



How To Draft A WILL

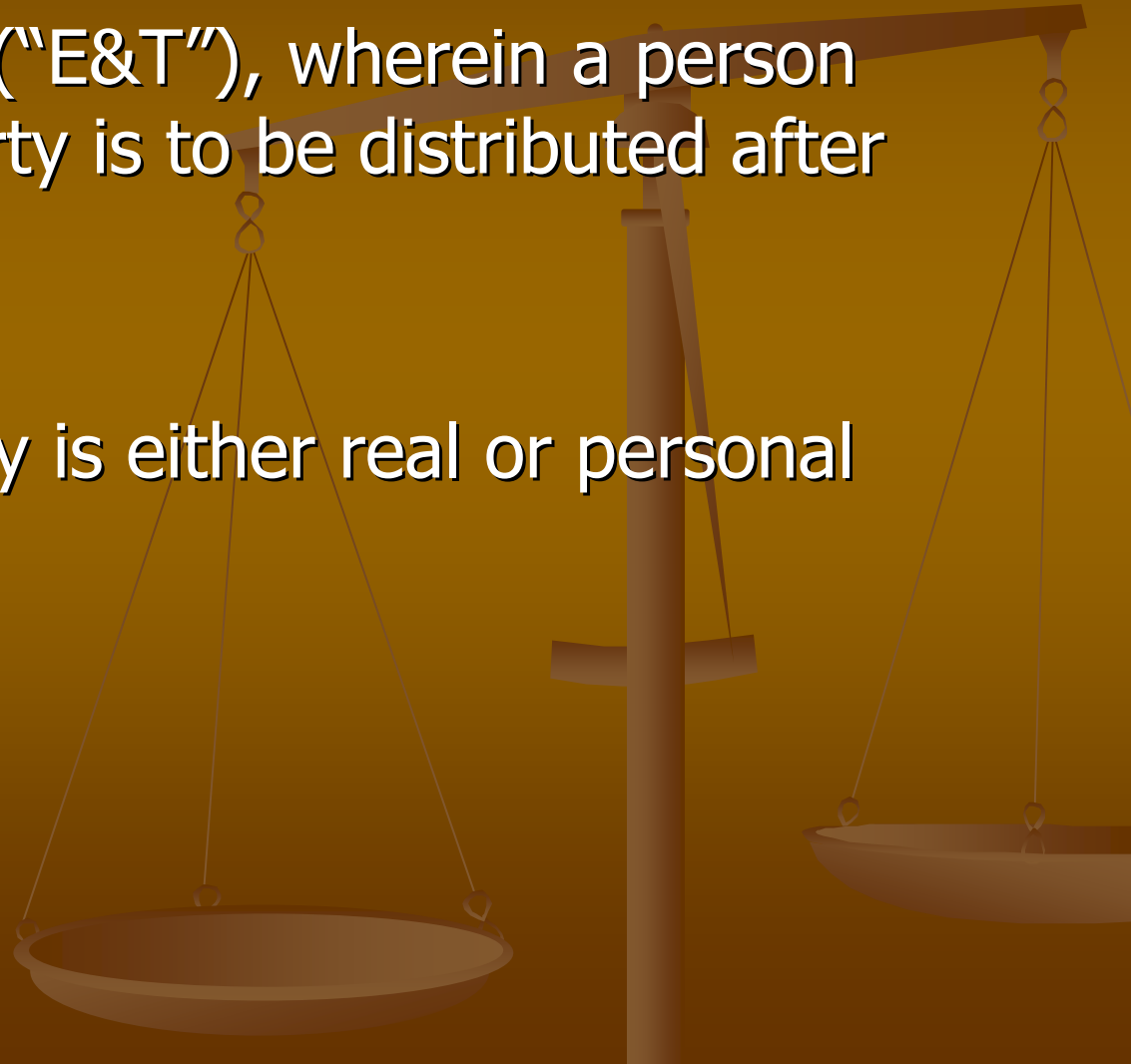
Presented By
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Franklin's Restaurant
Hyattsville, Maryland
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Lawyers Section

