

**DAVENPORT'S
ALABAMA WILLS
AND
ESTATE PLANNING
LEGAL FORMS**

**written by attorneys
Alex Russell and Robert Maxwell**

**BOOK AND FORMS FREE AT
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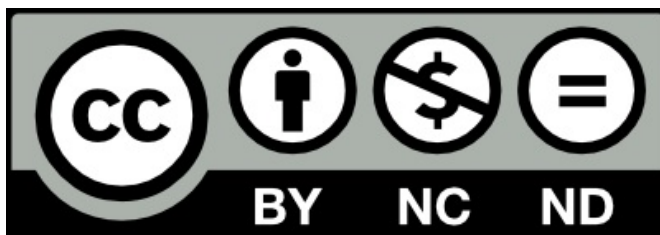
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CHAPTER 1

BOOK BASICS AND LIST OF FORMS

ESTATE PLANNING CONTROLS THINGS IF LATER ABSENT, SICK, OR DEAD

From Davenport Publishing and written by attorneys this book is on “Estate Planning”, about doing legal documents to control health care, property, money, children, funeral, and more if later absent, sick, or dead. People have a legal right to control their health care, property, money, and family issues, and so judges, doctors, and others mostly just ask: “**Based on what a person wrote what did they likely want done?**”

ESTATE PLANNING MOSTLY IS DOING SIMPLE THINGS IN 3 AREAS

Estate Planning is mostly doing simple things in 3 areas: Will Related, Health Care, and Giving Power. There are 8 ready to use legal forms for Alabama in this book. Many people use just 1 to 3 legal forms.

THERE ARE 8 LEGAL FORMS FOR ALABAMA IN THIS BOOK

WILL RELATED FORMS

Form 1. Will (Standard) – a Will (also called a Last Will And Testament) lets a person control things after their death like who gets money and property, who is Executor, and say to use helpful legal options later.

Form 2. Will (Guardian) – Will with part added to name someone as Guardian to care for minor child under 18 if needed (like if no parent is available) and also if needed manage their money and property.

Form 3. Self-Proving Affidavit – form often done with Will to later help prove it was properly signed.

HEALTH CARE FORMS

Form 4. Advance Directive For Health Care (Living Will And Health Care Proxy) – lets a person take serious step of saying stop care if later they’re incapacitated and doctors think health is bad and more care won’t help, and also lets someone be named as Health Care Proxy to control health care if needed.

Form 5. Do Not Resuscitate – does serious act of saying immediately from now on do not try resuscitation, so no cardio-pulmonary resuscitation (C.P.R.) will be tried.

GIVING POWER FORMS

Form 6. Durable Power Of Attorney – lets power over money, property, and more be given to trusted person so they have legal power to do things, like use accounts, pay bills, get records, and sell property.

Form 7. Power Of Attorney Delegating Parental Authority – lets parent or guardian of child under 18 give power to someone over child to let them make decisions like with health care, school, and home issues.

Form 8. Affidavit To Control Bodily Remains – lets person be named and instructions given to control a person’s dead body like funeral, cremation, and burial (without this form by law closest family controls this).

ALABAMA ESTATE PLANNING LAW APPLIES TO MOST PEOPLE HERE

This book is for Alabama only. Estate Planning law and legal documents are a bit different in each state. Whether local Estate Planning law applies is based on a person's primary residence (often called "domicile"). Many judges say residence occurs if a person lives in a place and for a moment has no clear plans to leave. Later plans to move don't matter till people actually move. People can stay under a state's Estate Planning laws even if they leave a state if living elsewhere is temporary and people always have firm plans to return. For example some people who leave for months or more for travel, for school, for special work projects, and the military may qualify to keep ties to their old state. Immigrants of any kind can do normal Estate Planning. For health care people often do legal documents to match the state a hospital or other health facility is in.

BOOK IS SHORT, HAS FORMS TO QUICKLY SEE, AND USES EMPHASIS

This book is short and may read rough but can be read fast. Long books often lead to misunderstanding of the basics and skimming. This book has legal forms people can quickly see. For emphasis paragraph titles, underlining, and boxes are used. This book capitalizes some legal words like Will, Testator, and Agent but this is optional. To save space some small words are skipped and end quote marks put before punctuation.

THIS BOOK COVERS MAJOR LEGAL IDEAS AND SHOULD SUIT MOST PEOPLE

This book covers the big U.S. legal ideas on Estate Planning and major ways Alabama law is different. This book and its forms can't cover every issue that matters to everyone but should suit people without any strange situations or wishes about Estate Planning, which is likely most adults (maybe well over 80%). Strange situations or wishes that may need more research or a lawyer include: a) unusual wishes for gifts, b) wealth over \$5 million, c) big medical concerns including extreme age, d) property or money going to a person with disability or special needs, and e) wish to move or hide assets to qualify for government help.

LEGAL FORMS CAN HELP AND THIS BOOK PROVIDES "STANDARD FORMS"

Studies on Estate Planning show a surprising 60% of adults have not done anything, 19% used a lawyer for this, and 21% used legal forms. Legal forms are good at most things involved in Estate Planning and can make binding legal documents that judges, doctors, families, banks, and others legally must follow. Also, often a hospital, state agency, charity, or state legislature has made a form most people use and call the "standard form", and doctors, judges, and others may not like to follow different forms. This book does use a standard form in an area if it exists or provides a suitable form. Lawyers often write their own forms.

ESTATE PLANNING OFTEN IS NOT VITAL AND WORTH SPENDING MUCH ON

Despite what many people think Estate Planning often does not greatly change the costs, taxes, delays, and work involved in these areas, so it often is not vital and worth spending much money and energy doing. The benefits seem low for some since only about 4% of people die by age 50 often from a long illness, and only about 0.13% of children under 18 had both parents die to need big legal help. *See Social Security Tables: Felicitie Bell; Parent Mortality Census SIPP Paper #288.* Instead of legal forms lawyers can be used for Estate Planning but they can cost \$1000s, take months of work, and make mistakes. In life people often weigh costs, benefits, and risks and choose a cheaper option. Life insurance from an affordable company may be a better use of money, and many people pay for \$100,000 term life without exam ("simplified issue").

LEGAL DOCUMENTS MAY NEED TO BE “WITNESSED” OR “NOTARIZED”

Legal documents to be valid may need to be “witnessed”, which is someone acting as witness watching person doing form sign and then witness signs. Documents may need to be “notarized”, which is person who is a “notary” (also called “notary public”) see signing and use ink stamp on page and then notary sign too. Notaries are found at some banks, brokers, insurance agents, courts, and government offices but they might be busy or they might only help existing customers. A helpful notary often can be found using a phonebook.

ANYONE CAN FILL IN MOST OF FORM, AND LATER TRY TO KEEP ORIGINAL

When filling out a form except for signatures other parts can be filled in by a person not doing document, maybe because of a person’s good handwriting or typing. After a legal form is done usually a person tries to keep the original and only hand out copies but situations vary. Rather than copying some people have everyone sign multiple copies so there are many copies with ink signatures.

SOME LESS COMMON AND LESS USEFUL FORMS ARE NOT IN THIS BOOK

This book skips some less common or less useful documents.

- A “Codicil” can modify a Will but it is easier and legally safer to just re-do a Will.
- Alabama unlike some states has no “Gift List” or “Memo” to add gifts to a Will.
- Some people do a “Revocable Living Trust” so a Trust entity with Trustee holds property or money during their life however long, usually done to after death avoid small delay, costs, or work (by “avoiding probate”). This is rare as it requires immediately moving most of a person’s things into a Trust causing maybe years of hassles, mostly for small benefits for people who are probably happy to later do work to get things by Will.
- “Childrens Trust” papers can be done like in a Will so a Trust at a death gets money or property for a minor child to manage until 18, but this is uncommon due to possible cost and hassles, since it rarely matters (as this book explains), and since most Wills already arrange other legal help for young children.
- Some people do a “Pet Trust” to help a pet, but it’s easier to just give money in Will to person given a pet.
- Though separate forms exist most people handle Organ Donation in drivers license or state ID forms.

PROBABLY DO NEW FORMS IF DIVORCE, MARRY, HAVE CHILD, OR MOVE

Divorcing, marrying, having a new child, or moving to a new state can have big legal effects. If any of these events occur it is recommended people do a new Will and other Estate Planning papers soon. To help most states say a Will from another state is still valid but this is not always certain.

NO FEDERAL OR ALABAMA TAX IS USUALLY OWED AT A DEATH

Usually no tax is owed as a result of a death, including no estate, inheritance, death, or similar taxes. This is because the Federal Estate And Gift Tax only starts when a tax credit is used up covering \$12.92 million a person in 2023 and later. Alabama no longer has any inheritance, estate, death, or similar taxes.

CHAPTER 2

TERMS, PROPERTY, AND HELPFUL INFORMATION FORM

THERE ARE BASIC TERMS AND IDEAS IN ESTATE PLANNING

Some legal terms and ideas are basic to Estate Planning.

■ “Estate Planning” is person doing legal documents to control things if later absent, sick, or dead. After a document is signed people are usually still free to sell or transfer property, instruct doctors, or change forms.

■ A “person doing a legal document” and “doing a form” means the form is for and affects that person.

■ A “Will” or “will” (this book uses upper case “W”) is a legal document done to control issues after death. The phrase “Last Will And Testament” is used since a “Testament” long ago was a small document done along with a Will to do some things. If no Will is done a person is described as being “intestate”.

■ A person who died is called “decedent” or “deceased”. A person getting a Will gift is called “recipient”, “beneficiary”, or “heir” if related (they “inherit”). “Survive” or “surviving” is to be alive after someone died.

