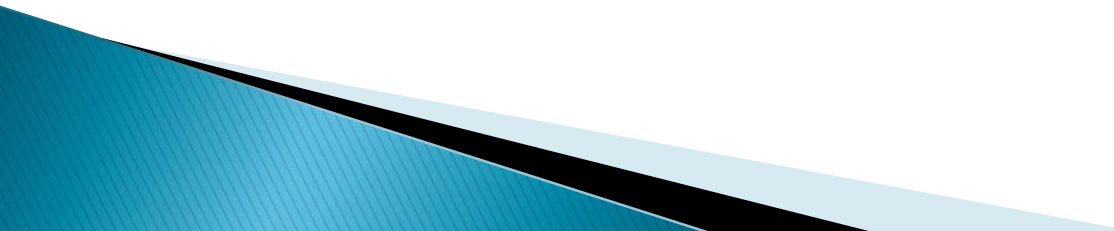


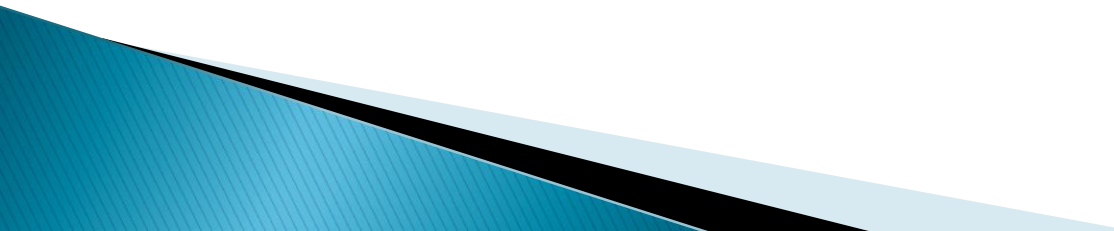
# Wills and Estates

An Introduction

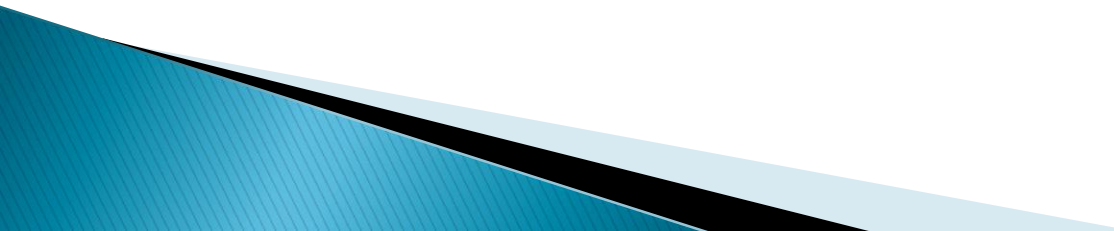
# What is a Will?

- ▶ A Will is a legal document that expresses what you want done with your property, your money and your belongings (your estate) when you die.
  - ▶ In your Will, you can also appoint a guardian to look after your underage children and describe the kind of funeral you want.
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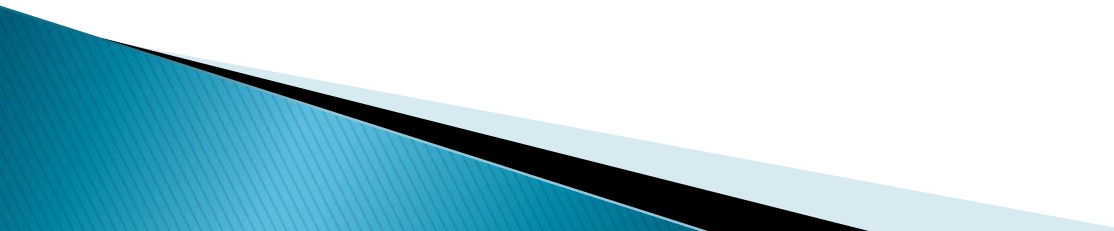
# List of Terms used in Wills and Estates:

- ▶ Testator: A man who makes a Will is called a testator.
  - ▶ Testatrix: A woman who makes a Will is called a testatrix.
  - ▶ Estate: Everything you own, and also everything you owe someone else.
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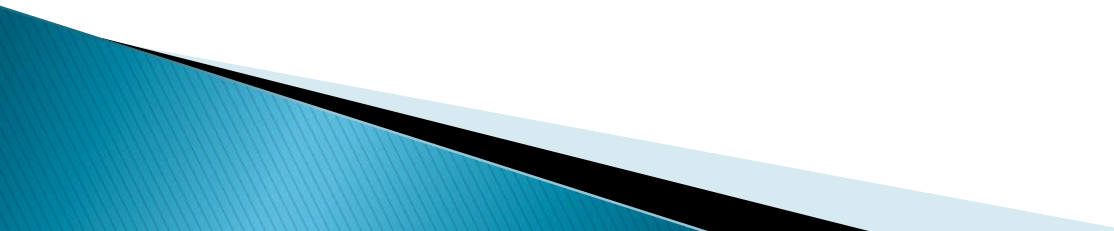
# List of Terms used in Wills and Estates:

- ▶ **Beneficiary**: A person who inherits all or part of an estate from a will is called a beneficiary.
  - ▶ **Heir**: This has the same meaning as beneficiary. It also means someone who has the legal right to receive a portion of a person's estate because of a legal relationship.
- 


# List of Terms used in Wills and Estates:

- ▶ **Codicil:** An extra document containing an addition, explanation or modification to an existing Will. It does not replace an existing Will. For example, you may write a codicil if you decide to add or remove a beneficiary from your Will.
  - ▶ **Administer an Estate:** means paying all of your debts, and transferring any remaining property and assets to your beneficiaries.
  - ▶ **Guardian:** The person you choose in your Will to look after your minor-aged children.
- 

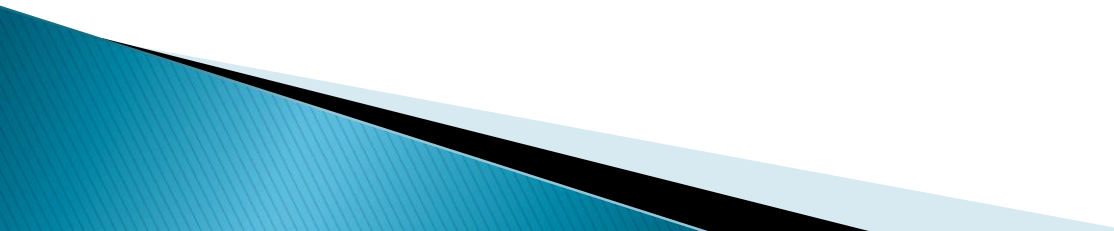
# List of Terms used in Wills and Estates:

- ▶ **Executor**: The person you choose to make sure that all of the instructions of your Will are followed. You may appoint two or three Executors, or appoint one Executor with alternates in case the first Executor cannot manage your estate. You should be sure you trust whoever you appoint.
  - ▶ **Debts**: Monies or things owed, such as taxes, outstanding bills, a mortgage, or things you borrowed from someone else that you must repay.
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# List of Terms used in Wills and Estates:

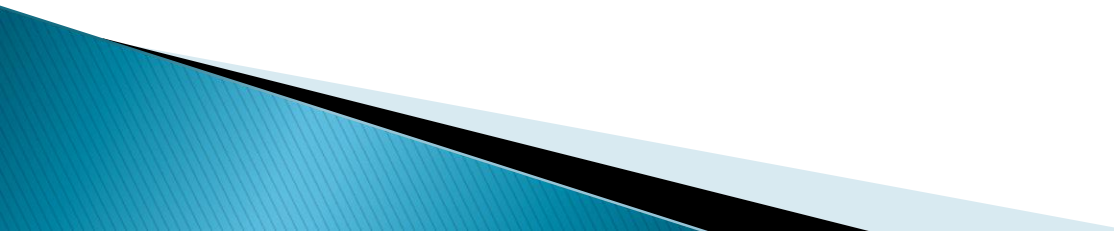
- ▶ **Assets**: Any item of value such as money, a house, jewellery, vehicles, boats, firearms, harpoons, clothing, real estate, stocks/bonds, a business or other similar possessions.
  - ▶ **Trustee**: If you are gifting any property to a beneficiary under the age of nineteen, you must also name a trustee who can hold that property in trust until your beneficiary reaches the age of majority (i.e. nineteen years old).
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# List of Terms used in Wills and Estates:

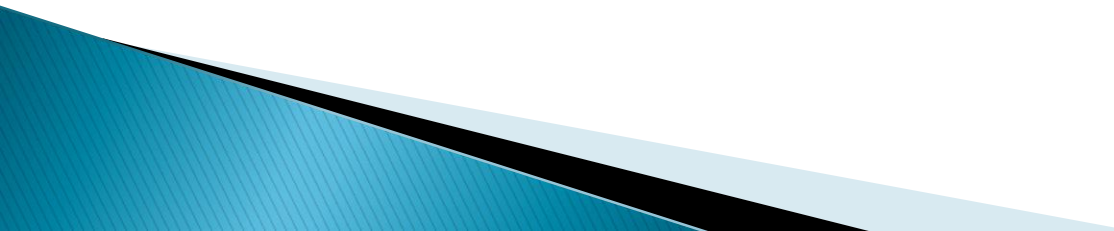
- ▶ **Witness:** a person who signs a Will indicating that they saw the Testator or Testatrix sign the Will. A formal Will must have two witnesses. Your witnesses cannot be married or common law to you. Your witnesses cannot be beneficiaries, heirs, or Executors of the will
  - ▶ **Intestate:** Dying without a Will.
- 



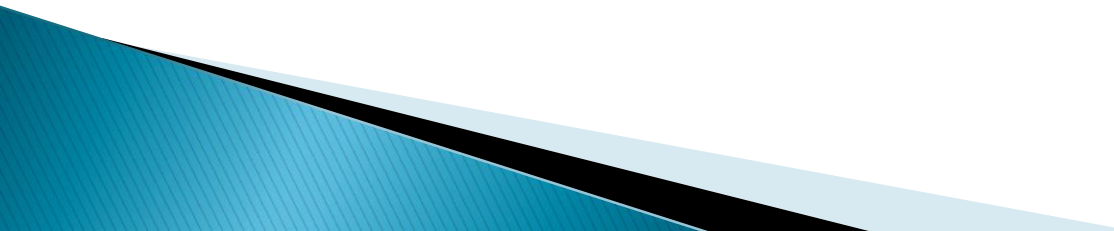
# How does a Will work?