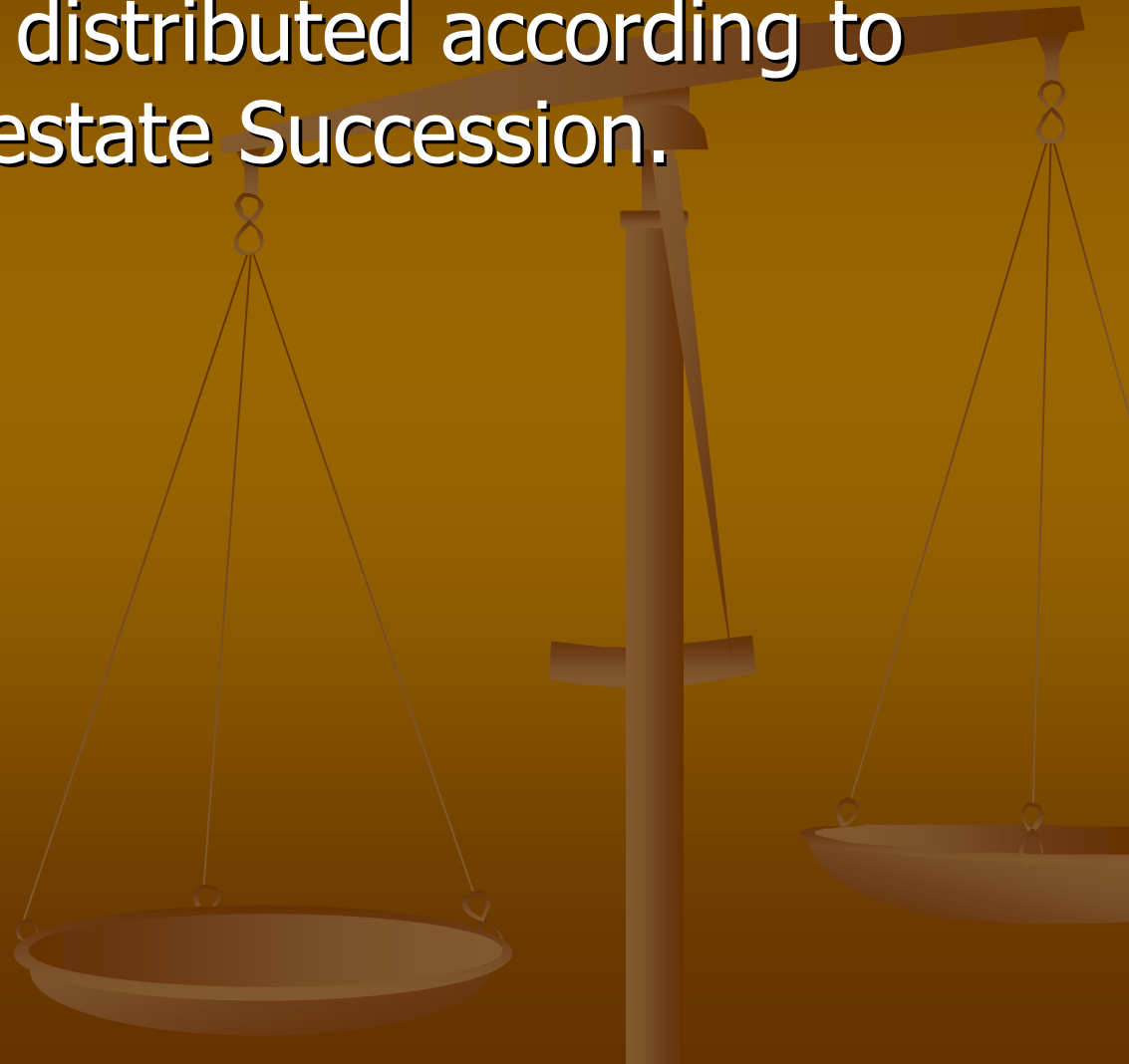
What Is A Will?

- A will is a document written according to Title 4 of the Estates and Trust Article of the Annotated Code of Maryland (“E&T”), wherein a person states how property is to be distributed after death.
- A person’s property is either real or personal property.