■ A person named to do things after someone’s death is usually called an “Executor”, but if a judge has to appoint someone to do things they are called an “Administrator”, and the term “Personal Representative” covers both these terms and is increasingly more often used in Wills and other papers.

■ A person doing a Will is called “Testator” or “Will maker”. Before about 1990 a woman Testator was called a “Testatrix” and woman Executor called an “Executrix” but this is no longer often done.

■ “Probate” is a legal process to do things after death like transfer property, authorize a Guardian, and handle creditors. Due to nice changes in law probate is now often “informal”, faster, and less expensive.

■ “Property” is either: 1) “real property” which is land and buildings (“real estate”), 2) “personal property” which is things not real property, like cash, accounts, stocks, tools, clothes, cars, jewelry, and art, or 3) “fixtures” which are things tied to real property (like fences, posts, lighting, and wired-in appliances).

■ Legal documents to control health care things are often called “Advanced Directives”, but names vary.

■ In Alabama a person under 18 is called a “minor” and often a parent or “Guardian” manages their affairs. A minor or other person not reasonably able to make wise decisions lacks “capacity” and is “incapacitated”.

■ Forms giving power to someone are often called “Power of Attorney” forms. The person giving power is called the “Principal” and person getting power is called the “Attorney-in-Fact” or “Agent”.

■ State law is called the “Alabama Code”, which is broken into Titles, then Chapters, and last is statutes or sections (often shown by “s” or “§”). For example, one state law is: “Ala. Code § Section 43-8-130. A form written in state law for people to find and use if they want is called a “statutory form”.

“ESTATE” MEANS PROPERTY OF DECEDENT OR ENTITY HOLDING ITEMS

The “Estate” or “probate estate” is all property and money of a dead person that at a death or soon after did not somehow legally automatically transfer to other owners. “Estate” is also the word for the temporary entity run by Executor to do things after a death (sort of like a small corporation). A dead person’s money and accounts might be renamed or moved to a bank under an Estate name, like “Estate of John Eric Hud”.

PERSON CAN ONLY GIFT IN WILL WHAT THEY OWN AT DEATH

A person can only gift by Will things they own at death so people should research what they own. Basically by law a person usually owns all they earn as wages and salary, owns their share of income and profit tied to property they own, and owns or partly owns any things their money buys or improves. And for property with “title” documents (real estate or vehicles) or where there is a “listed owner” (like accounts) the named persons are usually the legal owners unless evidence shows special circumstances. Note, a person during life can sell property, make gifts, or transfer things even if items are named in a Will, so people should consider if they already sold or gave away property they also name in a Will gift.

THINGS OWNED IN SPECIAL WAYS MAY LIMIT GIFTING IN WILL

A person should consider if they own real estate or other property in special ways which may limit gifting by Will. Laws in different states vary but some special joint ways are:

- “joint tenant with right of survivorship” or similar legal options, so then property transfers automatically to the other named owners regardless of a Will, which in some states is usually how the family house is held (in Alabama often married people do papers so if 1 spouse dies the surviving spouse gets the family house),
- papers say a “life estate” exists, so then if life of someone ends the other people in papers get item, and
- “Trust property” if paperwork made a Trust entity and property was actually transferred into it, so then the Trust papers control where things put in the Trust go on someone’s death.

Normal joint property can be gifted by Will, like “I give my half of boat to Paul Smith”. Joint ownership can occur if people do joint papers, agree to this, buy with joint funds, or if a gift was to multiple persons.

NON-PROBATE TRANSFERS THAT HAPPEN AUTOMATICALLY IGNORE A WILL

Money or property of the deceased that for some reason automatically transfers on death or soon after to new owners is called “non-probate property”. Such things transfer as arranged even if a Will names the same items. Non-probate property examples are: a) a “designated beneficiary” form done before names person to get account or investment, b) transfer-on-death account, and c) real property is held by 2 people as “joint tenants with survivorship” or similar ways so the surviving person gets things.

Also, things in a Trust ignore a Will and will transfer as Trust papers say, and insurance benefits with a beneficiary ignore a Will. Trying to do non-probate transfers for all things is called “avoiding probate”, but few people try this since it may make living and paperwork a hassle for years, benefits are small, and often a small thing is missed. When doing a Will a person should consider non-probate transfers that will occur automatically on death and consider what property and money will be left to transfer by Will.

“HELPFUL INFORMATION” FORM CAN TELL FAMILY AND FRIENDS THINGS

Often people do a “Helpful Information” form that some financial planners, lawyers, and banks suggest so family and friends after a death know things. Often people staple records or lists to this. See next pages.

ESTATE PLANNING HELPFUL INFORMATION

For more space attach copies of form or blank pages. Keep pages by Will or other place for Executor or family.

1. Personal Information (Name, Birthdate, Social Security #, special family details, other):
2. Real estate, vehicles, and other major tangible property (especially if people may not find them):
3. Non-tangible assets like stocks, accounts, investments, loans owed you, and business interests:
4. Possible income or insurance like pensions, retirement, disability, insurance, or contracts:

5. Debts owed by you like credit card, loan, student loan, mortgage, vehicle loan, and accounts payable:

6. Names and information of professionals used (attorneys, accountants, brokers, doctors, others):

7. Computer passwords and helpful files, document places, and safes or safe-deposit boxes codes/keys:

8. Other helpful things, wishes for funeral, special requests, and any last messages to family and friends:

CHAPTER 3

WILL BASICS

WILL LETS “TESTATOR” CONTROL THINGS AFTER DEATH

A Will is done by a person to control some things after their death. A person doing a Will is called the “Testator” or “Will maker”. A Testator when signing must be at least 18 years old, of sound mind (rational with sufficient memory), and not be under duress (unfair pressure or threat). Most people can do a Will. People should keep Will so it can be found fairly quickly after a death, like within a couple weeks.

SIGN WILL WITH 2 WITNESSES

A WILL IN ALABAMA TO BE VALID MUST BE WRITTEN AND HAVE 2 WITNESSES

To be a valid Will in Alabama a document must a) show it is meant as a Will, b) be written on paper or similar, and c) be signed in front of 2 witnesses. In Alabama a “Video Will” or “Audio Will” has no legal effect. Unlike some states Alabama does not let people skip using witnesses if a Will is all handwritten by a person. Alabama currently does not allow “electronic signing” or “remote signing” using computers, the internet, and video conferencing, though this may change in the future especially if another pandemic occurs.

WITNESSES SHOULD BE PEOPLE AT LEAST AGE 18

A person to act as a witness must be at least age 18. It is not required but preferable a witness not be old or live far away. Alabama law does let a person getting things in the Will act as a witness to the Will, but out of caution many people try to use as a witness people not getting any Will gifts. Most people also try to not use as a witness a person named in a Will as Executor, Guardian, Conservator, or other roles. Often used as witnesses are neighbors, friends, workers at a business, strangers, and maybe family.

TESTATOR AND 2 WITNESSES SIGN A WILL WHEN TOGETHER IN 1 ROOM

To do a valid Will in Alabama the person doing the Will must sign with 2 witnesses who then also sign, and usually everyone signs within about 5 minutes. Everyone should be in 1 room and see all others sign. Witnesses and Testator showing an ID is not required but common. Testator need not initial the Will pages. A Testator or witness should use their full legal name unless they dislike it and rarely use it. The witnesses usually only read the 1 paragraph they sign. People who can’t move a hand to sign should consult a lawyer. A Testator need not verbally tell everyone it is their Will, but if this is done it is called “publishing the Will”. Though not required often a Testator says a thing like, “My name is ____ and this is the Will I want and do voluntarily and want people to witness”. Some Testators chat with witnesses to help show they are rational.

CANCELING OLD WILLS IS USUALLY NOT A PROBLEM

So a new Will is followed old Wills should be canceled (“revoked”) but this is easy and rarely a problem. A new Will often says old Wills are revoked to cancel them, and most do this including Will forms in this book. A few people revoke a Will by writing “void” or “cancelled” or “X” on a Will, preferably with a witness to this. Usually crossing out just part of a Will has no effect, and revoking a Will doesn’t bring back an earlier Will.

MOST WILLS SAY USE LESS COSTLY AND SHORTER “INFORMAL” PROBATE

To help most Wills say use “informal probate” which is a legal option to reduce some costs and delays.

MOST WILLS SAY TO SKIP COSTLY BOND

Most Wills helpfully say no “bond” or “surety” is required for any Executor, Guardian, or similar people. This is insurance bought from an insurance company to insure against misconduct. But the person writing a Will usually does not want a bond since the person named is trusted and insurance uses up estate assets.

MOST WILLS HAVE “MISCELLANEOUS” PART WITH HELPFUL LANGUAGE

Most Wills have “Miscellaneous” part with paragraphs of legal language to avoid some legal problems.

KEEP SIGNED WILL IN SAFE PLACE IT CAN BE FOUND AFTER A DEATH

People should keep Will so it can be found within days of a death, like in desk, drawer, safe, or less often a safe deposit box. It can be given to a person to hold. It may help to tell people where to find Will and keys.

IN WILL NAME EXECUTOR TO DO THINGS AFTER A DEATH

WILL NAMES “EXECUTOR” TO ACT AND HAVE POWER AFTER A DEATH

Usually a Will names someone as “Executor” to act after a death like carry out gifts, handle debts, and do probate. The law gives Executors many powers and rights to do things, like collect and move money and property to new owners. If a Will does not name a person a judge can pick someone, but family may argue about who to pick. Naming 2 people to both do this job is possible but rare due to risk of arguments and delay, and since any 1 person named should be trusted. The person named Executor can get Will gifts.