- ▶ The wishes expressed in your Will are only valid upon death. A Will allows your family to follow your wishes when you die.
  - ▶ You may do anything you want with your property before you die, even if that property is mentioned in your Will. The Will only applies to property that is still owned at the time of death.
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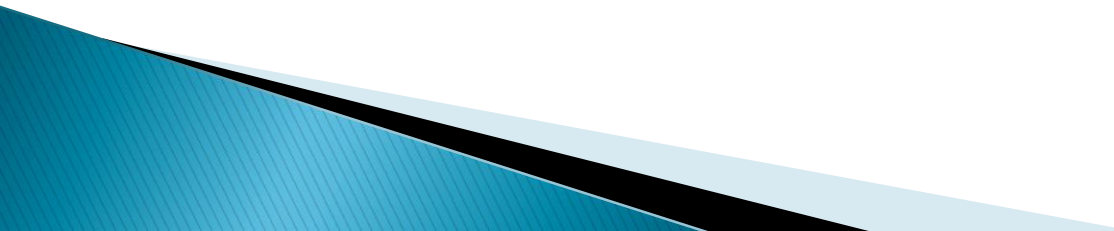
# How does a Will work?

- ▶ When the testator or testatrix dies, the beneficiaries do not immediately receive the property named in the Will. Instead, the property will first go to the executor who must pay all of the testator's debts.
  - ▶ The remaining property and assets will be distributed to the beneficiaries according to the terms of the Will.
- 

# Can I change my will?

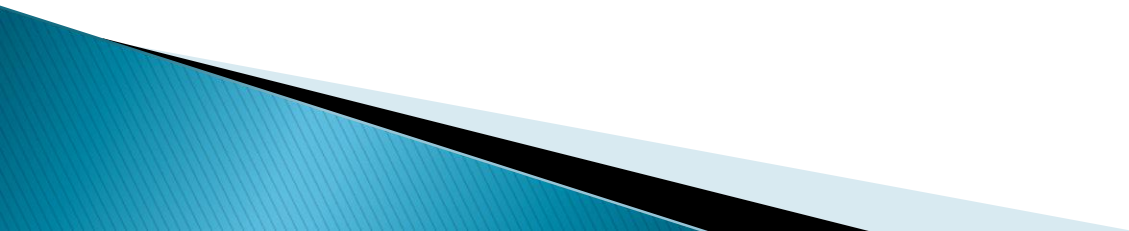
- ▶ Yes. Your Will can be changed any time before you die, as long as you are “mentally competent”. This means that you are able to make decisions about your possessions and manage your affairs.
  - ▶ When a change is made to an existing Will, the change is called a *codicil*. A *codicil* is an extra document that is added to an existing Will that explains any changes you want to make to the Will. It does not replace the Will.
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# Who can make a Will?

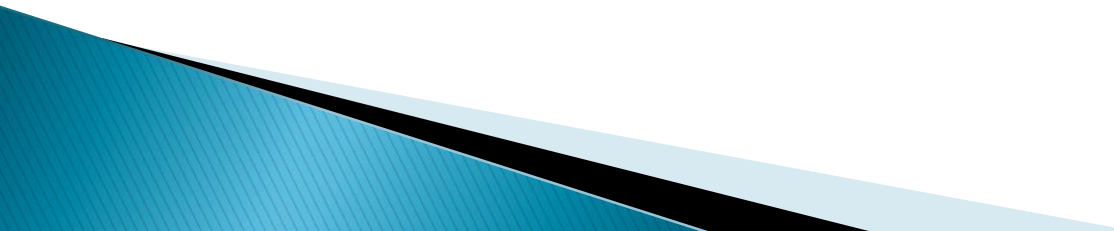
- ▶ In Nunavut, anyone who is over the age of 19, and who is mentally competent, can make a will.
  - ▶ You may be under 19 and still make a Will if you are:
    - ❖ Married
    - ❖ A member of the Canadian Forces or a member of the RCMP
- 

# What Makes a Will Valid?


In each province and territory the rules are a little different. Here are the main rules in Nunavut:



# What Makes a Will Valid?

- ▶ You must make the Will voluntarily.
    - ❖ That means that no one can trick, pressure or force you into writing a Will, or distributing your possessions to certain people.
    - ❖ It also means that you must voluntarily sign the Will, and agree with what it says.
- 