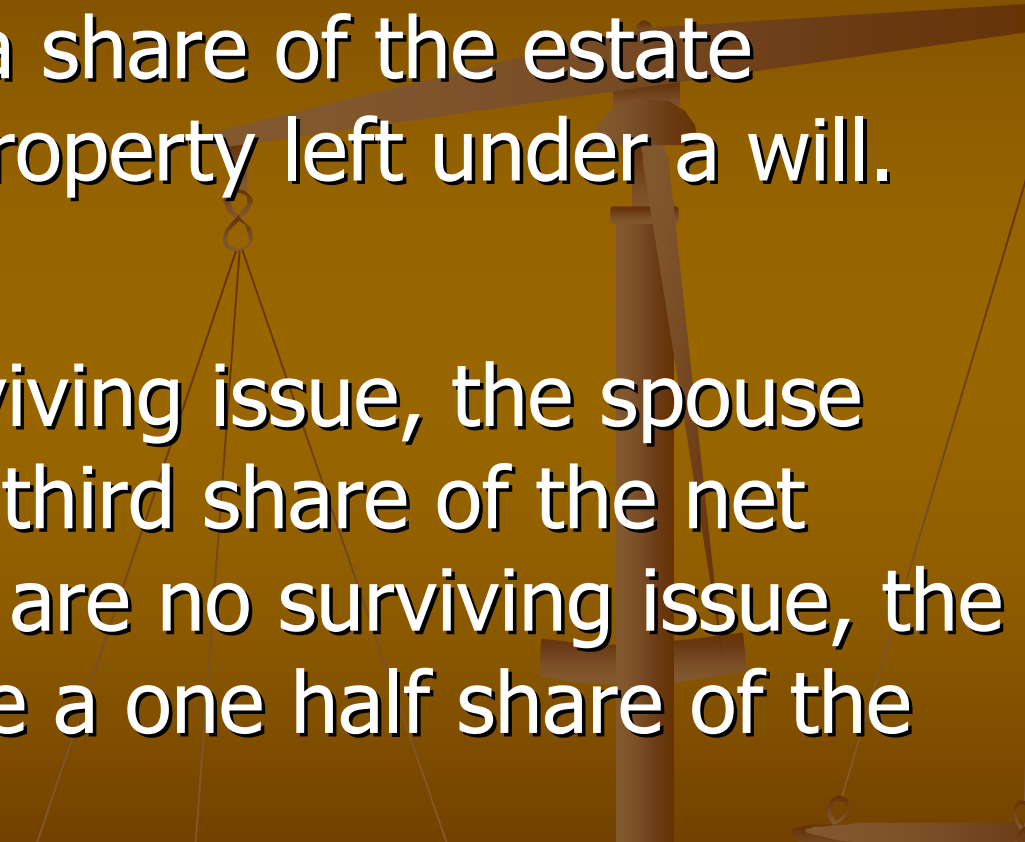


What Happens If One Dies Without a Will?

