

When you execute your Last Will & Testament in Texas, you are required to observe quite a few formalities. So with a document this official, it's natural to wonder whether it can be changed.

Unlike certain types of trusts, which cannot be changed or revoked, your will can be changed. In fact, it is important to review your will and other estate planning documents regularly and make changes when necessary. However, to avoid problems later, it is important to take the right approach when making the changes.

Two Ways to Change the Terms of a Will

As long as you are alive, your will does not become irrevocable unless you become legally incapacitated. If you want to change anything, such as naming a different guardian for your children or changing beneficiaries, you have two options for establishing new terms. You can either create a codicil, which is a separate legal document explaining the changes in your original will, or you can revoke your earlier will and create a new one.

It is generally a better idea to create a new will for several reasons. First, having all the terms in one document prevents uncertainty. When you are no longer around to explain what you meant, it may be hard to tell which provisions of your original will are supposed to remain in effect and which ones have changed. Having two documents can also be a problem if the documents get separated. Your changes could be lost, or the codicil might be found on its own and it would have no effect, so it would be as if you never had a will.

Revoking the Old Will and Creating a New One

With computers, it is just as easy to create an entirely new will as it is to create a codicil amending an existing will. Creating a new will automatically revokes all previous versions (and codicils) under Texas law. However, just to avoid problems in the future, it is a good idea to take specific steps to revoke the old will after creating a new one. That way, if someone finds the old document, they will realize it no longer contains your desired terms. You can revoke your will by:

Destroying the will

Canceling the will

Directing someone else to destroy or cancel the document in your presence

Creating a written declaration revoking the will (this must be witnessed and signed like a will)

If you try to make changes in a will by crossing out provisions, that will not be recognized under Texas law. You must cancel all or nothing. Creating and signing a new will does operate to revoke the old will, but to avoid confusion, it is best to definitively cancel or destroy it.

What You Can Change in Your Will

The short answer is that you can change anything and everything about your will. You can choose someone different to serve as your personal representative who will be responsible for managing your estate after you pass away. This person is sometimes referred to as the executor. You might want to change the people who will receive

property or allocate different property to them. You might want to add a gift to charity.

You can also add provisions to create a testamentary trust to provide for a loved one or a pet. If you have established a revocable living trust to enable your property to pass to others outside the probate process, you can add a provision that causes any property left in your estate to be poured into your trust for distribution. This is known as a pour-over will. As noted above, you can also add or change a guardian nomination for minor children.

It's a Good Idea to Review Your Will and Other Documents Regularly

The facets of our lives change all the time, and it is important to ensure that the components of your estate plan are adjusted to keep up. New members join the family and loved ones leave our lives. Our priorities change. Children grow and become more responsible while sometimes others need extra assistance and care as they age. It is a good idea to change your will and other plans anytime you have a major change in your family and to schedule reviews every three years to ensure that your plans are still on track to meet your goals.

The Nordhaus Firm Can Help You Keep Your Will Up-to-Date

If you want to make changes to your will or other documents or you just need a check-up of your plans, schedule a consultation with The Nordhaus Firm. We can create a new will and help you ensure that older versions are properly revoked to avoid confusion. Contact us online or call 214-726-1450 to get started.