
WILL WORKSHEET

Ft. Sam Houston Legal Assistance Office (April 03)
2282

210-221-

PRIVACY ACT STATEMENT

AUTHORITY: United States Code, Title 10, Section 8072. **PRINCIPAL PURPOSE:** To assist a judge advocate in the preparation of a client's will. **ROUTINE USES:** To provide a judge advocate with sufficient information to draft a client's will. The Office of the Staff Judge Advocate maintains no file copy. **MANDATORY OR VOLUNTARY DISCLOSURE AND EFFECT ON INDIVIDUAL BY NOT PROVIDING INFORMATION:** Disclosure is voluntary, but nondisclosure prohibits preparation of a will.

Welcome to the Ft. Sam Houston Legal Assistance Office. This worksheet will answer common questions concerning wills, prepare you to discuss your needs and desires with an attorney, and provide a convenient form on which to record important information. After you have completed this worksheet, you may come to the Legal Assistance Office on **Wednesday between 0900-1100 and 1330-1530** to speak with an attorney and have your will prepared and signed or, if that is inconvenient, you may make an appointment for another time or day. If you do not understand any part of this worksheet, leave the question blank and discuss it with your attorney during the interview.

WHAT IS A WILL? A will is a legal document which states your desires concerning what will happen to your property after your death. A will also contains other specific directions from you concerning who is to implement your instructions and, perhaps, who will care for any minor children you may leave behind.

WHY SHOULD I MAKE A WILL? If you die without a valid will, the distribution of your property will be governed by the laws of your domicile or state of legal residence, and perhaps by the laws of the state in which you die. Your wishes usually will not be considered.

IS ALL OF MY PROPERTY CONTROLLED BY MY WILL WHEN I DIE? No. Payable on death accounts are not controlled by your will. For example, proceeds of life insurance policies (including SGLI) are distributed as you have designated on the beneficiary section of the insurance policy, and property that you own jointly with another person will, normally, go to the other joint owner. Likewise, certain bank accounts which are payable on death go directly to the beneficiary. Property passed to beneficiaries in these ways avoids the probate proceeding.

WHAT IS PROBATE? Probate is a court procedure by which a will is proved to be valid or invalid. Probate proceedings also address such matters as the administration of your estate, taxes, and the guardianship of children.

CLIENT INFORMATION

PRINT YOUR FULL NAME (FIRST, MIDDLE, LAST): _____

DOMICILE (STATE OF LEGAL RESIDENCE): _____ **MARRIED?:** YES: ___ NO: ___

PREVIOUSLY MARRIED OR WIDOWED? YES: ___ NO: ___

FULL NAME OF SPOUSE: _____

DO YOU HAVE ANY STEPCHILDREN OR ADOPTED CHILDREN? YES: ___ NO: ___

FULL NAMES OF CHILDREN (specify if **adopted** or **stepchild**): _____

DO YOU WANT ADOPTED OR STEPCHILDREN TO BE EXPRESSLY INCLUDED _____, OR EXPRESSLY EXCLUDED _____?

STATUS: ACTIVE DUTY MILITARY; SPOUSE OF ACTIVE DUTY MILITARY; RETIRED MILITARY; SPOUSE OF RETIREE; DEPENDENT OF ACTIVE DUTY MILITARY; DEPENDENT OF RETIREE; OTHER

DISTRIBUTION OF PROPERTY

WHAT CAN I DO WITH MY PROPERTY?: You can dispose of your property any way you wish, although state law may give your spouse and/or your children a right to a portion of your property regardless of your stated intentions. Many married persons leave all their property to their spouse, and, if their spouse does not outlive them, then to their children. The provisions of your will DO NOT control life insurance proceeds, including SGLI, nor any other property that passes to beneficiaries outside of the probate proceeding.

CAN I GIVE SPECIFIC THINGS TO SPECIFIC PEOPLE?: Yes, these are called specific bequests and you may make them by fully describing what you want to give and the person who is to receive it. You should be careful about specific bequests. If you dispose of the property that you describe, or if there is any doubt about the exact property that you have described in your will, you may be creating difficulties for your personal representative.

HOW DO YOU WANT TO DISPOSE OF YOUR TANGIBLE PERSONAL PROPERTY? (Tangible personal property is property owned by you at the time of death {except cash} including, without limitation, personal effects, household goods, clothing, jewelry, furniture, vehicles, etc.)

- all to your spouse**
- all to your children**
- as provided with regard to the residuary estate**
- all to one beneficiary (enter name):**
- other (describe disposition and shares):**

HOW DO YOU WANT TO DISPOSE OF YOUR REAL ESTATE?

- all to your spouse**
- all to your children**
- as provided with regard to the residuary estate**
- all to one beneficiary (enter name):**
- different properties to different persons: (please indicate intent)**
- spouse to have life estate only, remainder passes to (enter name):**
- other (describe disposition and shares):**

ARE THERE TO BE SPECIFIC BEQUESTS? (enter description of property and the person who is to receive it):

HOW DO YOU WANT TO DISPOSE OF YOUR RESIDUARY ESTATE? (The residuary estate is the remaining property {usually cash and real estate} after the tangible personal property has been disposed of and specific bequests made.)