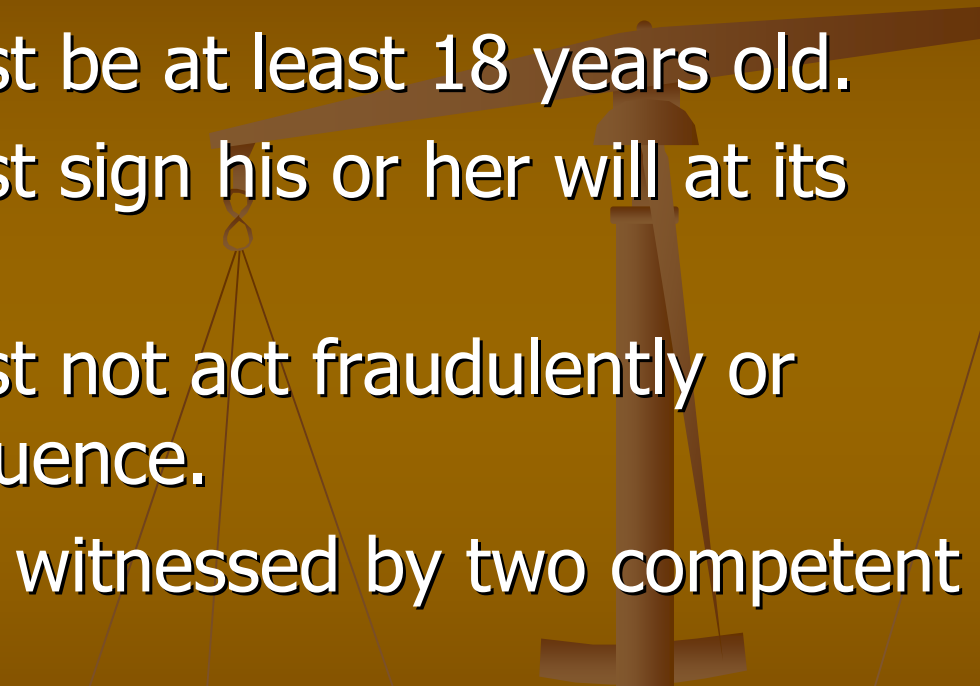
- Property will be distributed according to E&T Title 3, Intestate Succession.



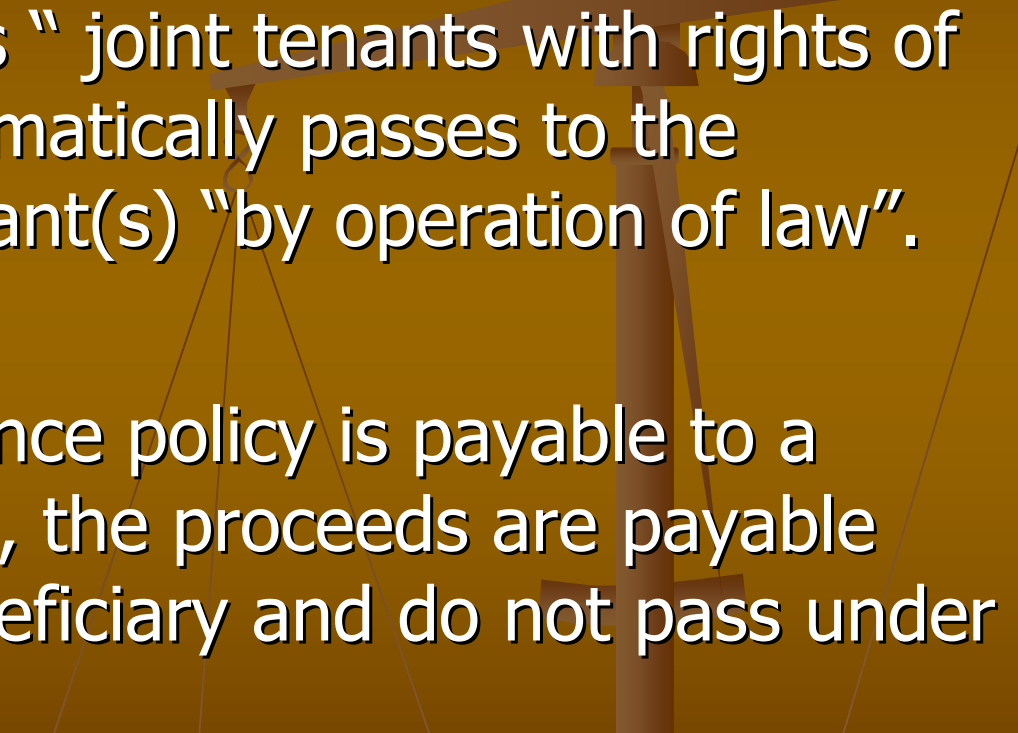
A Will Is Not Always Controlling Under Maryland Law

