

## FAIR DISTRIBUTION AMONG YOUR CHILD

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Generally, the testators have the discretion to distribute their assets in the way as they wish. However, without proper considerations, it may lead to family disputes because the children who receive a smaller share than what they expecting or worse, nothing will feel aggrieved with the unfair Will. As such, it is important to leave a Will which is fair to every beneficiary. What amount to a fair distribution really depends on each family's circumstances. A fair distribution does not mean giving each of the children an identical inheritance.



**Below are some situations where dividing the assets equally among the children may not amount to fair distribution?**

- When the testators have special needs children

If the children are still minors or they have special needs, the testators may wish to leave them a larger portion of assets to fund their everyday needs until they can take care of themselves

- When the testators have children who took care of them when they are critically ill or when they are old.

It is very common to see that some children who spend years of effort in taking care of their ailing parents before they passed away and yet, their parents decided to split their estate among the children equally. The caretaker may feel aggrieved and they may contest the Will by bringing legal action against the testators' estates. This is definitely what we do not want to see after we have passed away.

- The testators have provided greater financial support to a child during their lifetime.

The testators may have provided greater financial support to one of their children in a different way such as, paying for the down payment for the child's home or car, sending the child to study abroad, provide fund for the child to start up his/her business or pay for the child's wedding cost.

### **Unfair distribution? Can the children sue?**

If the children wish to bring legal action against the testators' estate, they need to have a valid cause of action to sue such as:

1. The testators were manipulated when they were creating their Wills.
2. The testators were lack of capacity to make sound decisions when creating the Will due to any mental or physical illness.
3. The rules in creating a valid Will were not properly followed such as the witnessing rules, the executor rules and etc.
4. They were left out in the Will and the statute confers them the rights bring a legal action to rectify the Will.

In order to avoid the Will being contested, one should:

- Explain and justify the distribution of his/her estate
- Insert a no-contest clause in the Will to protect his/her wishes.
- Appoint a professional to assist him/her in estate planning as they can tell whether such distribution is appropriate.

As the testator will not be there when such a challenge was made, it is crucial for he/she to consider all the relevant issues such as those listed above to ensure no one will challenge the Will.