“PERSONAL REPRESENTATIVE” IS NEW NAME FOR EXECUTOR

In Alabama the term “Personal Representative” is increasingly used in Wills and official legal papers for person handling things after a death, but most people and this book still mostly use the old term Executor.

EXECUTOR CAN BE PAID, AND ESTATE PAYS FOR ALL THINGS

Many states let Executor ask for pay for hours worked, and money paid is usually small and fair pay for hours worked. Alabama law says any hourly pay or other pay usually should be under 2.5% of the estate or disbursements. But pay is often not asked for to avoid income tax to Executor and leave more for Will gifts. Any lawyer hired by an Executor often is paid an hourly fee or an agreed sum they and Executor agree on. Money an Executor needs like for lawyers, fees, repairs, and other usual things comes from estate assets.

EXECUTOR IS PERSON AT LEAST 19 AND SECOND PERSON RARELY NEEDED

A person to be Executor must be 19 or older, and they need not be an Alabama resident if a Will names them but being local makes later work easier. Under Alabama law no person with a criminal record with a felony or serious “infamous” crime may be Executor. A judge can block or remove a person seems likely to do a bad job as Executor. Some people name a 2nd person to serve if the 1st person is unavailable, but most skip this since it’s rarely needed, if seen a new Will can be done, or a judge can pick someone. To add such a 2nd person words can be added, like: “or if they are reasonably unable to serve I name ____ to serve”.

“INTESTATE” LAW SAYS WHERE THINGS GO AT DEATH IF THERE IS NO WILL

State “intestate law” says where a dead person’s property and money left goes if there is no valid Will. Some people like what intestate law says and intentionally skip doing a Will. Basically, intestate law gives things to closest family based on what surviving (living) family a decedent left. Note, by law a person’s grandchild often stands in place of their dead parent. Alabama law basically says if there’s no valid Will:

- if spouse survives but not decedent’s children or parents, spouse gets all,
- if spouse and parents survive but no children, spouse gets \$100,000 and 1/2 of things and parents the rest,
- if spouse and some children survive, spouse and children each get 1/2 of things (plus if spouse is related to all the children then the spouse also gets the first \$50,000 of things),
- if no spouse, or children, or parents survive but some brothers/sisters survive, brothers/sisters get all,
- if there is no surviving spouse, children, parents, and brothers/sisters, then more distant living family get things and if no such family exist it goes to the State of Alabama (it “escheats”, which is very rare).

ALABAMA LAW HELPFULLY SAYS PERSON MUST LIVE 5 DAYS TO GET GIFT

Alabama law helpfully says a person not living 5 days past the Testator is seen as having died before them for purposes of Will gifts. This avoids legal problems like items going to someone who quickly dies so items must be transferred again, and avoids most need to know exact time people die.

CHAPTER 4

WILL GIFTS INCLUDING RESIDUE

MAIN USE OF A WILL IS TO SAY GIFTS TO HAPPEN AFTER DEATH

Most people use a Will to say what happens to their property and money after their death, usually by making various Will gifts. Verbal and most written statements about this are not usually valid if not in a Will. A Will can control property acquired after it was signed.

GIFTING IN A WILL USING SIMPLE WORDS OFTEN IS BEST

Making gifts in a Will using simple words is often best, using words like “I give to” and “I gift to”. This is legally fine and avoids confusing legal words like “bequest”, “devise”, and “legacy” which few people know.

A PERSON IS MOSTLY FREE TO GIFT THEIR THINGS AS WANTED

People are mostly free to give at death their money and property as they want. But a spouse, minor children under age 18, and creditors owed money may have some rights which this book explains later.

IN WILL CAN DO “SPECIFIC GIFTS” TO GIFT PARTICULAR PROPERTY

Most Wills have “specific gifts” to gift particular things. Specific gifts can be any property, like “I give boat to Ed Blom” and “I give UBank account #84553873 to Sue Wu”. If a gift is not clear the law assumes all of a kind of thing is given, like “I give jewelry to Ann Po” means all jewelry. But gifting specific property can have surprises like value of an item can change, or a Will gift may fail to occur since property is no longer owned.

IN WILL CAN DO “GENERAL GIFTS” LIKE OF MONEY

Wills can do “general gifts” where what is gifted is not particular property but can be flexibly chosen, like “I give 1 of my 3 cars to Ed Po” which lets an Executor pick which car. The usual general gift is money, like “I give \$5 to Ed Vu”. Money gifts are easy to write, let equal gifts be made, and are safer since specific items might not be owned at death. To carry out money gifts an Executor uses accounts or sells some property.

“RESIDUE CLAUSE” IS CATCH-ALL THAT HELPFULLY GIFTS ANYTHING LEFT

Most Wills by their end have a Residue Clause to gift property or money not gifted or used in Will or other way, sometimes called a “catch-all” or “left-over” clause. The Residue Clause is covered later in this Chapter.

PROPERTY OR MONEY IN A “JOINT GIFT” GOES TO MULTIPLE PEOPLE

The same property or money in a “joint gift” can go to multiple people to each get a part interest, like “I give boat and all hats to Ann Wu and Sue Han” means each person owns 50% of every item. People later can split things by agreement or as Executor suggests, or Executor can just sell items and split the money. If a person in a joint gift has died their part of things usually is left to transfer under the Residue Clause.

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GIFT BENEFICIARIES CAN GET PERCENTAGE RATHER THAN EQUAL SHARE

If a Will gift goes to multiple people the law assumes equal shares, but if wanted percentages can be put to make unequal gifts, like “I give boat 90% to Ed Wu and 10% to Joe Hud”.

LATER DIVORCE OR MURDER CANCELS WILL GIFTS

Alabama law says a person divorcing or murdering Testator usually cancels all Will gifts to the person.

CONDITIONS ON WILL GIFTS ARE RARE DUE TO POSSIBLE PROBLEMS

Putting conditions on a gift, like “I give Ann Poe \$90 if she graduates college”, can cause problems like years of delay, risk of lawsuits, and big attorneys fees, and due to this conditions are rarely put on Will gifts.

OPTIONS EXIST TO HANDLE RARE CASE PERSON IN A WILL GIFT DIES

PERSON IN WILL GIFT USUALLY MUST SURVIVE OR GIFT DOES NOT OCCUR

Though rarely an issue, many Wills like this book's Will forms say a person named in a Will gift must survive (live past) the Testator or the gift will not later occur unless gift language specifically says different. If survival isn't required like this then what occurs can be unclear (for many reasons like certain state laws). Most people if they see a person in a gift has died just re-do a Will or trust a Residue Clause to handle it.

SOME PEOPLE ADD “ALTERNATE BENEFICIARY” MAYBE FOR SPECIAL ITEMS

Some people to handle if a person named in a Will gift dies maybe put for special items an alternate beneficiary, like for example: “I give oak table to Ed Wu but if they don't survive me to Ben Fox”.

IF PERSON IN WILL GIFT DIES IT CAN GO TO “LINEAL DESCENDANTS”

A Will gift can say it goes to a person but if they don't survive the Testator then say the gift goes to the person's “lineal descendants”. Descendants are a person's children and grandchildren. Also, the term “per stirpes” is often used to say to give to each family branch equally. An example shows how this works:

A Will may say: “All clothes to Sue Wu but if they don't survive to their lineal descendants per stirpes”, and this means if Sue Wu has died and her son Ken Wu is living and her other son Ben Wu has died but left 2 children then, legally, by law Ken Wu himself gets 50% and Ben Wu's 2 children each get 25%.

HELPFUL LAWS OFTEN REQUIRE PERSON SURVIVE 120 HOURS TO GET GIFT

Laws in most states say a person dying within 120 hours of someone is seen as having died earlier, so often a Will gift to them is ignored. This avoids legal problems like need to know exact time of death and, also, having an item go through many probate legal cases over years.

CAN LEAVE SOME WILL GIFT LINES BLANK OR WRITE THINGS LIKE “SKIPPED”

A person writing a Will can choose to not use some gifts lines in a Will legal form, like by just leaving them blank, writing things like “SKIPPED” or “NONE” in them, or using a computer to delete some gift lines. Judges and others usually do not care about neatness or empty spaces in Wills.

ALABAMA DOES NOT LET “GIFT LISTS” MAKE GIFTS OUTSIDE OF A WILL

Alabama law does not let writings like a list or memo outside of a Will make gifts to occur after a death.

AFTER A DEATH FAMILIES OFTEN LET PEOPLE TAKE ITEMS UNOFFICIALLY

After a death many families unofficially let people take small items in ways a dead person mentioned, wrote on notes, put on stickers, or would have wanted, and this usually is not a problem unless someone objects.

RESIDUE CLAUSE GIFTING ALL LEFT IS MAIN WAY USED TO GIFT THINGS

THE “RESIDUE CLAUSE” IS CATCH-ALL THAT HELPS GIFT ANYTHING LEFT

Most Wills by their end have a Residue Clause to gift any property or money not gifted earlier in a Will or used in other ways. Things transferred this way is called the “Residue”. Many people gift most their money and property this way by intentionally not mentioning in a Will most things so the Residue Clause handles it. This skips need to describe things and has less legal risk. Later after applying a Residue Clause if anything is left (which is rare) then closest heirs get things (this is closest family).

USUAL RESIDUE CLAUSE HAS 2 PARTS

A short 2 part Residue Clause is usual and is used in this book’s Wills, and it has:

- 1) 1st space to name 1 or more persons to get things if they survive Testator (many name a spouse or closest family here), and if several people are named but only some survive then survivors split things, and
- 2) 2nd space to name persons to get things if all in 1st space don’t survive (so these are fallbacks) (many name next family or friends here), and if a person in 2nd space died their descendants get their share.