- Under E&T 3-203, a surviving spouse can choose to take a share of the estate instead of the property left under a will.
 - If there are surviving issue, the spouse may take a one third share of the net estate. If there are no surviving issue, the spouse may take a one half share of the net estate .
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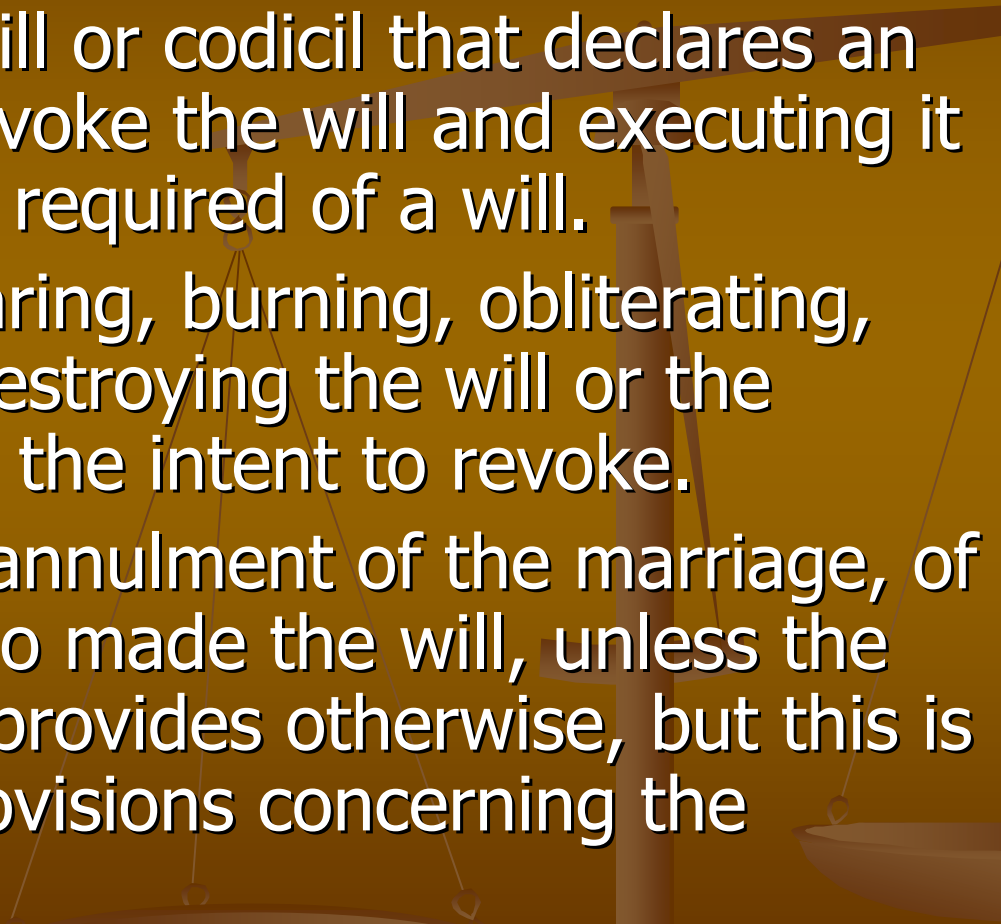
Formal Requirements of a Will

1. The testator must be of sound mind.
 2. The testator must be at least 18 years old.
 3. The testator must sign his or her will at its logical end.
 4. The testator must not act fraudulently or under undue influence.
 5. The will must be witnessed by two competent witnesses.
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Property May Pass Outside of A Will