# What Makes a Will Valid?

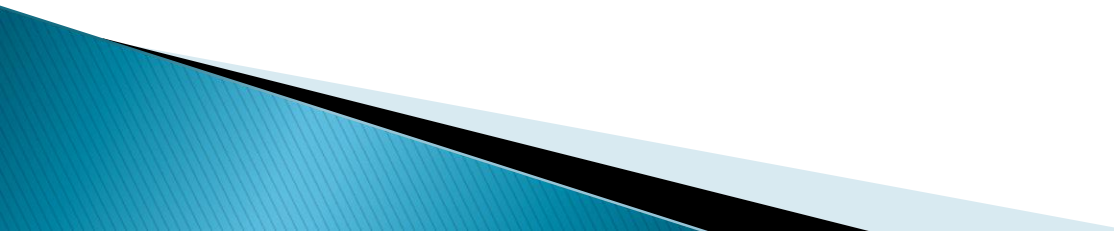
- ▶ You must be mentally capable of managing your affairs and making decisions.
  - ▶ Your Will must be in writing. It can be typed or handwritten.
  - ▶ The Will must name at least one executor and at least one beneficiary.
- 

# What Makes a Will Valid?

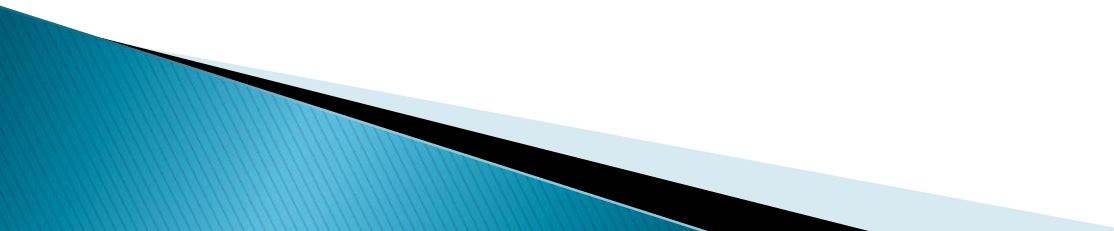
- ▶ The Will must be signed and dated by you at the end of the Will.
  - ❖ Any words written after this signature will not be valid unless they are added as valid codicils.
- ▶ You must sign the Will in the presence of two witnesses.



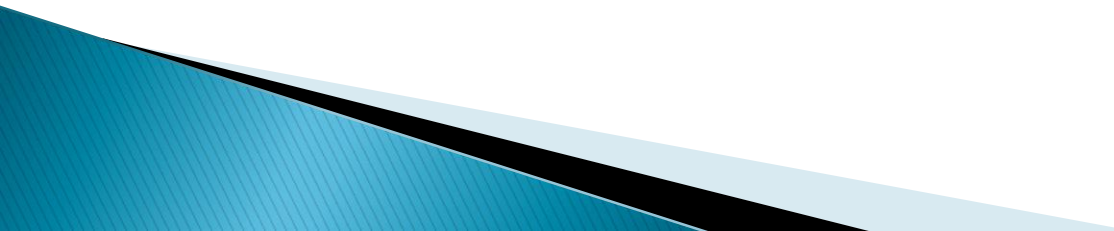
# What Makes a Will Valid?

- ▶ The two witnesses must sign and date the Will in front of you, and provide an Affidavit of Execution. This Affidavit is the equivalent of swearing under oath that they saw you sign your Will.
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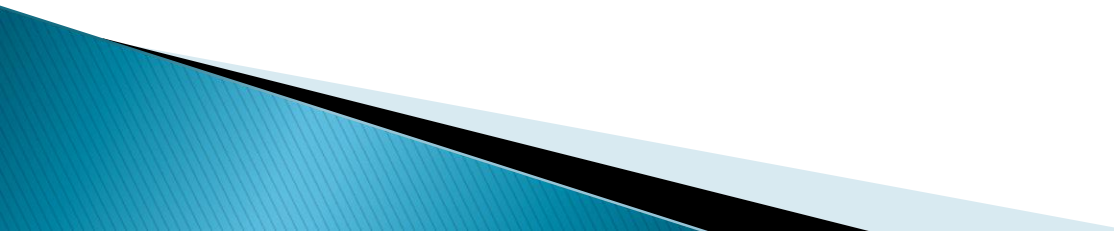
# What Makes a Will Valid?

- ▶ The witnesses must be:
    - ❖ Over 19 years old;
    - ❖ Mentally capable;
    - ❖ Not a beneficiary or an heir in your Will;
    - ❖ Not married or in a common-law relationship with you;
    - ❖ Not the executor of your Will.
- 

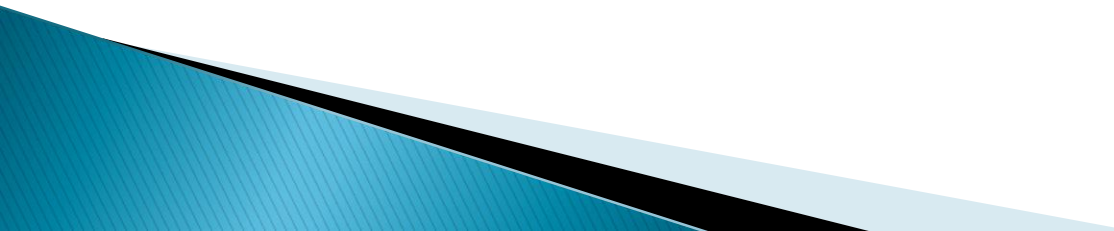
# Other Useful Tips:

- ▶ You should try to be as clear, precise and detailed as possible in your Will, so that the executors can carry out your wishes properly.
  - ▶ There should only be one original Will, which is kept in a safe and secured place. Be sure to tell someone you trust where the Will is located.
  - ▶ You should consult a lawyer to ensure that the Will is valid.
  - ▶ You, along with the two witnesses you choose, should initial on the bottom of each page of the Will to indicate that it has been read and understood.
- 

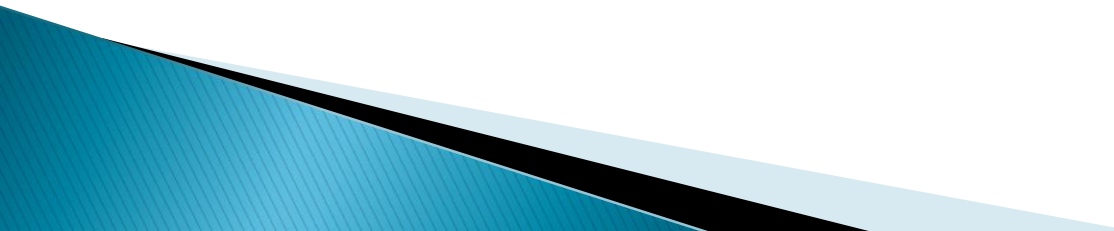
# Why Should I Have a Will?

- ▶ Having a Will gives you the power to decide what happens to your property when you die. If you die without a Will, your property will be distributed according to another set of laws (known as the *Intestate Succession Act*).
  - ▶ Also, if you have young children, having a Will allows you to choose who will take care of them if you die before they are grown up.
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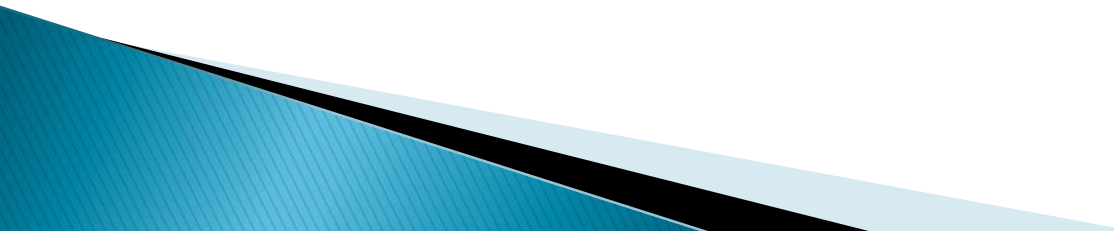
# Why Should I Have a Will?

- ▶ A Will is the safest way to tell people what you would like to happen with your belongings and money after you die.
  - ▶ Also, you should have a Will if you want to be able to choose who will be your executor, and deal with your affairs after you die.
- 

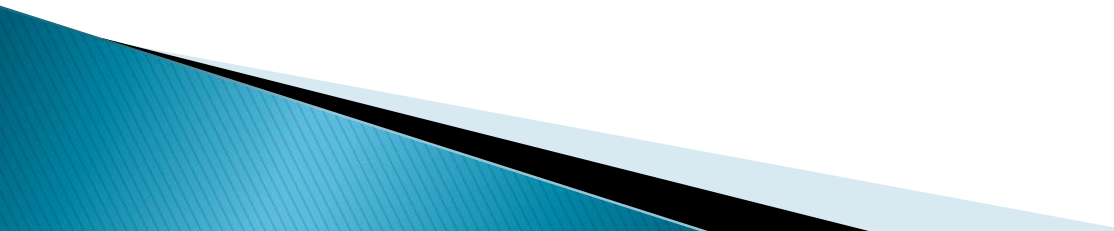
# What Happens If I Die Without A Will?

- ▶ If you die without a Will, your spouse or child can apply to the Nunavut Court of Justice to request that they be appointed to administer your estate.
  - ▶ If no family member does so, the Courts may appoint the *Public Trustee* (a government official) to decide who will inherit your possessions.
- 

# What Happens If I Die Without A Will?

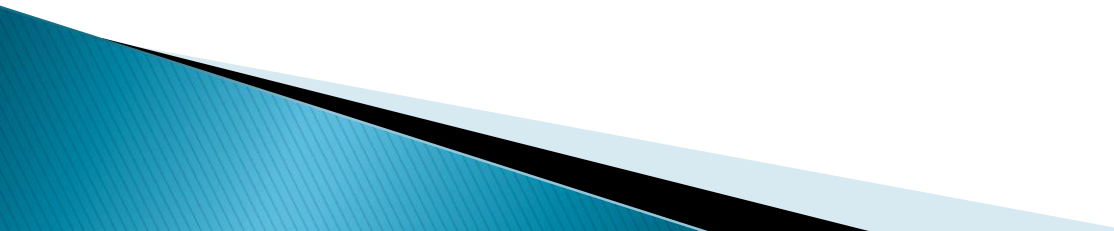
- ▶ If you do not have a Will, the courts use the *Intestate Succession Act* to decide who inherits your belongings and money. This law lists the legal heirs according to their relationship to you.
  - ▶ For example, a spouse takes a preferential share of your assets before the rest of your assets are divided among children and other relatives.
- 