EXAMPLE OF 2 PART RESIDUE CLAUSE:

“RESIDUE CLAUSE: I give money and property not gifted earlier:

A) to my husband John Paul Doe if they survive me, then

B) to Sam Doe my son, Beth Wu my daughter, and Greta Fisher my friend and if any of those just named do not survive me their part goes to their lineal descendants, per stirpes.”

In this example if John Paul Doe has survived then he gets all things, but if John Paul Doe hasn’t survived and also Sam Doe hasn’t survived and he left 2 daughters then those 2 daughters split the 1/3 share of Sam Doe so get 1/6 each and other 2 persons in second part Beth Wu and Greta Fisher get 1/3 each.

PEOPLE CAN PUT SAME THING IN PARTS, OR SKIP PART, OR USE PERCENTAGE

Some people put the same 1 person in both parts of a 2 part Residue Clause to better ensure that 1 person or if they later die their descendants get things. Or a person with no spouse often skips and leaves blank the Residue Clause 1st part and in the 2nd part puts their children (including any who died who had a child), to make clear all family branches get an equal share. See Appendix. Often many people use percentages in a Residue Clause, like to give a large percentage to a child and give a small percentage to a cousin.

SOME PEOPLE CHANGE A RESIDUE CLAUSE TO HAVE 1 PART

Some people change a Residue Clause to have just 1 part since this can gift more equally and be easier to understand. See example in Appendix. For example a Residue Clause can be made to say:

“The rest, residue, and remainder of my estate, and anything else, I give to _____ who survive me and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.”

MUST SUFFICIENTLY DESCRIBE NAMES AND PROPERTY IN WILL GIFTS

PUTTING NAMES OF PEOPLE OR GROUPS IN WILL GIFTS IS FAIRLY EASY

Names in Wills are fairly easy. A judge and Executor assume a person means to name people they know so it's OK to use common names unless 2 friends or family use the same name. Details help if names won't be recognized or to be friendly, like "I give \$5 to maid Sue Lee" and "I give \$5 to my loyal pal Ed Hall". If people used a nickname "also known as" or "a/k/a" may help, like "I give \$5 to Ed Smith a/k/a Old Fishy". Gifts can go to a charity, government, or group, like "I give \$5 to The Salvation Army, "I give \$5 to Rex, AL City Library", and "I give all shoes to Lobb Church in Hart, TX". People often phone to get a charity's name.

DESCRIPTIONS OF ITEMS IN WILL GIFTS IS FAIRLY EASY

Describing items in gifts is easy since people rarely own similar items, so often fine is "I give ax to Ed Wu" and "I give big table to Ann Fox". It's OK to gift by category or list, like "I give tools to Sam Dodd" and "I give cow, van, and piano to Sue Vix". Financial assets can use plain words, like "bank accounts" or "stocks", but some details can help, like "UBank account ending #1511". Using item location is risky as judges may ignore Will gifts if it seems items were placed to affect gifting and not "independently significant" life reason. So, "I give Ed Po items in safe and desk" a judge may not follow, but "I give Ed Po hats at cabin" likely is OK.

DESCRIBING REAL PROPERTY IS HARD SO MANY USE RESIDUE OR TITLE

The legally safest way to gift real property (real estate) at death is: 1) do nothing specific so it's all done by a Will Residue Clause, or 2) have a broker or lawyer add names to land title papers to get real property. Gifting real property other ways is rarely done and hard, though there are ways. Helpfully a Will gift of real property by location does gift all land, buildings, and fixtures there with no need to describe what's there.

Giving real property using a "legal description" is how some lawyers do it, but it can be many lines of words. A legal description can be lot based, like: "Lot 4, Block 2 according to the plat of survey of Smith Subdivision as recorded in Office of the Judge of Probate of Madison Co., Alabama as Document No. 2007-040283757". Or a legal description may be an old fashioned description, like: "Begin at NE corner of Section 14 Township 20 North, Range 17 East, St. Stephens Meridian Map Line, then East 79° for 18 ft to point marked with an iron stake, then South 188° for 50 ft, then Due West for 18 ft, then to point of beginning".

It is less common to gift real property with plain words, like a house by "I give 21 Ivy Rd., Hud, AL to Leo Ian Lee", or land like "I give all real property in Baldwin Co., AL to Sue Ann Hu". Often both address and legal description are used. Some people do a blanket gift, like "I give all real property and fixtures I own to ____".

SIMPLE WILL WITH MOST GIFTING DONE BY RESIDUE CLAUSE IS OFTEN BEST

Writing a simple Will without many gifts and much left blank and then using Residue Clause is often best.

If there is a spouse often people do very small gifts to friends and other family, then use the Residue Clause of Will to gift mostly to their spouse, and then name a few fallback persons in the Residue Clause.

If there is no spouse and no child often people do a few small gifts, then gift family or friends the Residue.

A parent with young children if married to other parent often gifts Residue to spouse, and as fallback gifts the Residue to the children -- or if not married to other parent they gift to children using the Residue Clause.

CHAPTER 5

DEBT, MARRIAGE, AND YOUNG CHILD ISSUES

DEBT ISSUES

PAYING DECEDENT'S DEBTS MAY USE UP RESOURCES AND REDUCE GIFTS

Creditors a decedent owed can ask a judge to be paid from decedent's money and property before Will gifts and other transfers are done. How Executor must pay debts is set by state law and a Will's language need not cover this and can skip this. Resources to pay creditors comes from the decedent's property and estate so may affect (in order) Will Residue, Will general gifts like money, Will specific gifts, and non-probate transfers. Some debts like for probate, attorney, funeral, and health care may have priority to be paid first. A spouse and family usually aren't personally liable for decedent's debts unless they guaranteed or co-signed. People should consider how paying debts may use up money or property, leaving less to carry out Will gifts.

BEFORE DEBTS ARE PAID MAY COME SOME FAMILY RIGHTS

Alabama law to help says a surviving spouse or minor children can choose to claim some "family rights" before most debts are paid and a Will is carried out. An "Exempt Property" right lets family claim \$7,500 of decedent's property like furniture, vehicles, tools, appliances, and household items owned by a decedent. A "Family Allowance" right lets family get usually \$15,000 for year to live on taken from decedent's things. And a "Homestead Allowance" right lets family get up to \$15,000 from decedent's money and property if they don't get a family home from decedent. If there's not enough property a family can get money instead. There's also ways for family to get things without full probate. A bank holding under \$5000 of the decedent and employers owing wages usually can pay family directly. And if decedent left under \$25,000 of things a quick Summary Probate may be done by family to get things. Most creditors know the law so often don't bother trying to collect if told of a death and that decedent left little of value and has a spouse or young child. Obviously if family rights are used this leaves less of a decedent's money and property to carry out Will gifts or other transfers. Most people by Will and other ways give mostly to any spouse or young children (like over 50% and any family home), including so family are happy and don't bother to claim family rights.

THE FAMILY HOME OFTEN GOES TO FAMILY

Often a person who owns a house where family live puts a spouse or minor children on the title so they get it if the person dies. Or often a Will gives the family home to family. A spouse or minor children usually stay in a home during probate. Not giving family the house can cause legal issues and some hurt feelings. Laws also mostly protect a house from creditors except any creditors with a mortgage or lien of some kind. For many reasons most people give a house where family are to a spouse or if there's no spouse to children.

SECURED DEBTS LIKE MORTGAGE OR VEHICLE LIEN ARE NOT PAID OFF

Most Wills (like Will forms in this book) and Alabama law says to not to pay off secured debts like a house mortgage or vehicle lien after a decedent's death even if other debts will be paid off. This is done to not use up a lot of estate resources paying off big debts. People getting a thing with a secured debt usually decides to make monthly payments to avoid repossession or foreclosure in the future. But if wanted a Testator can a) gift in Will money to pay the debt, or b) put in Will an order to pay (like, "I order home mortgage paid off").

MARRIAGE ISSUES

MOST STATES USE “SEPARATE PROPERTY LAW” FOR SPOUSES

Most states including Alabama use the “Separate Property Law” system saying married people mostly own all their money and property separately and not jointly with a spouse. So a spouse is mostly free to sell during life or gift in Will their things. But joint ownership by 2 spouses can arise in ways (like by paying half a purchase price, by agreement, a gift is to both spouses, or spouses do papers to own an item jointly). Many married people do land title papers to hold a house a certain way so on a spouse’s death it then automatically goes to the other spouse.

“COMMUNITY PROPERTY” LAW APPLIES IN OTHER STATES FOR SPOUSES

There are 9 states mostly in West and South U.S.A. that use “Community Property” law for spouses there (Arizona, California, Louisiana, Idaho, Nevada, New Mexico, Texas, Washington, and Wisconsin). This law says property or money is owned 50/50 by spouses as “Community Property” if it comes from physical or mental effort while living there and married (like labor or wages, management of a business, or active trading of a collection or stocks) or if it was bought or improved with other Community Property. Most people in Alabama avoid these issues unless they recently moved from any of these states.

“JOINT WILL” SIGNED BY BOTH SPOUSES IS NOT RECOMMENDED

Some couples sign 1 “Joint Will” or “Contract To Make A Will” done by lawyer which says spouses gives all to the other if they die first, then says last living spouse gives to all children equally, and usually says a spouse may not change this. This is not recommended, banned in some states, and few people do this.