- to your spouse outright**
 - if spouse predeceases, to your children per stirpes.** (Per stirpes is a method of distribution whereby the descendants of your child receive your child's share of the estate if your child has died before the estate is distributed)
 - a minimum bequest to spouse (disinheriting spouse to the extent permitted by law) [balance to your children or other beneficiaries]**
 - to your children per stirpes [outright or in trust]**
 - to one beneficiary outright**
 - to one beneficiary in trust**
 - to more than one beneficiary, in equal or unequal shares, either outright or in trust**
- Enter any specifics:

DO YOU OWN ANY BUSINESSES OR FARMS TO BE DISPOSED OF UNDER YOUR WILL? Y___ N___

DO YOU WANT TO DESIGNATE ALTERNATE BENEFICIARIES? The alternate beneficiary may be an individual or group of people, and you can designate a series of alternate beneficiaries to inherit in equal or unequal shares:

AT WHAT AGE DO YOU WANT YOUR CHILDREN TO RECEIVE THEIR INHERITANCE OUTRIGHT? ___18
___21 ___other (please indicate age)

IS THERE ANYONE YOU WANT TO DISINHERIT? Y___ N___ (if yes, full name and relationship)

IS THE NET VALUE OF YOUR ESTATE INCLUDING YOUR SPOUSE'S ASSETS (life insurance, retirement accounts, etc.) **MORE THAN \$1,000,000?** Y___ N___

PERSONAL REPRESENTATIVE

WHAT IS A PERSONAL REPRESENTATIVE?: A personal representative or executor is a person that you name in your will to carry out your desires, as expressed in your will, and to settle your estate. Settlement includes paying, from your estate, any taxes and debts you may owe. Many married people name their spouse as their personal representative. Your personal representative will have an important role; choose him or her with care, and discuss the matter with him or her. Be sure that the person you name is one you trust and have confidence in.

WHO DO YOU WANT TO APPOINT AS YOUR PERSONAL REPRESENTATIVE?

- ___your spouse
- ___your spouse and a co-personal representative
- ___your spouse and one or more successor personal representative
- ___one personal representative (other than your spouse)
- ___one personal representative and one or more successor personal representative
- ___two co-personal representatives

If a co-personal representative fails to qualify -

- ___the other may act alone
- ___the other may appoint a new co-personal representative
- ___another co-personal representative is to be designated in this Will

Other than your spouse, enter the name(s) and relationship to you of the personal representatives you appoint:

TRUST OR UGMA/UTMA

WHAT IS A TRUST AND HOW MIGHT IT BE USED FOR THE BENEFIT OF MY CHILD(REN)? A trust is similar to a bank account that you create for the use of your children; the property you leave to your children automatically goes into the account. When your child reaches a certain age that you have decided upon in your will, all the money that remains in the account is distributed to the child. If you have more than one child, each child receives his or her share of the account when he or she reaches the required age. A “separate” trust sets up an account for each of your children. A “unitary” trust creates one account that all of your children share and none of the children will receive his or her share until the youngest reaches the required age. You appoint a “trustee” who is legally responsible for the account to watch over the account and distribute money to your children. A trustee must be selected with care. The trustee should be a person you have confidence in, someone who knows your children and understand their needs.

ARE THERE ALTERNATIVES TO A TRUST AVAILABLE? Yes. Specifically, the Uniform Gifts to Minors Act (UGMA) or the Uniform Transfers to Minors Act (UTMA) creates custodianships which are generally recognized in state law and may be preferable to the creation of a trust in your will. If one or more of the beneficiaries in your will is a minor, the custodian you appoint establishes an UGMA/UTMA account for each minor. Like a trustee, the UGMA/UTMA custodian will be charged with administering the funds for the benefit of your children. Unlike a trustee, the custodian's duties and responsibilities are defined in state law rather than in your will. For many people, a trust is unnecessary because, under the UGMA/UTMA language in your will, gifts to beneficiaries under 18 (or, if you prefer, 21) will be controlled by your executor initially, and guardian after probate, without establishing a trust. The executor and/or guardian can still use the child's inheritance for the benefit of the child, and this is ordinarily less complicated and less expensive than a trust. ***Unless you have children from a prior marriage, disabled children, or a very large estate,*** you might prefer to not use a trust. One disadvantage, however to the UGMA/UTMA is that your estate will be divided into as many equal shares as there are minor beneficiaries. Each beneficiary will receive the remainder of his share as they turn 18 or 21, at your option.

IF YOU WANT AN UGMA/UTMA CUSTODIANSHIP ESTABLISHED INSTEAD OF A TRUST, DO NOT APPOINT A TRUSTEE IN THE NEXT QUESTION.

IF THERE IS TO BE A TRUST, DO YOU WANT TO APPOINT -

- one trustee**
- one trustee and one or more successor trustee**
- two co-trustees**
 - If a co-trustee fails to qualify -**
 - the other may act alone**
 - the other may appoint a new co-trustee**
 - another co-trustee is to be designated in this will**

Enter the name(s) and relationship to you of the trustees you appoint:

GUARDIAN

WHAT IS A GUARDIAN? A legal guardian is the person who will act as the parent for any of your children who are minors at the time of your death. Normally, if your spouse survives you, he or she becomes the children's guardian if he or she is the biological or adoptive parent of the children. However, it is recommended that you name a guardian and an alternate guardian in the event that both you and your spouse die. If you or your spouse have children not born of your current marriage, you should discuss the situation in detail with an attorney to determine the most appropriate way to provide for the children.

IN THE EVENT THAT THE OTHER PARENT OF YOUR MINOR CHILD(REN) DOES NOT SURVIVE YOU, DO YOU WISH TO APPOINT -

- one guardian**
- a guardian and one or more successor guardians**
- two co-guardians**
- no guardian is to be appointed in this Will**
- and appoint a conservator of the children's property (in jurisdictions where appropriate)**

Enter the name(s) and relationship to you of the guardians you appoint:

MAKE NOTES BELOW ABOUT ANYTHING ELSE ABOUT YOUR WILL THAT YOU WANT TO DISCUSS WITH YOUR ATTORNEY:
