partner or surviving children**

**i.** The entire estate will pass to the testator's parent(s);

**ii.** If no parents are still alive, the entire estate will be split evenly amongst the deceased parents' descendants;

**iii.** If there are no living relatives from the parental line, then the estate will be split 50/50 through your maternal and paternal grandparent lines (starting with your grandparents then moving to aunts/uncles, then cousins);

**iv.** If there are no living relatives from one side (maternal or paternal), 100% of the estate is passed down to the descendants on the other side;

**v.** If there are no living relatives from either grandparent line, the estate passes 50/50 to the maternal/paternal great grandparents, or if deceased to the descendants of those great-grandparents (ending with great aunts/uncles);

**a)** If there are no living great grandparents or descendants of them on one side, then the entire estate is passed down to descendants on the other side;

**vi.** If a relative (or person entitled to the estate) cannot be found within 2 years, then the net value of the estate will pass to the government. A beneficiary can come forward to claim the property within 10 years of the estate being transferred to the government. After 10 years, the remaining property belongs to the Crown.

## Personal Directives

A personal directive is a legal document that gives a person (agent) authority to make all non-financial decisions on your behalf, including medical decisions and who shall temporarily care for and educate any minor children.

A personal directive may include information and instructions on matters like:

- Who will act as your agent and the authority conferred to them;
- Who will determine your capacity;
- Who is and is not to be notified when the personal directive has come into effect; and
- Who may access your confidential information.

A personal directive comes into effect when the maker lacks the capacity to make decisions regarding a certain matter. Personal directives only operate while the maker remains incapacitated, is still living, if there is no deadline or other document revoking the directive, or if the Court decides that the directive ceases to have effect. If you do not have a personal directive, in emergency situations, a health care provider can provide emergency medical services without your consent.
If you are appointed as an agent under a personal directive, then you will have certain legal obligations that you must fulfill. Lawyers can provide guidance regarding your role as an agent.

The *Personal Directives Act* governs personal directives made after December 1, 1997. Anyone over the age of 18 who understands what a personal directive is and its effects can make one.

<u>Requirements</u>

To be valid, a personal directive must be <u>in writing, signed and witnessed</u>. If you cannot physically sign the personal directive, someone else can sign it on your behalf in the presence of a witness.

The following persons may not sign a personal directive on behalf of the maker:
the person designated as an agent
the spouse/adult interdependent partner of a person designated in the directive as an agent.

The following persons may not witness the signing of a personal directive:

- a person designated as an agent in the directive
- a spouse/adult interdependent partner of a person designated in the directive as an agent

- a spouse/adult interdependent partner of the maker
- a person who signs the directive on behalf of the maker
- the spouse or adult interdependent partner of a person who signs the directive on behalf of the maker

A person can choose to register their personal directive for free with the Personal Directives Registry. When you register your personal directive, doctors can find out if you have a personal directive and how to contact your agent(s). You can register your personal directive by email (preferred), mail, fax or online. For complete registration steps and to find the Personal Directives Registry Registration Form, please visit: www.alberta.ca/personal-directive.aspx#toc-2

If you have registered your personal directive, remember to update the registry if:
- Your contact information changes
- Your agent's contact information changes
- You replace an agent

Capacity

A personal directive will come into effect when you no longer have the capacity to make decisions. A personal directive will cease to have effect if the maker regains capacity to make decisions (e.g. recover from an illness or injury) or passes away. If an agent and service provider disagree on the capacity of the maker, an additional service provider will be consulted to make a determination about the maker's capacity.

You may choose two service providers (at least one of which is a physician or psychologist) who can provide a written declaration that you have lost capacity.

Agents

Agents must be over 18 years of age and must have capacity to make personal decisions on the maker's behalf. There is no limit on the number of agents a maker can designate. If you have two agents and they cannot agree, the first agent listed in the person directive gets to make the decision. If there are more than two agents, the majority will make the decision.

Unless the agent has been given explicit authority in the personal directive, agents generally CANNOT make decisions about:
- Financial matters (requires Power of Attorney);
- Psychosurgery (defined in the *Mental Health Act*) which relates to certain medical procedures that directly or indirectly access the brain;

- Medically unnecessary sterilization;
- Removal of tissue from the maker's body for transplant or research; or
- Participation in medical research that offers little or no potential benefit to the maker.

Agents must follow the instructions of the personal directive and consult the maker before making a decision. If the personal directive does not have instructions, the agent must make decisions that they believe the maker would have made in the circumstance (based on the maker's wishes, beliefs, and values). If the agent does not know the maker's wishes, values, and beliefs, the agent must make a decision that they believe is in the best interest of the maker.

An agent or service provider won't be liable for a decision that is made in good faith. Good faith decisions reflect the best interests of the maker and are not motivated by self-interest. Actions performed in good faith do NOT disentitle an agent from a gift under the maker's will, the proceeds of the maker's life insurance policy, a share of the maker's estate, or maintenance and support orders.

Revoking a Personal Directive

An individual can revoke a personal directive if they understand the effect of doing so. A personal directive may be revoked by any one of the following:

- Reaching its expiry date (if you choose to include one);
- Destroying the personal directive document with the intention of revoking it;
- Creating a new personal directive that contradicts the earlier one; or
- Creating a document that expresses the intention to revoke an earlier personal directive.
    - This document must comply with all the formalities of a personal directive (in writing, signed, dated and witnessed).