A SPOUSE CAN SEEK “ELECTIVE SHARE” OF THEIR DEAD SPOUSE’S THINGS

Many states give a spouse if unhappy with what a Will and other transfers may give them the right to choose (elect) an “Elective Share” of a dead spouse’s property and money. Many states do this for fairness, so a surviving spouse has resources to live on, and so divorce isn’t the only way to feel financially secure. Under Alabama law if a spouse after a death is unhappy and chooses the Elective Share they get the smaller of a) 1/3 of the decedent’s estate property and money and b) decedent’s estate property and money reduced by the surviving spouse’s “separate property” (this is basically all a spouse had or gets by trust, insurance, land title papers naming owners, and other non-probate transfers). Normally the Elective Share is 1/3. To avoid legal tricks the Elective Share may cover items a deceased spouse gave away recently or just controlled but didn’t technically own. Note, if a spouse uses the Elective Share to claim 1/3 or so of the decedent’s property and money uses up money and property so interfere with other transfers to others. Due to all this a married person usually gifts by Will and other ways well over 1/3 of their money and property to any spouse (like over 50% and any family house).

YOUNG CHILD ISSUES

WILL CAN NAME PEOPLE TO CARE FOR CHILD AND THEIR PROPERTY

If a parent dies with a child under 18 the other natural or adopted parent (not step-parent) automatically gets control of the child's care including health care, school, and home, unless that parent is unavailable or proven unfit in court which is rare. But in case it is needed (like if later both parents die) a Will often names a "Guardian" to do this care for child, and often picked is a healthy and willing family member or friend.

Also, since a child until age 18 can't legally manage money or property often Wills name some person to if needed act as "Conservator" and manage property and money and say how to use these for a child's costs (like school, living, and health care costs) till usually 18 when all left goes to the child. Some states and most people use the term "Guardian of the Estate" for this. Judges often do a yearly hearing to review spending. People paying things for a child usually can ask to be paid back from the child's money and property.

This book's Will forms and most parents in Alabama name the same person to care for a child as Guardian and, also, manage a child's property and money. Naming a separate person is not usually worth the bother since parents dying is rare, a child usually gets things only if both parents are dead so a Guardian will be involved, and a Guardian if they disagree on spending may argue or sue. But people if they want can modify a Will to name a person separate from the main Guardian to manage a child's money and property.

Note, most Wills at the end also say the Executor may let a "Custodian" they pick manage a minor's property and money, spend it for the minor's benefit, and later give the minor anything left. This is allowed by the new and helpful "Uniform Transfers To Minors Act" law that lets a Custodian do most financial things a Guardian or Conservator normally does but avoids most costs, work, and court hearings that people dislike.

PERSON MUST BE 18 TO HELP AND ALTERNATE PERSON RARELY IS NEEDED

A person must be at least 18 to be a Guardian, Conservator, or similar. They needn't be a state resident or U.S. citizen but being local makes later work easier. The choice of the last living parent has more weight. If no Will picks person for a position or they're unavailable a judge can pick, but family may argue about this. A judge may later block or remove a person who is doing a bad job or seems unsuitable like for past crimes. Naming 2 people for a position to help a child to act at the same time is rare since the 2 may argue and any 1 person named is trusted, but some people name 2 people in a stable marriage. Some Wills add a 2nd person in case the 1st person is unavailable, like maybe by adding: "or if they are reasonably unable to serve I name _____ to serve"). But many people skip naming an additional person since it is rarely ever needed, if a problem is seen a Will can be re-done, and a judge always can name a person to do a job. Note, Alabama law says any writing can name a guardian not just a Will if it has 2 witnesses or a notary, for example people can write, like: "I name _____ as guardian and conservator for all my children under 18 if I die. Date: _____ Signed: _____ Witness #1: _____ Witness #2 _____".

PICKING GUARDIANS RARELY MATTERS DESPITE PARENTS WORRYING

A young child having parents die is rare so parents shouldn't worry that much about this. A very large U.S. study of 311,900 people found 72,240 were under 18 and of these 2014 had lost 1 parent (2.78%) and just 97 both parents (just 0.13%), so losing parents is very rare. *Parent Mortality Census SIPP Paper #288.*

CHAPTER 6

BASIC IDEAS ABOUT HEALTH CARE FORMS

BASIC IDEAS HELP PEOPLE UNDERSTAND CONTROLLING HEALTH CARE

Some ideas help people understand health care forms.

■ By law people controls their own health care by telling medical personnel what they want unless they are “incapacitated” by insufficient ability to a) communicate verbally or by notes, b) be rational, or c) be conscious. Most people keep control of their own care till death or till no big treatment options remain, but some people worry they may be incapacitated a long time so want to do health care forms.

■ Legal documents that help control health care are usually called “Advanced Directives”.

■ If an adult 18 or older becomes incapacitated the adult’s closest family like spouse or adult child usually can make emergency decisions. But later they usually must then rush to a judge to get further power if no legal document gives them more power over health care.

■ In legal documents a person can be named to have control of health care if needed. This person is often called the “Health Care Agent”, “Health Care Attorney-in-Fact”, “Health Care Advocate”, or a similar name.

■ In legal documents people can write medical instructions that doctors, family, and other people must obey.

■ Parents even without legal documents mostly have full power over health care of children under age 18, and the only exception is teens have some freedom to pick their own family planning or gender related care.

■ Some married people do documents to give a spouse power over medical care if they are incapacitated. Some adults especially to age 25 do documents to give this power to parents. The young are less often sick.

■ Pain relief like pain drugs or comfort care is still given even if documents say to stop or limit other care.

■ Most people only do 1 legal document about health care that often names someone to control health care if needed and has a spot for basic instructions (this is sometimes called a “Health Care Power of Attorney”).

■ For the rare times stopping health care seems more likely to matter (like due to extreme illness or old age):

-- most people do nothing special and trust family or Health Care Agent to wisely decide when to stop care (they can weigh many factors like pain, cost, likely difficulty of treatment, beliefs, and chances of recovery);

-- a few people do a serious document to say to stop most health care if later doctors think an incapacitated person has very bad health and more medical care likely won’t help (sometimes this is called a “Living Will”;

-- a few people do a serious document to say starting immediately to not give most medical care (often this is called a “Do-Not-Resuscitate” if about resuscitation, or called a “Physician’s Order” if about many treatments).

■ This book has 2 legal forms about health care, which are 1) Advance Directive For Health Care (Living Will And Health Care Proxy) form which really covers 2 things, and 2) Do Not Resuscitate form.

CHAPTER 7

FORM 1: WILL (STANDARD)

FORM 1 IS A STANDARD WILL THAT IS FLEXIBLE AND WITHOUT A GUARDIAN

Form 1 is a standard Will that is fairly flexible and lets person control some things after their later death. This form has no part about a Guardian so this form is for a person with no minor children under age 18. The form is called a “Last Will And Testament” since a Testament legal document use to be done with a Will.

FORM IS A WILL WITH SEVERAL PARTS

This form has places for a person to put their name (a full legal name is best but not required) and write current main residence (most write a county but some put a city). The Will is still valid if people later move.

The 1st paragraph, “Gifts”, has many spaces to make either specific gifts of particular property or general gifts like of money. People can delete, copy and paste to add more, or leave blank these gift lines.

The 2nd paragraph, “Residue”, has a Residue Clause to say any property and money left after other Will parts and any other transfers is gifted to persons as the Residue Clause directs.

The 3rd paragraph, “Administration”, has space to name an Executor to handle legal and other matters after death, but the newer term “Personal Representative” is used here for this.

The 4th paragraph, “Miscellaneous”, has paragraphs of legal language to help avoid certain legal issues.

Last is paragraph for person doing Will to sign, and paragraph for 2 witnesses to sign and put addresses.

USUAL RESIDUE CLAUSE HAS 2 PLACES TO NAME PERSONS TO GET THINGS

In a Will “Residue Clause” anything left after other Will parts is transferred as the clause directs.

Many people use Residue Clause to gift most or even all things. In this Will form’s Residue Clause there is:

- 1) a 1st space to name 1 or more persons to get the Residue, and if any named here have not survived and died before the Will maker then any other persons named here take their share,
- 2) a 2nd space to name people to get things if all in 1st space died before Will maker, and if any people named here didn’t survive their shares go to “lineal descendants” like their children.

Most people name in 1st space a spouse or closest family or closest friends, and in 2nd space next closest family or friends. This may seem complicated but usually those in 1st area of Residue Clause get things.

TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will form after being filled out (except bits intentionally left blank) to be valid must be signed by person doing the Will (called Testator) in front of 2 witnesses at least age 18 who then also sign the Will. Testator and witnesses should be in 1 room and see each person sign. Witnesses usually just read the 1 paragraph they sign. Usually witnesses are not themselves or their spouse named in any Will gifts and also usually not named to be Executor or Guardian in the Will. The Testator need not initial the Will pages. Testator and witnesses showing each other ID is common. Though not required often Testator says a thing like, “My name is _____ and this is my Will that I do voluntarily and want you 2 people to witness”. Once completed a Will should be kept so it can found quickly within weeks of the Testator’s death.

LAST WILL AND TESTAMENT

I, _____, of _____ County, Alabama, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this is my Will. I am of sound mind and under no duress or undue influence and acting voluntarily.

1. GIFTS. I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

2. RESIDUE. I give the rest and residue and remainder of my estate, my money and property of any kind and nature, and anything I have an interest in so long as it was not transferred by other Will provisions (all of which is called the “residue”), as follows:

a) to _____ who survive me with persons just named who survive me taking the share of non-survivors, then

b) to _____ and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.

