

# WILLS

## Where to Keep Your Will

We are reminded repeatedly of the importance of MAKING a will. However, we often don't give enough thought to where we should KEEP our will. The best estate plan is of little use if the will cannot be located, and located quickly, upon death.

(Recall Seinfeld's rant about the car rental agency TAKING a reservation, but not HOLDING the reservation.)

There are different schools of thought about where you should store your will. One view is to leave it with the drafting solicitor. They would be able to ensure that it is not lost or accidentally destroyed, and will be readily available when needed. There may or may not be a fee for such storage, depending on the lawyer. The downside of storing the will with the lawyer is that the lawyer may die, retire or move. Normally, the lawyer or their successor would notify you in such a

case, but this is not always effective.

Another view is to keep it with your personal papers: ideally in a fireproof box in your home. (Keeping a will in a bank's safety deposit box can lead to difficulty when your next of kin or estate trustee tries to retrieve it, as no one will have immediate authority to access the safety deposit box.) Keeping the will at home, however, means that it might be accessed by others during your lifetime. If confidentiality is a concern, this might not be your best option.

A third option is to give your will to the named estate trustee. This ensures that they will have access to it immediately when needed. Steps will need to be taken in the event that you want to update your will, or in the event that your estate trustee predeceases.

A further option is to deposit the will with the court. Rule 74.02 of the



*Paul Trudelle*  
Partner of Hull & Hull LLP

Rules of Civil Procedure sets out a mechanism for filing the will with the registrar of the court. Upon the testator's death, any person can get a copy of the will, and the estate trustee(s) may request the delivery of the will to themselves or their lawyer.

Keep in mind that if the will was last in your possession, and cannot be located upon your death, there is a presumption that you have revoked the will.

In either case, you should advise your estate trustee or next of kin as to where the will is kept.

Thanks for reading.

*Paul Trudelle*  
*Partner of Hull & Hull LLP*

*This article was originally posted at  
<https://hullandhull.com/knowledge/>*