

Survey: More than half of Canadians do not have a signed will

Lack of will opens doors to legal complications

Toronto, ON – May 7, 2012 – A majority of Canadian adults (56 per cent) do not have a signed will, according to a survey of more than 2,000 Canadians released by LAWPRO®'s TitlePLUS® title insurance program today. The survey also reveals that 71 per cent of Canadian adults do not have a signed power of attorney.

“The absence of a clear, signed will can become a divisive and contentious issue at a time when families are already experiencing grief, and can result in a range of complications, from belongings not going to the person they were intended for to court battles that cost thousands of dollars,” said Ray Leclair, Vice-President, Public Affairs, LAWPRO.

A will is a legal, written document that sets out the person's wishes about how his or her estate should be taken care of and distributed after death. It takes effect when the person dies.

A power of attorney is a legal, written document that gives someone else the right to act on your behalf while you are alive. You can name someone to make financial decisions for you with a continuing power of attorney for property. For personal care and health decisions such as where you live, what you eat or what medical care you will receive if you get sick or injured, you can name someone in a power of attorney for personal care.

“Without proper powers of attorney in place, Canadians put at risk their ability to be properly cared for without delay or legal proceedings should they become incapacitated – for example through a major accident that impairs their ability to make decisions. A power of attorney ensures that family members can access funds needed and have the authority to make important decisions about care,” added Leclair. “The more than 70 per cent of Canadians who do not have signed powers of attorney should be talking to their lawyers about both an updated will and signed powers of attorney to ensure their interests are protected now and in the future.”

When do Canadians get a will?

Canadians tend to have a will made when they experience one of life's major milestones: Having a child (30 per cent), and experiencing a change in marital status (20 per cent), were the most common events that prompted Canadian adults to get a will.

Only 13 per cent of Canadians signed a will when they purchased a home or condo.

“Homebuyers have just made one of the most expensive purchases of their lifetimes. They've already engaged a lawyer as part of the home-buying process, making it an ideal time to also have a will and powers of attorney drawn up,” continued Leclair who is also an experienced real estate lawyer.

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What's stopping us?

The study found 88 per cent of Canadians polled between the ages of 27 and 34 do not have a will and their most common reason for not having a will is because they believe they are too young (21 per cent).

However, people in this age group experience significant life milestones like having children and buying a home -- excellent reasons to ensure assets are cared for as they would like, via a will.

Preparing a will is easier and less expensive than people may think

Results also indicate that 29 per cent of Canadian adults do not have a will because they either do not know how to get started or believe they cannot afford one.

Working with a lawyer to create a will can cost as little as internet access for a year. A will also brings peace of mind, providing greater assurance that loved ones can manage the estate without the high costs of court proceedings to sort out wishes and assets.

“Going to a lawyer rather than drawing up your own will significantly reduces the risk that assets will not go to those you had hoped to benefit. This is especially important in today’s world in which we see more common-law relationships, blended families, and second or third marriages. A lawyer will provide guidance on how an individual’s circumstances could affect the disposal of assets in a will, and will reduce the risk of a breach of a technical requirement for a valid will or power of attorney,” added Leclair.

Canadians can find a lawyer through a variety of sources:

- The Law Society of Upper Canada offers a service on its website to locate a lawyer in Ontario at www.lsuc.on.ca/with.aspx?id=654, as do most Law Societies in most provinces.
- Referrals from friends and family.
- Workplace benefit programs often provide lawyer referrals through Employee Assistance Programs (EAPs).

Additional survey findings:

- Torontonians fall behind their counterparts in other Canadian cities when it comes to signing a will: 37 per cent of respondents in Toronto have a signed will, compared to 46 per cent in Vancouver and 44 per cent in Montreal.
- Almost one third of Quebecers polled (32 per cent) signed a will when their marital status changed, compared to the national average of 20 per cent.
- Men and women react to their milestone birthdays differently. Almost twice as many men (9 per cent) than women (5 per cent) were prompted to get a will when they reached a milestone birthday.

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About LAWPRO and TitlePLUS title insurance

TitlePLUS title insurance is provided across Canada by Lawyers' Professional Indemnity Company (LAWPRO), a licensed insurer. TitlePLUS title insurance is the only all-Canadian title insurance product on the market today. It protects home buyers and mortgage lenders under the same policy (and for the same premium) from title-related and other problems that could affect ownership or the marketability of the property, and covers the legal services¹ provided by the lawyer who acts for the purchaser and lender.

About the survey

From March 21st to March 22nd 2012, an online survey was conducted among a sample of 2,013 Canadian adults who are also Angus Reid Forum panel members. The margin of error — which measures sampling variability — is +/- 2.18%, 19 times out of 20. The sample was balanced by age, gender and region, education (and language in Quebec) according to the most recent census data. Discrepancies in or between totals are due to rounding.

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