3. ADMINISTRATION. I name and appoint _____ as Personal Representative including for me, my Will, and my estate.

4. MISCELLANEOUS. The following applies to this Will and generally.

My main residence is in Alabama and Alabama law should apply to this Will.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by Testator at death shall lapse and be of no effect including no payment of money shall be done in its place, all without ademption.

If a gift or section in this Will reasonably mentions survival in any way then survival is an absolute condition and anti-lapse laws or similar have no effect.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive Testator their part to them lapses and instead goes to other surviving recipients.

Any failure to make more or any Will gifts to current children or current spouse at the time I do this Will is intentional and not a mistake to remedy.

No gift or transfer I made during my life to a person reduces or offsets a Will gift, unless during my life I expressly usually called it a loan or advancement.

Unless another meaning is shown by context use of plural includes the singular and vice versa, and also masculine, feminine, and neuter words are used interchangeably.

Unless another meaning is shown “they” means both one person and multiple persons.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by the Personal Representative or during probate, b) the recipient of a Will gift of property takes it subject to any debts, and c) no such recipient who later loses the property to a debtor or who pays a debtor to avoid foreclosure or other loss may require the estate, heirs, devisees, or others to pay recipient back or do anything.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and without doing any action or filings in court.

I give any Personal Representative a) the fullest authority, powers, and discretion allowed by state law, b) authority to lease, sell, mortgage, convey, or retain property including real property in any such manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts at any time they in their sole discretion choose. Any Personal Representative shall also have all powers found in Alabama state law existing on the date of this Will and any other powers hereafter conferred by law.

A Personal Representative shall have sole discretion how to balance people’s feelings and pick property or divide a gift to carry out a general gift or a gift to multiple persons.

If context permits the terms Personal Representative, Executor, and Administrator are interchangeable as if all were written, and Guardian of the Estate is interchangeable with Conservator. The terms Residue and Residuary are also interchangeable.

I request any lawyers be paid hourly or a fixed sum and not by any percentage.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances owed, and property I have or had a power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type, Conservator, Custodian, and any fiduciary under this Will or otherwise shall qualify and serve without bond, security, surety, or any similar thing.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

A Personal Representative may at any time transfer money or property of any minor under age 18 to a Custodian to serve under the Alabama Uniform Transfers to Minors Act or similar law anywhere. A Personal Representative may select the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

TESTATOR

IN WITNESS WHEREOF, I, _____, the Testator, publish, declare, and sign this instrument as my Will this ____ day of _____, 20__, and do hereby declare that I sign and execute this instrument as my Will, that I execute it as my free and voluntary act for the purposes expressed therein, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

Testator signature

WITNESSES

We, _____ and _____, the witnesses, do now sign our names to this instrument, and do hereby declare that the Testator willingly signs and executes this instrument as the Testator's Will, and that each of us witnesses in the presence and hearing of the Testator hereby signs this Will as a witness to the Testator's signing, and that to the best of our knowledge the Testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Witness signature

Witness address

Witness signature

Witness address

CHAPTER 8

FORM 2: WILL (GUARDIAN)

FORM 2 IS BASIC WILL WITH GUARDIAN CLAUSE FOR YOUNG CHILD

Form 2 is a Will with a Guardian part to be used by a person with any minor children under age 18. The form is called a “Last Will And Testament” since a Testament legal document use to be done with a Will.

FORM IS A WILL WITH SEVERAL PARTS

This form has places for a person to put their name (a full legal name is best but not required) and write current main residence (most write a county but some put a city). The Will is still valid if people later move.

The 1st paragraph, “Gifts”, has many spaces to make either specific gifts of particular property or general gifts like of money. People can delete, copy and paste to add more, or leave blank these gift lines.

The 2nd paragraph, “Residue”, has a Residue Clause to say any property and money left after other Will parts and any other transfers is gifted to persons as the Residue Clause directs.

The 3rd paragraph, “Administration”, has space to name an Executor to handle legal and other matters after death, but the newer term “Personal Representative” is used here for this.

The 4th paragraph, “Guardian”, lets a Guardian be named to care for any minor child if needed (like if no other parent is available), and also manage child’s property and money if needed.

The 5th paragraph, “Miscellaneous”, has paragraphs of legal language to help avoid certain legal issues.

Last is paragraph for person doing Will to sign, and paragraph for 2 witnesses to sign and put addresses.

USUAL RESIDUE CLAUSE HAS 2 PLACES TO NAME PERSONS TO GET THINGS

In a Will “Residue Clause” anything left after other Will parts is transferred as the clause directs.

Many people use Residue Clause to gift most or even all things. In this Will form’s Residue Clause there is:

- 1) a 1st space to name 1 or more persons to get the Residue, and if any named here have not survived and died before the Will maker then any other persons named here take their share,
- 2) a 2nd space to name people to get things if all in 1st space died before Will maker, and if any people named here didn’t survive their shares go to “lineal descendants” like their children.

Most people name in 1st space a spouse or closest family or closest friends, and in 2nd space next closest family or friends. This may seem complicated but usually those in 1st area of Residue Clause get things.

TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will form after being filled out (except bits intentionally left blank) to be valid must be signed by person doing the Will (called Testator) in front of 2 witnesses at least age 18 who then also sign the Will. Testator and witnesses should be in 1 room and see each person sign. Witnesses usually just read the 1 paragraph they sign. Usually witnesses are not themselves or their spouse named in any Will gifts and also usually not named to be Executor or Guardian in the Will. The Testator need not initial the Will pages. Testator and witnesses showing each other ID is common. Though not required often Testator says a thing like, “My name is _____ and this is my Will that I do voluntarily and want you 2 people to witness”. Once completed a Will should be kept so it can found quickly within weeks of the Testator’s death.

LAST WILL AND TESTAMENT

I, _____, of _____ County, Alabama, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this is my Will. I am of sound mind and under no duress or undue influence and acting voluntarily.

1. GIFTS. I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

2. RESIDUE. I give the rest and residue and remainder of my estate, my money and property of any kind and nature, and anything I have an interest in so long as it was not transferred by other Will provisions (all of which is called the “residue”), as follows:

a) to _____ who survive me with persons just named who survive me taking the share of non-survivors, then

b) to _____ and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.

3. ADMINISTRATION. I name and appoint _____ as Personal Representative including for me, my Will, and my estate.

4. GUARDIAN. I name and appoint _____ as Guardian to have control, authority, and custody of any minor child, and, also, this same person is named and appointed to have control and authority over any minor child's property, money, and estate (including they should be Conservator if this if needed).

5. MISCELLANEOUS. The following applies to this Will and generally.

My main residence is in Alabama and Alabama law should apply to this Will.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words "give" and "gift" also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by Testator at death shall lapse and be of no effect including no payment of money shall be done in its place, all without ademption.

If a gift or section in this Will reasonably mentions survival in any way then survival is an absolute condition and anti-lapse laws or similar have no effect.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive Testator their part to them lapses and instead goes to other surviving recipients.

Any failure to make more or any Will gifts to current children or current spouse at the time I do this Will is intentional and not a mistake to remedy.

No gift or transfer I made during my life to a person reduces or offsets a Will gift, unless during my life I expressly usually called it a loan or advancement.

Unless another meaning is shown by context use of plural includes the singular and vice versa, and also masculine, feminine, and neuter words are used interchangeably.

Unless another meaning is shown "they" means both one person and multiple persons.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by the Personal Representative or during probate, b) the recipient of a Will gift of property takes it subject to any debts, and c) no such recipient who later loses the property to a debtor or who pays a debtor to avoid foreclosure or other loss may require the estate, heirs, devisees, or others to pay recipient back or do anything.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and without doing any action or filings in court.

I give any Personal Representative a) the fullest authority, powers, and discretion allowed by state law, b) authority to lease, sell, mortgage, convey, or retain property including real property in any such manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts at any time they in their sole discretion choose. Any Personal Representative shall also have all powers found in Alabama state law existing on the date of this Will and any other powers hereafter conferred by law.

A Personal Representative shall have sole discretion how to balance people's feelings and pick property or divide a gift to carry out a general gift or a gift to multiple persons.

If context permits the terms Personal Representative, Executor, and Administrator are interchangeable as if all were written, and Guardian of the Estate is interchangeable with Conservator. The terms Residue and Residuary are also interchangeable.

I request any lawyers be paid hourly or a fixed sum and not by any percentage.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances owed, and property I have or had a power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type, Conservator, Custodian, and any fiduciary under this Will or otherwise shall qualify and serve without bond, security, surety, or any similar thing.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

A Personal Representative may at any time transfer money or property of any minor under age 18 to a Custodian to serve under the Alabama Uniform Transfers to Minors Act or similar law anywhere. A Personal Representative may select the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

TESTATOR

IN WITNESS WHEREOF, I, _____, the Testator, publish, declare, and sign this instrument as my Will this ____ day of _____, 20__, and do hereby declare that I sign and execute this instrument as my Will, that I execute it as my free and voluntary act for the purposes expressed therein, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

Testator signature

WITNESSES

We, _____ and _____, the witnesses, do now sign our names to this instrument, and do hereby declare that the Testator willingly signs and executes this instrument as the Testator's Will, and that each of us witnesses in the presence and hearing of the Testator hereby signs this Will as a witness to the Testator's signing, and that to the best of our knowledge the Testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Witness signature

Witness address

Witness signature

Witness address

CHAPTER 9

FORM 3: SELF-PROVING AFFIDAVIT

FORM CAN BE DONE WITH WILL TO REDUCE LATER LEGAL WORK

This form can help with later legal work involved with using a Will after a death. This is a statutory form found in state law at Ala. Code § 43-8-132 for people to use if wanted. This form must be done in front of a notary by the Testator who did the Will and the 2 persons who as witnesses saw the Will signed.