# What Happens If I Die Without A Will?

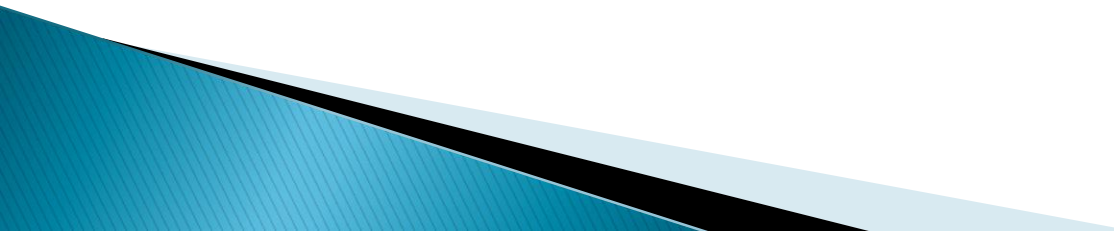
- ▶ Because the *Intestate Succession Act* lists your heirs according to their relationship to you, if you die without a will any child who you have given up for adoption will not inherit from your estate. On the other hand, a child who you have adopted will be included with your other natural children.
- 



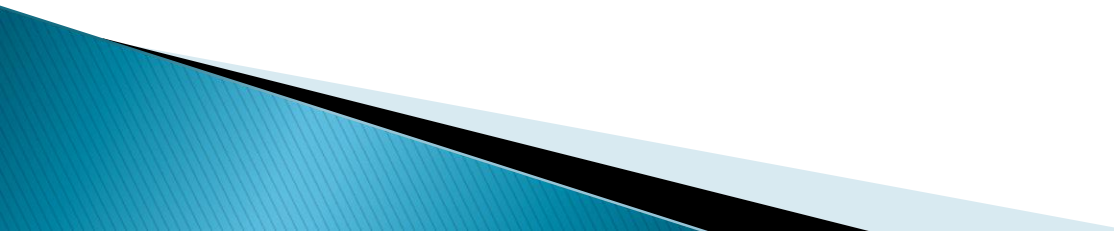
# Can I Handwrite My Will?

- ▶ You *can* handwrite your Will, but it is only valid if it is written ENTIRELY IN YOUR HANDWRITING. This is called a holograph Will.
  - ▶ Holograph Wills must be signed and dated by the author, and do not need witnesses.
- 

# Should I Handwrite My Will?

- ▶ These types of Wills can be very confusing if the language is not clear, and may make it difficult for your executor to carry out your wishes.
  - ▶ Holograph Wills should only be written in emergency situations.
- 

# What Is A Will Kit?

- ▶ A Will kit is not a holograph Will because it is not entirely in your handwriting. It is partly in your handwriting and partly in print.
  - ▶ These can be valid wills, but they can also be very confusing. For example, if you gift “money” to a beneficiary, it can be unclear whether this means money in your checking account, or if it also includes RRSPs.
  - ▶ It is VERY important to be as clear and exact as possible in your Will: what EXACTLY you are giving away, and to whom EXACTLY.
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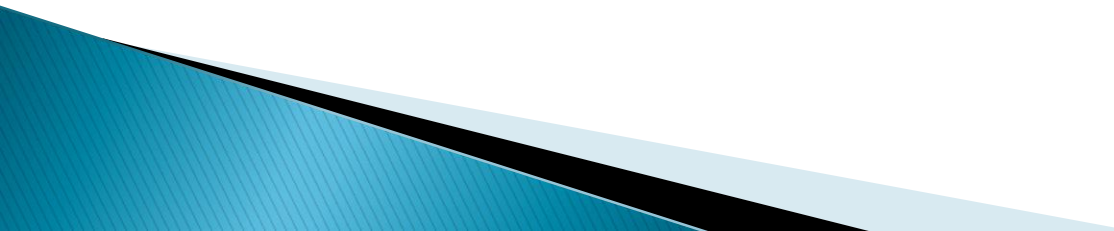
# Can I Write My Will In Inuktitut?

- ▶ Yes, you can write your Will in any of Nunavut's official languages, including:
  - Inuktitut,
  - Inuinnaqtun,
  - French
  - English.

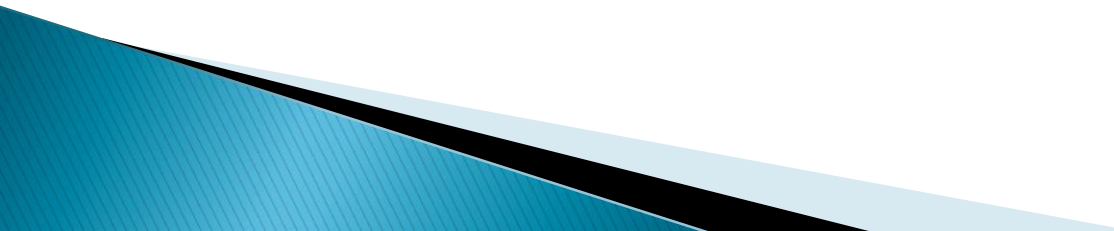
# What Should I Put In My Will?

