



ēducaloi

MAKING A WILL

To Ensure That Your Wishes are Respected



Éducaloi is a Quebec non-profit whose mission is to make the law accessible, easy to understand, and easy to use in everyday life.

Important information:

This guide provides general information about the law in Quebec. To obtain advice tailored to your specific situation, contact a legal professional.

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Table of Contents

WHAT IS A WILL?	4
WHO CAN MAKE A WILL?	4
WHY MAKE A WILL?	4
DYING WITHOUT A WILL: WHO WILL GET YOUR PROPERTY?	5
WHAT SHOULD YOU INCLUDE IN YOUR WILL?	7
WHICH TYPE OF WILL SHOULD YOU USE?	10
HOW CAN YOU CHANGE OR CANCEL YOUR WILL?	17
RESOURCES	19

What is a will?

A will is a document that allows you to plan what will happen after your death. In your will, you can:

- Choose the people or organizations who will receive your money and the things you own.
- Choose someone to look after your affairs. For example, this person will have to prepare an inventory of your assets and pay your taxes.
- Choose someone to take care of your minor children and manage the inheritance that you leave them.

Who can make a will?

If you are at least 18 years old and are of sound mind, you can make a will. You must have legal capacity at the time of writing the will. This means that you are able to make decisions and understand what your will contains. You must not feel pressured to write or sign a will.

A person under 18 years of age can make a will only for property of little value (their clothing, keepsakes, etc.).

You cannot make a joint will with another person. The law requires that each person make their own will.

Why make a will?

A will makes sure that your wishes are respected, regardless of your family situation or your finances. For example, a will can take your investments or your business into account, and specify who you want to leave them to.

Preparing a will makes it easier for your loved ones to manage your affairs and can help avoid conflicts or misunderstandings among your heirs.

Dying without a will: Who will get your property?

If you do not make a will, the law decides who inherits your money and property. And what the law provides may be very different from what you want. For example, if you want to leave some of your property to a friend, the law does not provide for this. You would have to include this in a will.

To inherit from a person who does not have a will, you must have a family relationship with them or be related to them by marriage, civil union or parental union.

If you are in a common-law relationship, your partner will not inherit.



A common-law relationship is a couple where the two partners meet three criteria:

- They are not married or in a civil union.
- They do not have children born or adopted on or after June 30, 2025.
- They live together, meaning they share a life as a couple.

In Quebec, this is also sometimes called a “de facto union”.

Here are some possible scenarios for who will inherit when someone dies without a will.

People who are married, in a civil union or in a parental union

If you are married, in a civil union or in a parental union, your spouse will inherit at least 1/3 of your property. The rest will go to your children.

If you do not have children, your spouse will inherit 2/3 of your property. The rest will go to your parents, or to your siblings if your parents are deceased.

Common-law couples

Have you been living with your partner for two years without having children together? You are probably in a common-law relationship.

Your common-law partner will not inherit your property. It will go to your children, parents, or siblings.

Do you want to leave your common-law partner an inheritance? You have to put it in a will.

People who are single, divorced or widowed

If you have children, they will inherit all of your money and everything you own.

No children? Your property will be divided between your parents (50%) and your siblings (50%).

Blended families

All of your biological or adopted children are considered your heirs, even if they were born from different unions.

However, your spouse or partner's children are not your heirs. If you want to leave them something, you have to put it in a will.

People with no close relatives

Do you have no children, parents, siblings or nieces and nephews still living? Under the law, other members of your family can inherit. Examples include your grandparents, aunts and uncles, and cousins.

If no member of your family can be recognized as an heir, your property and money will go to the government. Quebec's tax agency, Revenu Québec, will handle your affairs.

What should you include in your will?

Your will can provide for several things to guide your loved ones after your death.

Choosing your heirs

You can choose to leave everything to one person, or you can leave it to several people and specify their share. These people are then considered your heirs. For example, you can leave all your property to your spouse and your children. You can also choose to leave your property and money to an organization.