FORM HELPS TO LATER SHOW WILL WAS PROPERLY SIGNED

This form helps after a death when trying to use a Will to prove it was properly signed. If a Self-Proving Affidavit form isn't done more work may be needed later, like later a witness to the Will must say in court or submit a writing about how Will was signed (or if this is not available other proof may be needed). If this form is not done there is more risk a Will is not followed later. Of people doing Wills about half skip doing a Self-Proving Affidavit mostly due to the hassle of finding a notary each time a Will is done, and since it mostly just saves later minor work for people who are probably happy to do work to get things using a Will. Some other states have no Self-Proving Affidavit for Wills and manage without it.

FORM IS DONE BY TESTATOR AND 2 WITNESSES SIGNING WITH A NOTARY

To complete the Self-Proving Affidavit form a notary (also called "notary public") must see the form signed by the Testator and the 2 witnesses to the Will signing, and then notary signs and notarizes form. Some other officials can also do this. The form is often done within minutes of when Will is signed but it also can be done any time later (even months later) when Testator and 2 witnesses can meet a notary. A notary can be found at banks, insurance agents, some government offices, libraries, and courts but they can be busy, and people may want to use a phonebook to find a notary with extra time to help. Once done the Self-Proving Affidavit is often kept with the Will it supports.

SELF-PROVING AFFIDAVIT

STATE OF ALABAMA

COUNTY OF _____

We, _____, _____, and _____, the Testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the Testator signed and executed the instrument as Testator's last will and that Testator had signed willingly (or willingly directed another to sign for Testator), and that Testator executed it as Testator's free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the Testator, signed the Will as witness and that to the best of each witness's knowledge the Testator was at that time 18 years of age or older, of sound mind and under no constraint or undue influence.

Testator

Witness

Witness

Subscribed, sworn to and acknowledged before me by _____, the Testator, and subscribed and sworn to before me by _____, and _____, the witnesses, this _____ day of _____, 20____.

SEAL

(Signed)

(Official capacity of officer)

CHAPTER 10

FORM 4: ADVANCE DIRECTIVE FOR HEALTH CARE (LIVING WILL AND HEALTH CARE PROXY)

FORM CAN COVER MANY HEALTH CARE ISSUES

This form lets person cover many health care issues. This is a standard form found on many Alabama county and agency websites and is basically exactly the statutory form found in law at Ala. Code § 22-8A-4. This Alabama form does what is often 2 separate forms in other states.

“LIVING WILL” PART CAN SAY WHEN TO STOP CARE IF LATER BADLY ILL

The first part is the “Living Will” part where a person can say when to stop health care if they are incapacitated and later doctors think they are badly ill and more health care likely will not help. Once this form is done it usually can’t be overruled by family or others. The form has some options for people to pick. But many people totally skip doing this part since it is hard to think about, it is rarely needed, and people trust their family and friends to consider many factors and then make wise decisions.

“PROXY” PART CAN SAY WHO SHOULD MAKE HEALTH DECISIONS IF NEEDED

The second part is the “Health Care Proxy” part where a person can name someone as their “Proxy” to make health care decisions if they are later incapacitated (by inability to communicate, be rational, or stay conscious long enough). Often named Proxy is a spouse, adult child, other family member, or a friend. Many other states call this a “Health Care Power Of Attorney”. Naming a family member in this form can avoid their need to rush to see a judge for power in an emergency. The Proxy can see health care records and give orders to doctors. Health care workers usually should not be a Proxy for a person unless related. There is room to name a second people to serve if needed, but many people skip since it’s rarely needed. In the form a person can give more instructions on care, but many people skip this since it’s hard to write clearly on medical issues and medical people may hesitate and talk to lawyers if instructions aren’t clear.

PERSON SIGNS FORM IN FRONT OF 2 WITNESSES

The form must be signed by a person in front of 2 persons acting as witnesses who then also sign it. The witnesses can’t be anyone named as Proxy in the form, anyone related to the person doing the form, anyone responsible to pay for the health care of the person doing the form, or anyone likely to benefit from the death of the person doing the form like by a Will. Often used as a witness is a friend, worker at some business, or a stranger. Once it is completed the form usually is quickly shown to all places that may give health care to put in the person’s medical file to follow. To cancel the form a person usually should clearly tell all places shown the form that it is now canceled.

ADVANCE DIRECTIVE FOR HEALTH CARE

(Living Will and Health Care Proxy)

This form may be used in the State of Alabama to make your wishes known about what medical treatment or other care you **would** or **would not** want if you become too sick to speak for yourself. You are not required to have an advance directive. If you do have an advance directive, be sure that your doctor, family, and friends know you have one and know where it is located.

Section 1. Living Will

I, _____, being of sound mind and at least 19 years old, would like

to make the following wishes known. I direct that my family, my doctors and health care workers, and all others follow the directions I am writing down. I know that at any time I can change my mind about these directions by tearing up this form and writing a new one. I can also do away with these directions by tearing them up and by telling someone at least 19 years of age of my wishes and asking him or her to write them down.

I understand that these directions will only be used if I am not able to speak for myself.

If I become terminally ill or injured:

Terminally ill or injured is when my doctor and another doctor decide that I have a condition that cannot be cured and that I will likely die in the near future from this condition.

Life sustaining treatment – Life sustaining treatment includes drugs, machines, or medical procedures that would keep me alive but would not cure me. I know that even if I choose not to have life sustaining treatment, I will still get medicines and treatments that ease my pain and keep me comfortable.

Place your initials by either “yes” or “no”:

I want to have life sustaining treatment if I am terminally ill or injured. _____ Yes _____ No

Artificially provided food and hydration (Food and water through a tube or an IV) – I understand that if I am terminally ill or injured I may need to be given food and water through a tube or an IV to keep me alive if I can no longer chew or swallow on my own or with someone helping me.

Place your initials by either “yes” or “no”:

I want to have food and water provided through a tube or an IV if I am terminally ill or injured.

_____ Yes _____ No

If I Become Permanently Unconscious:

Permanent unconsciousness is when my doctor and another doctor agree that within a reasonable degree of medical certainty I can no longer think, feel anything, knowingly move, or be aware of being alive. They believe this condition will last indefinitely without hope for improvement and have watched me long enough to make that decision. I understand that at least one of these doctors must be qualified to make such a diagnosis.

Life sustaining treatment – Life sustaining treatment includes drugs, machines, or other medical procedures that would keep me alive but would not cure me. I know that even if I choose not to have life sustaining treatment, I will still get medicines and treatments that ease my pain and keep me comfortable.

Place your initials by either “yes” or “no”:

I want to have life-sustaining treatment if I am permanently unconscious. _____ Yes _____ No

Artificially provided food and hydration (Food and water through a tube or an IV) – I understand that if I become permanently unconscious, I may need to be given food and water through a tube or an IV to keep me alive if I can no longer chew or swallow on my own or with someone helping me.

Place your initials by either “yes” or “no”:

I want to have food and water provided through a tube or an IV if I am permanently unconscious.
_____ Yes _____ No

Other Directions: Please list any other things you want **done** or **not done** .

In addition to the directions I have listed on this form, I also want the following:

If you do not have other directions, place your initials here:

_____ No, I do not have any other directions.

Section 2. If I need someone to speak for me.

This form can be used in the State of Alabama to name a person you would like to make medical or other decisions for you if you become too sick to speak for yourself. This person is called a health care proxy. You do not have to name a health care proxy. The directions in this form will be followed even if you do not name a health care proxy.

Place your initials by only one answer:

_____ I **do not** want to name a health care proxy. *(If you check this answer, go to Section 3)*

_____ I **do** want the person listed below to be my health care proxy. I have talked with this person about my wishes.

First choice for proxy: _____

Relationship to me: _____

Address: _____

City: _____ State _____ Zip _____

Day-time phone number: _____ Night-time phone number: _____

If this person is not able, not willing, or not available to be my health care proxy, this is my next choice:

Second choice for proxy: _____

Relationship to me: _____

Address: _____

City: _____ State _____ Zip _____

Day-time phone number: _____ Night-time phone number: _____

Instructions for Proxy

Place your initials by either “yes” or “no”:

I want my health care proxy to make decisions about whether to give me food and water through a tube or an IV. _____ Yes _____ No

Place your initials **by only one** of the following:

- _____ I want my health care proxy to follow **only** the directions as listed on this form.
- _____ I want my health care proxy to follow my directions as listed on this form **and** to make any decisions about things I have not covered in the form.
- _____ I want my health care proxy to make the final decision, even though it could mean doing something different from what I have listed on this form.

You are not required to have an advance directive. If you do have an advance directive, be sure that your doctor, family, and friends know you have one and know where it is located.

Section 3. The things listed on this form are what I want.

I understand the following:

- If my doctor or hospital does not want to follow the directions I have listed, they must see that I get to a doctor or hospital who will follow my directions.
- If I am pregnant, or if I become pregnant, the choices I have made on this form will not be followed until after the birth of the baby.
- If the time comes for me to stop receiving life sustaining treatment or food and water through a tube or an IV, I direct that my doctor talk about the good and bad points of doing this, along with my wishes, with my health care proxy, if I have one, and with the following people:

Section 4. My signature.

Your name: _____

The month, day, and year of your birth: _____

Your signature: _____

Date signed: _____

Section 5. Witnesses (need two witnesses to sign)

I am witnessing this form because I believe this person to be of sound mind. I did not sign the person's signature, and I am not the health care proxy. I am not related to the person by blood, adoption, or marriage and not entitled to any part of his or her estate. I am at least 19 years of age and am not directly responsible for paying for his or her medical care.

