

Contested estates on the rise in NSW: why estate planning matters

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Date: Sunday October 26, 2025

Across New South Wales, more families are finding themselves caught up in legal battles over a loved one's estate.

According to figures reported by the ABC in September 2025, the number of people dying:

- without a valid Will;
- with an old Will; or
- with an unclear or incomplete Will,

is steadily increasing.

As a result, the number of contested estate cases in the Supreme Court of NSW has significantly increased from previous years.

This trend highlights the importance of careful estate planning. A valid and current Will can help to ensure your wishes are respected and reduce the risk of disputes among family members.

Contested estates are a growing problem in NSW

The ABC reports that more than 1,400 estate disputes were filed in NSW in 2024. These included almost 1,000 family provision claims (where an eligible person argues they have not been properly provided for in a Will) and more than 400 contentious probate cases (where the validity of the Will itself is challenged).

At the same time, nearly 60% of people in NSW are now dying without a valid Will. That means the law of intestacy decides who inherits their assets, rather than the estate going to the person or persons that the Will-maker would have chosen if they had written a Will. For families with complex relationships, blended households, or valuable property, this often creates conflict among family members.

Why are contested estates increasing?

Several key factors are driving this rise in contested estates in NSW:

Rising property values

For many families, the family home is the most valuable asset. With Sydney's median house price well above $1 million, estates that were once considered modest are now significant. Higher estate values naturally increase the incentive for disputes as there is more at stake and more to argue over.

Lack of valid Wills

DIY Wills, online templates, or cheap 'off-the-shelf' solutions, can leave estates exposed. A Will that does not meet formal requirements or includes inaccuracies may be more exposed to challenge. If there is no valid Will at all, intestacy laws apply, and the beneficiaries under intestacy may not match what the deceased intended had they selected their beneficiaries under a Will.

Read more in our earlier blog, "Why should I Have a Will and what happens if I die without one?"

Outdated Wills

Old Wills can be just as problematic as an inaccurate Will. If a Will is not updated to account for changes in family relationships, changes in assets, or changes in intentions, then the gifts under the old Will may not match the deceased's intentions. It can also leave the estate exposed to additional taxation.

Read more in our earlier blog, "When should I review or update my Will?"

Blended and complex families

Second marriages, step-children, estrangements and de facto relationships all create potential for competing expectations. Without clear estate planning, addressing or balancing the interests of the family who may expect to be provided for, disputes among various family members may become more likely.

Read more in our earlier blog, “Estate planning and blended families”.

Increased awareness of legal rights

Family provision claims and the ability to challenge the terms of a Will are widely known. Children (including adult children), spouses, former spouses, and in some cases dependants, may all have standing to bring a claim. As awareness grows, so does the willingness to test a Will in court.

An eligible beneficiary may also be persuaded to make a claim if they are convinced by their partner, friends or other family members that they ‘deserve’ more from the estate.

Surprises

Where a family member is under a particular understanding of what will occur upon the passing of their loved one, only to find that they have not been provided for or the estate is being distributed in a different way, they may be more likely to make a claim against the estate.

The consequences of a disputed estate

Contesting an estate can have serious consequences for all involved:

- **Delay**: What should be a straightforward administration can be dragged out and extend for years.
- **Costs**: Even if the estate ultimately pays legal fees, the overall pool of assets is reduced by lawyer and barrister fees. This can be even greater where both the plaintiff's and the estate’s fees are all paid by the estate. Even expensive estate planning is unlikely to be as costly as litigation.
- **Stress**: For grieving families, litigation adds another layer of emotional burden.
- **Broken relationships**: Court battles often leave lasting scars between family members. If relationships are strained prior to the dispute, they will often be irreparably damaged in the course of the dispute.

In short, disputes can erode both the financial and emotional value of an estate.

Steps to reduce the risk of a contested estate

While you cannot prevent every possible claim, you can take steps to reduce the likelihood of disputes and strengthen your estate plan.

Make a valid Will

A Will that complies with the strict formalities required to be recognised as a formal Will in NSW may assist in reducing some types of claims. Engaging a lawyer experienced in estate planning

ensures your document is properly drafted and executed.

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Plan before it is required

Having time to prepare your Will and structure your estate can be helpful in estate planning. If estate planning is left until it is required (such as when someone falls ill), then it can limit the options for the estate plan. In some cases, if estate planning has not been considered and there is a loss of capacity through accident or illness, then there may not be an opportunity to prepare a Will at all.

Review your Will regularly

Major life events, including marriage, separation, addition of children or grandchildren, property sales or acquisitions, should prompt an update to a Will. Even without major life events, a Will should be considered at least every 3 to 5 years. This review may simply be to confirm that the existing Will is still ‘fit for purpose’, or it may assist in identifying the need for a change.

A Will that reflects your current circumstances is less likely to be challenged.

Plan for superannuation, trusts and other assets

Superannuation, trusts, insurance policies, and jointly-owned assets are not automatically covered by your Will. Each of these assets needs to be considered as part of a comprehensive estate plan.

Be clear about your intentions

Where appropriate, discussing your wishes with your family can reduce surprises. While these conversations may be difficult, they often prevent conflict later.

Seek tailored legal advice

No two families are the same, and a suitable solution for one family can create issues for another family. A lawyer experienced in Wills and Estates can help structure your affairs in a way that minimises risk and provides peace of mind.

Get clear advice from a Wills &Estates lawyer

The rise in contested estates in NSW shows how critical it is to have your affairs in order. With property values higher than ever and family structures increasingly complex, leaving things “to sort out later” can mean leaving behind confusion, conflict and costly litigation amongst family members.

By preparing a valid Will, reviewing it regularly, and seeking professional advice, you give yourself and your estate the best chance of ensuring your wishes are respected and your loved ones are cared for.

At E&A Lawyers, we assist clients with clear, practical estate planning advice. If you would like to discuss updating your Will or protecting your estate from future disputes, feel free to reach out to our Wills &Estates team for further assistance.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

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