You can leave a set of items or a specific item to one or more people. In Quebec, these people are then known as your “legatees by particular title”. For example, you can leave all your jewelry to your two cousins, or leave your car to your son.

Are you **married, in a civil union, or in a parental union**? At the time of your death, certain rules regarding the division of the family patrimony, your matrimonial regime, or the parental union patrimony may apply. You can consult a legal professional to learn more.



YOU CANNOT LEAVE YOUR PROPERTY TO CERTAIN PEOPLE

You have a lot of freedom when choosing who will receive your property. But the law sets limits!

For example, you cannot leave your money or property to these people:

- The notary who drew up your will.
- The witnesses who signed your will.
- A nurse who works in the residence where you have lived for several years.
- An animal, although it is possible to leave a sum of money to someone so that they can care for an animal.

The liquidator

In your will, you can name a liquidator, define what they have the power to do, and provide compensation for them.

This person must, for example, make an inventory of your assets and pay off your taxes and debts.

You can name a replacement in case the liquidator refuses or is unavailable.

You can also name several people as liquidators. They will have to make decisions together.



The **liquidator** settles the succession of the person who has passed away. You may have heard the term “executor” used to refer to the person named in someone’s will to settle their affairs. You may also have heard the term “estate” used to refer to the assets and debts of someone who has died. In Quebec, the official term for an executor is “liquidator”, and the official term for an estate is “succession”.

Who can be a liquidator?

Here are some examples of people or institutions who can be named to fill this role:

- one of your loved ones,
- a notary,
- a lawyer,
- a trust or savings company authorized by law to do this, including a financial institution.

A legal guardian

In your will, you can choose someone to take care of your minor children. In Quebec, this person is called a legal guardian or a tutor. You can also identify someone to replace them, in case the person you choose refuses or dies before you.

The person you choose will also manage the inheritance you leave to your children. They must follow certain rules when doing this. You can also name two different people: one to take care of your minor children and the other to manage their inheritance.

Your funeral

In your will, you can make certain requests related to your funeral. For example, you can indicate whether you want:

- a religious service or not,
- your body to be displayed or not,
- a cremation or a burial.

You can also talk to your family and loved ones about these requests. Your will may not be accessible immediately after your death. In this case, your wishes may not be respected.

Your digital assets

Don't forget to think about your digital assets! Examples include images stored in the cloud, subscriptions to streaming platforms, and social media accounts.

You can express your wishes related to the management of these assets in your will. For example, you can choose someone to maintain your Facebook, Apple and Google accounts or ask that they be deleted.

For more information, contact a legal professional.

Which type of will should you use?

There are three types of wills.

- 1) Notarial wills.
- 2) Wills made in the presence of witnesses.
- 3) Handwritten wills (also called a “holograph will”).



You cannot make a will using a video or audio recording.

In this section, you will find a description of each type of will, as well as their advantages and disadvantages.



DO YOU ALREADY HAVE A WILL, BUT IT WAS MADE OUTSIDE QUEBEC?

If your will was made outside Quebec (in another country or province), it can be recognized in Quebec. However, your loved ones will have to complete additional steps and pay certain fees to have your will recognized at the time of your death.

You can make a new will in Quebec to avoid complications. Your new will must specify that it replaces the old will.

1. Notarial wills

You can choose to make a notarial will. This will is signed in the presence of the notary who prepared it. A few meetings are sometimes necessary to prepare the will. A notarial will must be written in French or English.



ADVANTAGES

- A notarial will is more difficult to contest because notaries are public officers.
- Notaries can give you advice and answer your questions while preparing your will.
- Notaries must comply with the law when drafting your will.
- The original of your will is kept by the notary who prepared it. Your will is therefore protected against theft or loss.
- Notaries also register your will in a registry managed by Quebec's notaries' association, the *Chambre des notaires du Québec*. This allows the person handling your affairs to find it more easily.
- After your death, your will does not need to go through a process called probate. That means your heirs will have fewer fees to pay and fewer delays in settling your affairs.