Termination of a Personal Directive

In addition to the methods of revocation outline above, a personal directive will automatically terminate when you pass away. A personal directive will also cease to have effect when the maker regains capacity, or the Court determines it to end.

## Power of Attorney

A power of attorney is a legal document that gives a person the power to make financial and legal decisions on someone else's behalf. The

donor is the person who creates the power of attorney document, prepping for the possibility that someone else will need to manage their financial and legal decisions. For a power of attorney to be valid, the donor must have mental capacity (ability to understand the nature and effect of the document) at the date of execution. The attorney is the person who will receive the power to manage the finances and legal affairs of the donor. Any competent adult can be appointed as an attorney. Given that an attorney will be managing important aspects of a donor's life, when choosing one it is important to consider their trustworthiness and aptitude to manage your finances and legal matters.

Power of attorney's are personalized. Your level of involvement and your attorney's level of responsibility is up to you. You may grant your attorney general powers to act with very few restrictions or the power to act for a specific purpose only (e.g. selling a house).

It is also important to note that attorney's do not become the owners of any property, they simply manage it and make decisions on your behalf.

Although it is possible to create a power of attorney without the help of a lawyer, they can advise on how your rights will be impacted and draft the document to ensure that your intentions are realized properly.

Types of Power of Attorney's

In Alberta, there are two types of powers of attorney:

- General Power of Attorney; and
- Enduring Power of Attorney.

A general power of attorney is usually just called a power of attorney and is only valid while the donor has mental capacity. If the donor loses mental capacity, the power of attorney ceases to have effect.

An enduring power of attorney is similar to a general power of attorney, but will continue after the donor loses mental capacity. An enduring power of attorney can take effect either immediately, when the donor becomes mentally incapacitated or on an event that the donor specifies in the document.

Formalities

A properly drafted power of attorney must:

- Be in writing;
- Be dated;

- Be signed by the donor in the presence of a witness or if the donor is physically unable to   sign, be signed by another on their behalf in the presence of both the donor and witness; and
- Be signed by a witness in the presence of the donor.
- If you are drafting an enduring power of attorney, then it must also contain a statement indicating when the power of attorney will take effect.

Altering/Revoking a Power of Attorney

The donor can alter or revoke a power of attorney at any time as long as they have mental capacity. If altering a power of attorney, all the formalities listed above must be followed. When altering or revoking your power of attorney, it is important to notify the attorney and others who may be affected.

Termination of a Power of Attorney

Unless it is irrevocable, an enduring power of attorney terminates when:

- The donor revoked the power of attorney in writing when they have capacity;
- The person named as attorney rejects their appointment and informs the donor;
- The donor or attorney dies;
- The Court grants a trusteeship order respecting the donor or attorney; or
- The Court grants a termination order for the power of attorney.

A general power of attorney automatically terminates when the donor loses mental capacity.

## Where Can I Get Help Or More Information?

| **Canadian Legal FAQs** | **Contact:**<br>**Web:** www.law-faqs.org |
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This website provides information on a number of legal topics, including: wills, personal directives, and enduring power of attorney.

| **Lawyer Referral Service** | **Contact:**<br>**Toll free:** 1-800-661-1095 |
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When you call, you will speak to an operator and you will describe the nature of your problem to them. The operator will then provide you with the contact information for up to three lawyers who may be able to assist you. When contacting these referred lawyers, make sure to let them know that you were given their information by the Lawyer Referral Service. The first half hour of your conversation with a referred lawyer will be free and you can discuss your situation and explore options.
**Note:** This free half hour is more for consultation and brief advice and is not intended for the lawyer to provide free work.

| **Oak Net** | **Contact:**<br>**Web:** www.oaknet.ca/planning |
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This website provides free information for older adults, including information on wills, power of attorney, and personal directives.

| **Centre for Public Legal Education Alberta (CPLEA)**<br>10050 112 St NW<br>Edmonton, AB T5K 2J1 | **Contact:**<br>**Ph:** 780-451-8764<br>**Web:** https://www.cplea.ca/ |
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CPLEA provides detailed legal information online to the Alberta public on various areas of the law.
**NOTE:** They do not provide legal assistance or advice or answer specific legal questions.

| **Civil Claims Duty Counsel** | **Hours of Operation:** |
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| Room 262, Provincial Court<br>1A Sir Winston Churchill Square<br>Edmonton, AB T5J 0R2 | Tuesday 10:00 to 2:00pm<br>Wednesday 12:00 to 4:00pm<br>Thursday 9:00 to 4:00pm |

Volunteer lawyers provide a free 30 minutes consultation regarding provincial court civil matters, including: Summary Legal Advice, Procedural Information, help preparing for trials, motions, and other appearances, and help completing forms. The services are offered on a first come first serve basis. *Only available to assist with provincial court civil matters. ***Excluded:** pre-trial conferences and mediations as well as corporate matters.

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| **Student Legal Services – Civil Law Project**<br>11036 88 Ave NW<br>Edmonton, AB T6G 0Z2 | **Contact:**<br>**Ph:** 780-492-8244<br>**Admin:** 780-492-2226<br>**Web:** www.slsedmonton.com |

The Civil Law Project of Student Legal Services consists of law students who can provide basic legal information on various topics in civil law, such as wills, landlord-tenant matters, employment, and certain small claims. They can also provide information about various resources available if you require more in-depth assistance.