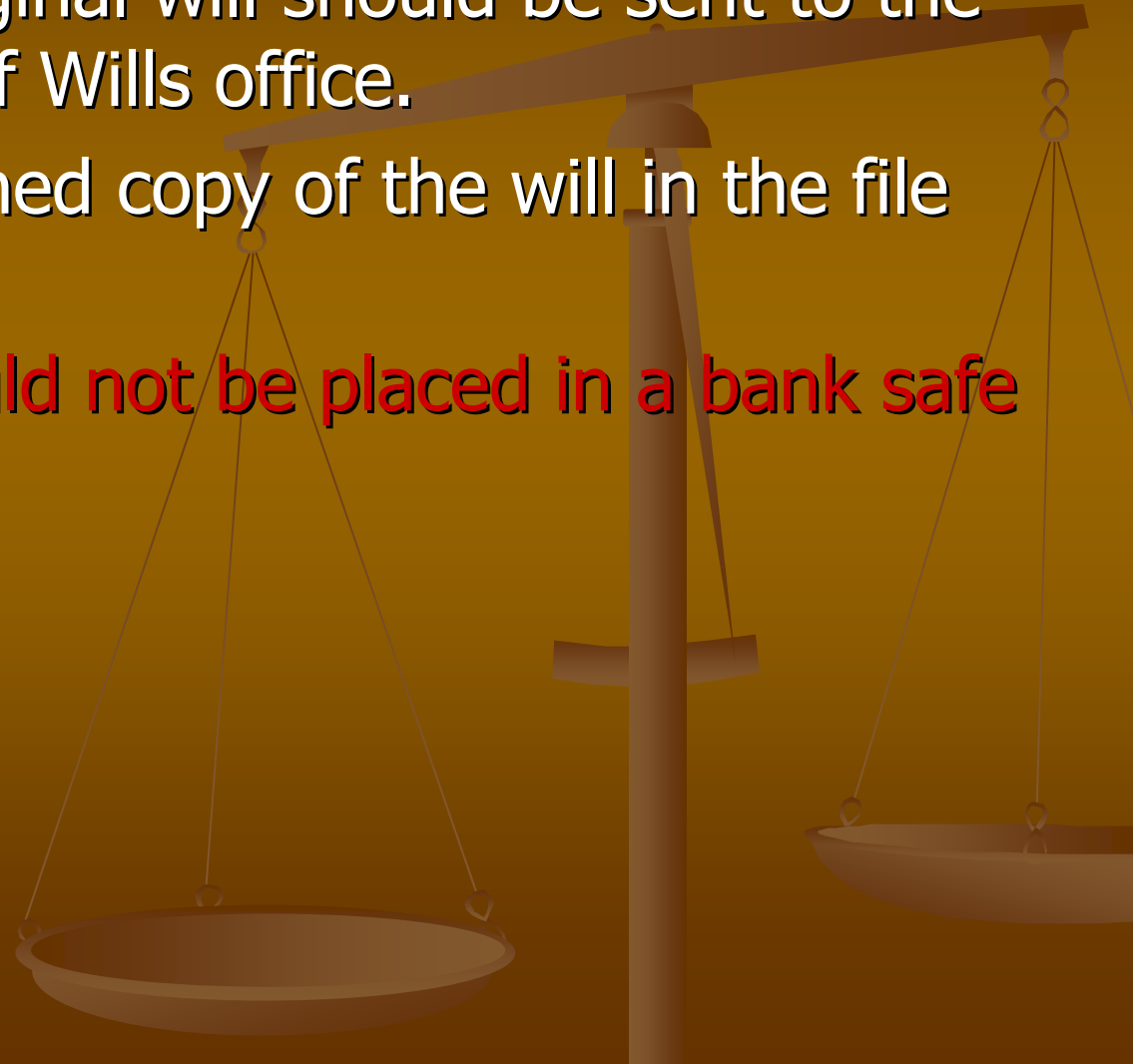
- Property owned as “ joint tenants with rights of survivorship” automatically passes to the surviving joint tenant(s) “by operation of law”.
 - When a life insurance policy is payable to a named beneficiary, the proceeds are payable directly to the beneficiary and do not pass under the will.
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Revoking A Will

- Under E&T 4-105 wills are revoked:
 1. By writing a will or codicil that declares an intention to revoke the will and executing it in the manner required of a will.
 2. By cutting, tearing, burning, obliterating, canceling or destroying the will or the signature with the intent to revoke.
 3. By divorce or annulment of the marriage, of the person who made the will, unless the will expressly provides otherwise, but this is only to the provisions concerning the spouse.
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Should You Keep A Client's Will?

- Generally, the original will should be sent to the County Register of Wills office.
- Keeping an unsigned copy of the will in the file is a good idea.
- **Original wills should not be placed in a bank safe deposit box.**



THE END

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