DISADVANTAGES

- A notarial will usually costs several hundred dollars, and sometimes even more. A notary can give you more information about the fees applicable to your situation.
- There are also fees between \$7 and \$10 for your will to be added to the registry managed by Quebec's notaries' association, the *Chambre des notaires du Québec*.

2. Wills made in the presence of witnesses

A will made in the presence of witnesses can be prepared by you. You can also ask someone else to prepare it, such as a lawyer.

When choosing someone to prepare your will, keep in mind that they cannot inherit your property or money.



MAKING A WILL YOURSELF INVOLVES RISKS

Preparing a will without the advice of a notary or lawyer can cause problems after your death, and may lead to certain fees and delays for your loved ones. In some cases, the will could be difficult to understand, incompatible with the law, incomplete, or even declared invalid.

How can you prepare a will made in the presence of witnesses?

This type of will can be written by hand or using a computer. You can also use a template purchased in a store or on the internet.

The will can be drafted in the language of your choice, provided that the witnesses understand this language.



WILLS IN FOREIGN LANGUAGES

Your heirs will need an official translation in French or English for your will to be used after your death. If your will was prepared outside Quebec, the translation must be in French.

How do you sign the will made in the presence of witnesses?

When signing your will, you must show the document to your witnesses and state that it is your will. You must then sign your will and sign or initial each page in front of them.

After you sign, your witnesses will sign the will and sign or initial each page.



DO YOU HAVE DIFFICULTY READING?

You can ask one of your witnesses to read your will out loud in your presence and in the presence of the other witness.

How should you choose your witnesses?

Your witnesses must be at least 18 years old and cannot be your heirs. You are not required to choose a loved one. For example, your witnesses can be:

- friends,
- acquaintances,
- professionals, etc.

2. Wills made in the presence of witnesses



ADVANTAGES

- Preparing the will yourself is simple, quick and inexpensive. You can buy a template on the internet or in a store. The cost is lower than for a notarial will.
- You can ask another person to prepare the will for you.
- If a lawyer assists you in preparing your will, you can benefit from their advice.
- In this case, your will is kept by the lawyer and is added to the registry managed by the Quebec bar, the Barreau du Québec. That allows the person handling your affairs to find it more easily.



DISADVANTAGES

- If your will is prepared by a lawyer, you must pay their professional fees.
- Upon your death, the will must go through a process called probate to ensure that it is indeed your will and that it is valid. Probate can be done by a notary or by a court. This process takes time, and it costs a few thousand dollars. The cost includes the notary's fees, the court fees, and fees to notify the heirs.
- A will made in the presence of witnesses could be lost or destroyed by mistake, and there's no way to replace it.
- This will could be contested or considered invalid if it isn't clear or doesn't respect the law.

3. Handwritten will

Also known as a holograph will, this type of will must be written and signed by you. You must write it entirely by hand. You cannot use a form, a computer or any other technology.

A handwritten will can be drafted in the language of your choice.



WILLS IN FOREIGN LANGUAGES

Your heirs will need an official translation in French or English for your will to be used after your death. If your will was prepared outside Quebec, the translation must be in French.

3. Handwritten will



ADVANTAGES

- This type of will is simple, quick and free.
- You do not need witnesses for this will.



DISADVANTAGES

- Upon your death, the will must go through a process called probate to ensure that it is indeed your will and that it is valid according to the law. Probate can be done by a notary or by a court. This process takes time, and it costs a few thousand dollars. The cost includes the notary's fees, the court fees, and fees to notify the heirs.
- A handwritten will can be lost or destroyed by mistake.
- Writing your will yourself can lead to problems interpreting or understanding what you wrote after your death. Your will could also be contested or considered invalid if it doesn't respect the law.
- If your situation is complicated or you have a lot of money and assets, this type of will may be less appropriate.
- You could forget to include important information in a handwritten will. For example, you might name your heirs but forget to name someone to manage your affairs.

How can you change or cancel your will?

A will can be changed or cancelled. For example, you can change your will to reflect changes in:

- your family situation,
- your wishes,
- your financial situation,
- the law in the time since you made your will.

