

# Mirammon Law, Inc.

- A **Will** determines what happens to your property once you pass away. Everyone needs a Will. Without a will, community property (acquired during the marriage) is divided: 1/2 to spouse, 1/2 to children, subject to spouse's right to use the property until remarriage. Separate property goes to the children or blood relative of the deceased. An executor administers your will.
- A **Living Will** allows you to determine whether you want to receive food or water if you are on life support and two doctors certify there is no chance of your recovery.
- **Powers of Attorney** are very important. They give a person or persons the right to make decisions for you if you are unable to, or if you just do not want to handle a matter personally. The two basic types of powers of attorney are financial and health. You can have one power of attorney which is a general one that covers all matters. If you become sick or incapable and you have not designated someone to handle your finances or your health care, no one can legally make these decisions. Your family or friends may be required to have you declared legally incompetent and a legal guardian appointed by the court.
- **Children's Trust** - Trusts allow for the setting aside of money for certain needs.
  - If you do not leave the forced portion of your estate to trust, your children will be allowed to inherit all assets you leave them at age 18. A tutor (who you designate in your will) will be in charge of their money and once they turn 18, they will receive the lump sum regardless of how large the inheritance is. We suggest doing a trust so that you could have a trustee (person in charge of the inheritance for your children) who will disburse payments to your children as they reach certain ages and pay for their health & educational expenses whenever needed, regardless of age. Further, you could set aside insurance money in the event of your early death and have it restricted for the benefit of your children.
- **What is a forced heir?**
  - A forced heir in Louisiana is any child of the decedent, or deceased, who is 23 years old or younger or descendants of the first degree of any age who, because of mental incapacity or physical infirmity, are permanently incapable of taking care of themselves or administering their estates at the time of the death of the decedent.
  - Forced heirs are entitled to a portion of your estate, or a portion of all your assets at the time of your death. Specifically, if there is one forced heir, that individual is entitled to  $\frac{1}{4}$  of the decedent's estate. If there are two forced heirs, they are each entitled to  $\frac{1}{4}$  of the decedent's estate, meaning that  $\frac{1}{2}$  of the entire estate goes to the forced heirs.
  - For example, my Will states that 100% of my estate is to go to my husband Tom when I die. Yet, I have a child under the age of 24 who qualifies as a forced heir. Although I have not included him or her in my Will, he or she will receive 1/4th, or 25%, of my estate (the forced portion). The remaining 75% of my estate (the disposable portion) is divided up according to my Will. My Will states that I wish to give everything to Tom, yet, in reality, Tom will really only receive 75% of my assets.