



Advanced Logic

S Y S T E M S

Thy Will be Done

While gays and lesbians in America are enjoying more positive visibility and freedom than ever before, the road to equality still stretches for miles beneath our feet. Despite landmark recognition in Vermont, gays and lesbians, partnered or not, face legal inequities that seldom cross our minds -- until it's too late. Attorney W. Kendall Brown, an expert in estate planning, tax and business law, has developed an easy and affordable way for gays and lesbians to protect our rights, our partners and our assets. GayWill.com is a useful tool for both singles and couples. Keith Brown is Kendall's brother and is active in the Boulder, Colorado, gay community.

What is GayWill.com?

Kendall: GayWill.com is an interactive website that allows gays and lesbians to prepare state-specific legal documents to ensure their life choices are recognized and acted upon accordingly. It's convenient, easy, private and completely secure.

Keith: About 85 percent of the general population doesn't have a will. I have to think that in the gay and lesbian community, that figure is even larger. And gays and lesbians, partnered or not, probably have the most to lose should they die without a valid will.

Why would gays or lesbians need a will more than heterosexuals?

Keith: First, because states, except Vermont, don't recognize same-sex relationships. And, without a will, the state handles your affairs. Because neither state nor federal law recognizes the decision-making or property rights of same-sex partners, I'd say gay couples have a greater need than traditional spouses for estate planning.

Kendall: And even for singles, estate planning can be critical. We all know people who have broken from their parents or entire families because they are gay. In many states, the courts will look first to parents or siblings to handle the estate in the absence of a will. That can create an ugly situation.

That sounds scary. But what about those of us in our 20's, who plan to live forever, who still talk to mom and dad every Sunday and have few worldly possessions other than a faithful Lab and a few dozen dance mix CDs? Why would we need a will?

Keith (laughing): It's not the size of your estate or how long you plan to live that determine

whether you need a will. It's whether you have specific wishes you would like carried out.

Kendall: And estate planning is much more than a will. There are four basic documents everyone should have. A legal and binding will determines who will receive your property upon your death, but it also designates who acts as guardian for any children you may have. It also lets you name the executor of your estate, who will handle how your estate is settled, how assets are passed to your beneficiaries and even the payment of your outstanding debt.

Keith: Again, that's the key for gays and lesbians. Unlike heterosexual spouses, gay partners are not legally recognized as automatic beneficiaries or executors by the states. Wouldn't you rather decide for yourself than trust the state to handle your affairs?

Kendall: A will also designates who is trustee of your assets if they all aren't distributed to your beneficiaries immediately. You can also make specific charitable contributions in your will. Other key elements in estate planning are a living will, health care power of attorney and financial power of attorney, although they are often called different things and take different forms in different states. A living will specifies your wishes, typically regarding to life-sustaining medical procedures, if you are terminally ill and unable to communicate your desires personally. It also indicates your wishes regarding organ donation. Health care power of attorney determines who can make medical decisions on your behalf. Without it, those decisions are often up to the doctor. For gays, a partner might not even be able to visit someone critically ill because he or she isn't considered next-of-kin, legally. Likewise, a financial power of attorney determines who makes decisions with respect to your financial affairs if you're incapacitated physically or mentally. Maybe most beneficially, it can simplify probate court and reduce legal expenses.

Wow. That seems a little complex. How does GayWill.com work?

Keith: It's amazingly easy -- almost simple. The software guides you through a series of questions to create customized documents specific to your wishes, your situation and your state. It takes about 15 to 30 minutes and the site is completely encrypted, so all the information you provide is completely secure and private -- it will only be used to prepare your estate planning documents. Your documents will be e-mailed to you. Detailed instructions for signing to make the documents legal and binding, as well as the witness requirements for your state, are also included.

That sounds reasonable.

Kendall: Because all of your documents are stored on our secure server, they're accessible from anywhere you have Internet access. It's easy, convenient and a lot less expensive than sitting down with an attorney. Of course, if you have truly unique circumstances, an estate worth more than \$3.5 million, for example, or if you're trying to qualify for Medicaid, you should consult an attorney.