Changing your will

You can change your will in two ways.

Directly in your will

You can make a change by writing directly on your will or by attaching a separate document to your will. This type of change is called a codicil. The codicil will be considered at the same time as your will after your death.

The change to your will can be made by a notary, in the presence of two witnesses, or by hand (holograph). The codicil can be made in a different form than the original will. For example, you can make a handwritten codicil even if your will was made before a notary.

If your codicil isn't made by a notary, it will have to go through probate after your death. Probate can be done by a court or by a notary. This step can result in costs and delays.

A codicil can also cause issues related to interpreting or understanding your wishes. Another option is to make a new will that completely replaces the old one.

Making a new will

The new will must specify that it completely replaces the previous will. Upon your death, the new will is the one that will be used.

A new will that is not made by a notary will go through probate after your death. Probate can be done by a court or by a notary. This step can result in costs and delays.

Cancelling your will

You can cancel a will without making a new one. This is called revoking your will or a revocation. If you do this, it will be as if you did not have a will at the time of your death.

Revoking a will can be done by a notary, before two witnesses, or by hand (holograph). It can be done in a different form than the will it is cancelling. For example, you can prepare a handwritten revocation even if your will was made before two witnesses.

If the revocation of your will is not prepared by a notary, it will have to go through probate after your death. Probate can be done by a court or by a notary. This step can result in costs and delays.

For more information on wills and the law

Éducaloi

 www.educaloi.qc.ca/en/

Our website has more information about making a will and planning for the future. You can also consult or order guides and pamphlets on these topics.

 [Planning Ahead | Éducaloi](#)

 [Managing Someone's Final Affairs | Éducaloi](#)

 [Personal Autonomy | Éducaloi](#)

Publications to consult or order online:

 [Dealing with a Death and Settling an Estate | Guide | Éducaloi](#)

 [Estate Executors: Role and Responsibilities | Pamphlet | Éducaloi](#)

 [Planning Ahead: 10 Steps to Peace of Mind | Pamphlet | Éducaloi](#)

 [Dealing with the Aftermath of a Death | Infographic | Éducaloi](#)

Government of Québec: Information on wills

 <https://www.quebec.ca/en/>

Click on "Justice and civil status," then on "Will and estate."

In this section, you will find information on wills, successions and the Register of Unclaimed Property.

Quebec's notaries' association (Chambre des notaires du Québec)

 <https://www.cnq.org/en/your-notarial-services/wills-and-successions/the-will/#faq-8637>

Finding a notary

Quebec's notaries' association (Chambre des notaires du Québec)

You can search by language, region, whether their office is accessible, and whether they accept legal aid mandates.

 <https://trouverunnotaire.cmq.org/en/find-a-notary.html>

Finding a lawyer

Quebec bar (Barreau du Québec)

 Referral service: <https://www.barreau.qc.ca/en/general-public/access-justice/referral-services/>

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To obtain a free or low-cost consultation:

-  Montreal: 514-866-2490 (first 60 minutes of consultation for \$60)
-  Longueuil: 450-468-2609 (first 30 minutes of consultation for \$50)
-  Quebec City, Beauce and Montmagny: 418-529-0301, ext. 21 (first 60 minutes of consultation for \$60)

Free or low-cost legal resources

La boussole juridique

Directory of legal resources in Quebec.

 <https://boussolejuridique.ca/en/>

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Info Justice centres

Free legal information services in person and by telephone in several regions of Quebec.

 <https://info-justice.ca/en/>

Some Info Justice centres offer assistance with notarial law.

 <https://info-justice.ca/en/services/assistance-in-notarial-law-adn/>

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List of free or low-cost legal resources compiled by the Quebec bar (Barreau du Québec)

 <https://www.barreau.qc.ca/en/general-public/access-justice/access-justice-resources/>

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Will template offered by the Quebec government (French only)

 https://cdn-contenu.quebec.ca/cdn-contenu/justice/publications/testament/PUB_JAVP_Testament.pdf