- ▶ You must first say that you are intending to write a Will, and that this is the only Will you have.
  - “This is the last will of me, Morna Boyle, of the Hamlet of Rankin Inlet, in the Territory of Nunavut.

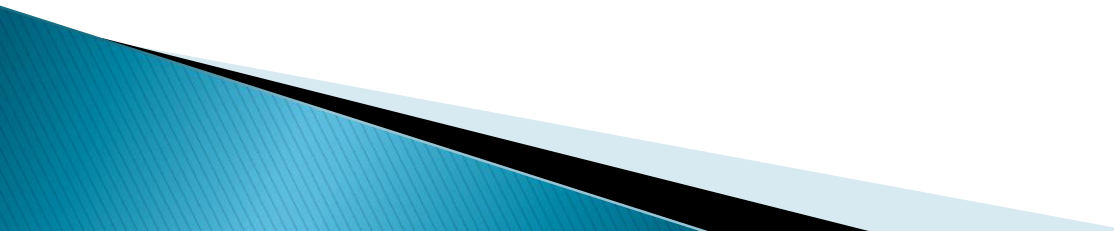
# What Should I Put In My Will?

- ▶ You must then name an executor who will be responsible for “administering your estate” by paying all of your outstanding debts, and transferring any remaining property and assets to your beneficiaries.
  - ▶ It is a good idea to name alternate executors, in case your executor is unable to act as your executor. (i.e. if they are ill)
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# What Should I Put In My Will?

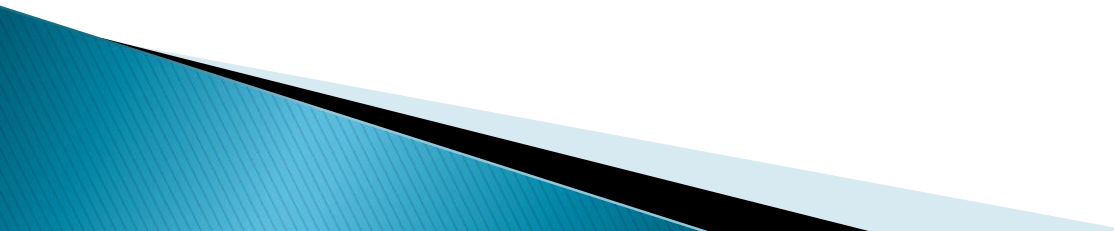
- ▶ If you are gifting any property to a beneficiary under the age of nineteen, you must also name a trustee who can hold that property in trust until your beneficiary reaches the age of majority (i.e. nineteen years old).
  - ▶ You can also name a guardian in your Will, who will take care of your children in the case of your death. However, it is important to know that this will not override any custody court orders that are in place.
- 

# What Should I Put In My Will?


- ▶ Any wishes you have regarding your burial or cremation can also be specified in your will.
  - ▶ Any property (such as homes, boats, cabins, ATVs, snowmobiles, carvings/art, and money) should be listed, along with the beneficiaries you want to inherit these things.
- 



# What Happens If I Own Property Together With Someone Else?

- ▶ Assets you own with someone else are not a part of your estate, which means that they cannot be given to a beneficiary.
  - ▶ For example, a home you own with your spouse cannot be gifted away to someone else in your will. Instead, the property will go to your spouse when you die.
- 


# Can I write a new Will or change my existing Will?

- ▶ Yes, you can write a new Will at any time, or change an existing Will by adding an extra document called a codicil.
  - ▶ The codicil must be in writing, it must be signed by two witnesses, and it must refer to the existing Will that is being changed.
  - ▶ You can also void a Will by destroying the original or writing a new Will. A new Will voids any old Wills.
- 

# What Happens If I Get Married After Writing My Will?

- ▶ If you get married after writing a Will, the Will is cancelled unless it states the person's name and your plan to get married.

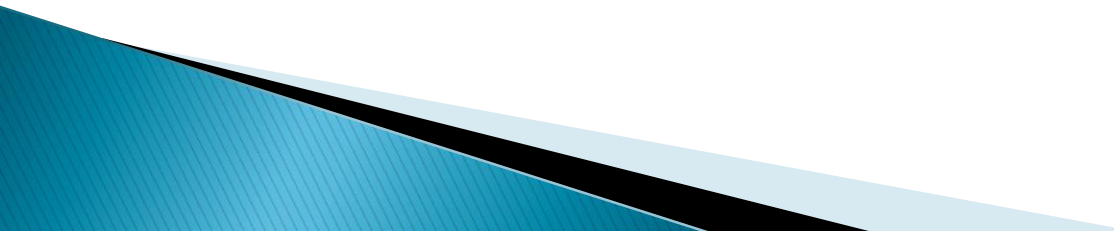
# What Should I Do With My Will After I Finish Writing It?

- ▶ Keep it in a safe place. There should only be one original copy of a Will, and your executor (or someone else you trust) should know where it is.
  - ▶ When you're finished completing your valid Will, you should store it in a fireproof, waterproof and tamper proof place.
  - ▶ Many people keep their Wills in a safe box at the bank, or you can file it with the Court Registry in Iqaluit, at the Nunavut Court of Justice.
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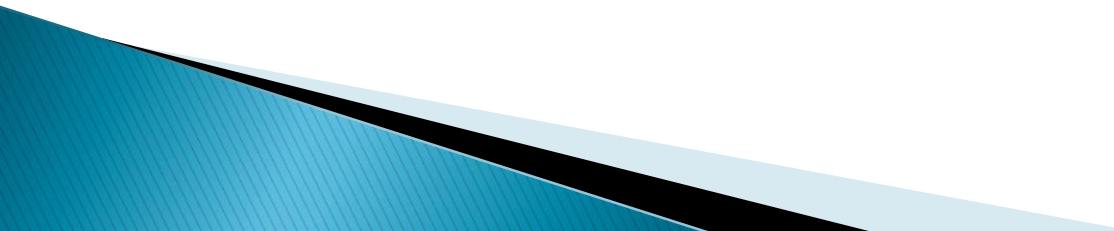
# When Does A Will Take Effect?

- ▶ A Will takes effect upon your death.
- ▶ You can change your Will at any time before your death.

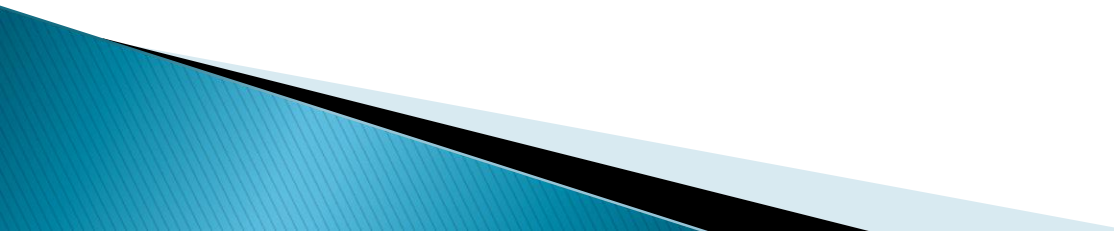
# Thank You For Listening!

- ▶ What we are providing is general legal information. It is not intended to be legal advice.
  - ▶ Unfortunately, the LSB is prohibited from helping clients draft wills.
  - ▶ We would be happy, however, to connect you with a lawyer who is able to do so.
- 

# About the LSB:


- ▶ The Legal Services Board of Nunavut (LSB) is responsible for providing financially eligible Nunavummiut with legal aid services in the areas of family, civil/poverty and criminal law.
  - ▶ With offices in Iqaluit, Rankin Inlet, Cambridge Bay and Gjoa Haven, the LSB seeks to provide effective and consistent legal services across the territory.
- 

# About the LSB: Services

- ▶ **Criminal Law Services:** Criminal lawyers with LSB represent financially-eligible clients in all of Nunavut's communities on almost all criminal law matters.
  - ▶ **Family Law Services:** Our family lawyers represent eligible Nunavummiut on matters such as child protection, child custody and access, and spousal and child support payments. Family lawyers with LSB also help negotiate and settle family issues using alternative dispute resolution mechanisms.
  - ▶ **Civil and Poverty Law Services:** LSB's Civil/Poverty lawyers represent clients on employment, landlord/ tenant, human rights and some other civil law matters.
- 



# About the LSB: Telephone Services

- ▶ **LSB After Hours Law Line:** Individuals in police custody anywhere in Nunavut can ask an RCMP officer to reach a criminal lawyer on the LSB After Hours Law Line in order to receive immediate (*Brydges*) legal advice when they have been arrested. This service is available after regular business hours, 365 days a year.
  - ▶ **Family Law Line:** 1-866-606-9400. General information about family law in Nunavut is available during regular office hours at this number.
  - ▶ **Civil and Poverty Law Line:** 1-866-677-4726. General information about civil and poverty law in Nunavut is available during regular office hours at this number.
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# About the LSB: Community Legal Aid Clinics

- ▶ Maliiganik Tukisiiniakvik Legal Services  
*Iqaluit, Qikiqtaaluk Region, Nunavut.*  
Phone: 1(867) 979-5377      Fax: 1(867) 979-4346  
Toll Free: 1-866-202-5593
- ▶ Kivalliq Legal Services:  
*Rankin Inlet, Kivalliq Region, Nunavut.*  
Phone: 1(867)645-2536      Fax: 1(867)645-2217
- ▶ Kitikmeot Law Centre:  
*Cambridge Bay, Kitikmeot Region, Nunavut.*  
Phone: 1(867)983-2906      Fax: 1(867)983-2570  
Toll Free: 1 866 240-4006