

By drafting a will, you give your family a last gift

I WANT you to imagine moving from home, assuming you live outside the big metros. You settle in a city like Johannesburg looking for better prospects and economic opportunities, but the better part of your family is still in the *lalis* (homesteads).

Johannesburg has more than what you bargained for and delivers love. You fall in love, and your partner is the best thing that happens to you. The relationship moves quickly. The two of you are madly in love, so much so that you move in together. But life is cruel: your biggest heart-break happens.

You lose your partner to a fatal car accident. You're devastated. On the day of the funeral, you walk about the apartment you shared. You clutch to things you bought together, some things he would want you to keep forever.

Your partner's family comes the next day and takes everything. Including the souvenirs you collected on each holiday. You weren't married. They feel they have every right. Your partner wanted you to have these things; you spoke about it late into your date nights. But these are conversations only the two of you had. There is no will! Your love's last wishes cannot be honoured.

But what is a will? And why are



NICOLETTE'S NICKELS

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many people finding themselves dying without one?

Your last will and testament, commonly just referred to as your will, is a legal document that declares your intentions of how you want to assign and distribute your assets and wealth after your death.

The problem with this definition is that many of us read too much into the wording "assets and wealth". The financial services industry also does very little to help, because they want to benefit from the executor fees – so someone with many valuable assets is a better client. However, assets and belongings don't always have high monetary value. An asset can be an old car you spent many

drives in with your dad. It can be a framed picture of your graduation picture with your mom for the degree you both sacrificed and prayed for. (In my case, it's probably my prized possession. It's a picture of my mom and me at my first graduation after I failed my first degree. I want my mom to have it in the event of my untimely death.)

Having a will is essential and determines how you carry through your legacy, how you take care of your children if you have any and it enables you to choose who should take care of them in your absence.

Most young people believe they do not have anything to put in a will. They feel they are still too young to have any savings, investments, property or dependants. It's surprising, though, that this trend of not having a will for various reasons happens across life stages in our country.

There are different ways to write your will: you can draft it yourself, or you can find free DIY kits and templates you don't have to pay to download. You also have the option to use an expert, such as your attorney, financial adviser, a bank, or a member of the Fiduciary Institute of Southern Africa to help you draft your will. An essential requirement is that it is compliant

with the Wills Act.

These experts will advise you where necessary and explain terms you don't understand and the legal validity requirements. They should also explain what happens if you die intestate (without a will), because another piece of legislation, the Intestate Succession Act, comes into play. They charge for this service.

Should you choose to write your will yourself, you must ensure you thoroughly understand all the legal requirements and refer specific questions to an attorney.

To avoid complications when you have died, you should be extremely specific in your will and include every detail of your assets and who they are going to. Include your beneficiaries' full names and ID numbers. In my family, for instance, there are three people who are B Mashile. Imagine the confusion if assets are left to B Mashile – which B Mashile? This opens up the will to contestation.

Another thing you need to include in your will are the details of any outstanding debt, such as home loans, credit cards, and personal loans. You also need to give suggestions of how these debts can be settled.

Estate law requires the winding up of your estate when you die.

Including this information makes it easier for your elected executor.

When you're creating your will, you may nominate someone to be your executor. However, the executor gets appointed by the Master of the High Court. Unfortunately, not everyone can stand as an executor. The executor has specified rights and responsibilities and can be held accountable by the law should they not meet their obligations or submit false information.

The executor may charge up to 3.5% (excluding VAT) of the gross value of assets in the estate. The best thing to do is to discuss these fees with your family or trusted people, so they know how they will be calculated to avoid any confusion.

Many people in South Africa do not have wills for various reasons. Some merely do not understand the importance of it, some don't believe they have enough to leave behind, and others feel they don't have the finances to get a trusted adviser. Covid was just another reminder that life can be fragile and planning is crucial.

Mashile is an actress and TV host. She is the founder of Financial Bunnies and a champion of personal-finance education.