Name of first witness: _____

Signature: _____

Date: _____

Name of second witness: _____

Signature: _____

Date: _____

Section 6. Signature of Proxy

I, _____, am willing to serve as the health care proxy.

Signature: _____ Date: _____

Signature of Second Choice for Proxy:

I, _____, am willing to serve as the health care proxy if the first choice cannot serve.

Signature: _____ Date: _____

CHAPTER 11

FORM 5: DO NOT RESUSCITATE

FORM LETS PERSON IMMEDIATELY SAY TO NOT TRY RESUSCITATION

This form is usually just called the “Do Not Resuscitate” form, or just “D.N.R.”. This form lets a person do the serious act of saying from now on don’t try to resuscitate a person. The form is short so it can be read fast like by paramedics and be used outside hospitals or similar places, but it can be used inside places too.

FORM SAYS TO IMMEDIATELY NO LONGER TRY RESUSCITATION LIKE C.P.R.

In the form a person can say starting immediately from now on no longer try to resuscitate by trying to help the heart or breathing. Mostly this means cardio-pulmonary resuscitation (C.P.R.) won’t be tried (this is forcing air into the mouth and chest compressions) and also electric shocks to the heart won’t be tried. A person with still thinking fine can cancel things, like by saying this to doctors or not letting paramedics know about the D.N.R. But this form is rarely done and usually only people with a terminal condition or similar very bad health do it. A doctor or similar medical professional must sign the form and they can explain the form. Note, instead of this form the similar “Physician Order for Life Sustaining Treatment” form is increasingly being used by Alabama hospitals or similar places since they cover more than just resuscitation.

FORM IS SIGNED BY A DOCTOR AND PERSON DOING THE FORM

The form must be signed by doctor or similar health professional, and by person doing the form or someone with authority for them. Once done the form is usually shown to places that may give care to make it part of a person’s medical file. Some people keeps copies handy to show paramedics or other people who may want to give health care. A copy of the form might be kept on a bedside table, on home refrigerator, pinned to shirt, in a pocket, or some people wear a “bracelet” made by companies chosen by the state. To cancel the form a person can just say this and usually tell all places shown the form it is now canceled.

APPENDIX II

**Alabama Portable Physician Do Not Attempt Resuscitation Order
No CPR/ Allow Natural Death**

Patient/Resident Full Name (PRINT) and Date of Birth:

Instructions. This order is valid only if Section I, II, III, OR IV is completed AND a physician has completed Section V.

Section I. Patient/Resident Consent.

I, the undersigned patient/resident, direct that resuscitative measures be withheld from me in the event of cardiopulmonary cessation. I have discussed this decision with my physician, and I understand the consequences of this decision.

Signature of Patient/Resident

Date

Section II. Incompetent Patient/Resident with DNAR instructions in Advance Directive.

The patient/resident is not competent or is no longer able to understand, appreciate, and direct his/her medical treatment and has no hope of regaining that ability. A duly executed Advance Directive for Health Care with instructions that no life sustaining treatment be provided was previously authorized by the patient/resident and is part of his/her medical record.

Signature of provider or facility representative

Print Name

Date

Section III. Health Care Proxy or Attorney-in-Fact Consent.

I, the undersigned, am the health care proxy or attorney-in-fact designated by the patient/resident to make decisions regarding the providing, withholding, or withdrawal of life-sustaining treatment for the patient/resident. I hereby direct that resuscitative measures be withheld from the patient/resident in the event of cardiopulmonary cessation. A copy of the proxy or attorney-in-fact designation (e.g., living will, power of attorney, etc.) has been made part of the patient/resident's medical record.

Signature of Proxy or Attorney-in-Fact

Print Name

Date

Section IV. Surrogate Consent.

I, the undersigned, am the surrogate certified to make decisions, in consultation with the attending physician, regarding the providing, withholding, or withdrawal of life-sustaining treatment for the patient/resident. After consultation with the attending physician, I hereby direct that resuscitative measures be withheld from the patient/resident in the event of cardiopulmonary cessation. I believe that this decision conforms as closely as possible to what the patient/resident would have wanted. I make this decision in good faith and without consideration of the financial benefit or burden which may accrue to me or to the health care provider as a result of this decision. A copy of the Certification of Health Care Decision Surrogate has been made part of the patient/resident's medical record.

Signature of Surrogate

Print Name

Date**Section V. Physician Authorization.**

Based on the information above, I hereby direct any and all medical personnel, emergency responders, and paramedical personnel to withhold resuscitative measures, i.e., cardiopulmonary resuscitation, chest compression, endotracheal intubation and other advanced airway management, artificial ventilation, cardiac resuscitative medications, and cardiac defibrillation, in the event of cardiopulmonary cessation in the patient/resident.

I further direct the implementation of all reasonable comfort care such as oxygen, suction, control of bleeding, administration of pain medication by personnel so authorized, and other therapies to provide comfort and alleviate suffering by the patient/resident; and to provide support to the patient, family members, friends, and others present.

Signature of Physician

Print Name

Date

CHAPTER 12

FORM 6: DURABLE POWER OF ATTORNEY

FORM LETS POWER BE GIVEN OVER PROPERTY, MONEY, AND MORE

This form lets person during life give power to someone very trusted to do things with person's property, money, and more. Some people call this a "Financial Power Of Attorney". This form is a statutory form found in law at Ala. Code § 26-1A-301. The form is called "durable" since the form still has power if person who made the form is later incapacitated by illness or something, but power of the form ends at death.

FORM GIVES POWER TO LET SOMEONE CONTROL PROPERTY AND MONEY

Form lets person give power to someone trusted over their money, property, records, and other things. In the form the person giving power is called "Principal" and person getting power called "Agent" (sometimes called an "Attorney-in-Fact") who is often a spouse, relative, or friend. This lets someone help do things like pay bills, use accounts, buy or sell items, sign contracts, hire workers, take out debt, and get records. The form may help if person is sick or busy, and may avoid having to use more serious legal options. A person who isn't incapacitated can overrule or fire Agent so really power is shared. The form has spots to name a second person to serve if needed but most people skip this because it is rarely needed. The form has optional spot to say who a person would like as Guardian or as Conservator if this is ever needed. If using this form a signature should be like: "Ed Doe signing as agent under Power of Attorney for Ann Wu".

IN FORM SIGN OR INITIAL LINES TO PICK POWERS THAT ARE GIVEN

The form has lines to sign or initial to pick which powers are given to the Agent. Many people sign to say "general authority" is given which partly avoids need to initial many lines to give several powers. Almost all people give the Agent much or all powers since they trust them, and also banks and similar parties may not follow the form if it is unclear if Agent's power is unclear. The form also has a place where people can say who'd they like as Guardian and Conservator to help them if this is ever needed.

DUE TO RISKS INCLUDING FRAUD MANY SKIP FORM OR CONSULT A LAWYER

Many people skip this form or first see a lawyer. Using this form is risky and can lead to harm since the Agent can buy unneeded or costly items, commit fraud or similar, or by carelessness allow other harms. Agents have a duty to act reasonably for Principal but may be out of money later so can't pay for any losses. Usually banks or others can't be blamed for obeying an Agent. The law is complex and basic acts may be fine like paying bills, getting records, or moving funds around, but some acts may be improper like making gifts, risky investments, or doing unusual things. It is best if a person not their Agent does anything unusual.

PERSON SIGNS FORM IN FRONT OF A NOTARY

A person doing the form should sign in front of a person who is a notary who then notarizes and signs it. The form's last page is an optional "Certification" that some banks may later want Agent to do with a notary. Once completed some cautious people quickly show the form to banks or similar places to explain they should obey the Agent. Once it is completed most people give the form to their Agent to have to use. To cancel the form a person should take back copies and maybe tell places shown the form it's canceled.

ALABAMA DURABLE POWER OF ATTORNEY

(Ala. Code § 26-1A-301)

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Alabama Uniform Power of Attorney Act, Chapter 1A, Title 26, Code of Alabama 1975.

This power of attorney does not authorize the agent to make health care decisions for you. Such powers are governed by other applicable law.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reimbursement of reasonable expenses and reasonable compensation unless you state otherwise in the Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent you may name a co-agent in Special Instructions. Co-agents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I _____ (Name of Principal) name the following person as my agent:

Name of Agent: _____ Phone: _____

Address: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____

Phone: _____

Address: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Alabama Uniform Power of Attorney Act, Chapter 1A, Title 26, Code of Alabama 1975:

If you wish to grant **general authority** over all of the subjects enumerated in this section you may SIGN here:

(Signature of Principal)

OR

If you wish to grant **specific authority** over less than all subjects enumerated in this section you must INITIAL by each subject you want to include in the agent's authority:

- _____ Real Property as defined in Section 26-1A-204
- _____ Tangible Personal Property as defined in Section 26-1A-205
- _____ Stocks and Bonds as defined in Section 26-1A-206
- _____ Commodities and Options as defined in Section 26-1A-207
- _____ Banks and Other Financial Institutions as defined in Section 26-1A-208
- _____ Operation of Entity or Business as defined in Section 26-1A-209
- _____ Insurance and Annuities as defined in Section 26-1A-210
- _____ Estates, Trusts, and Other Beneficial Interests as defined in Section 26-1A-211
- _____ Claims and Litigation as defined in Section 26-1A-212
- _____ Personal and Family Maintenance as defined in Section 26-1A-213
- _____ Benefits from Governmental Programs or Civil or Military Service as defined in Section 26-1A-214
- _____ Retirement Plans as defined in Section 26-1A-215
- _____ Taxes as defined in Section 26-1A-216
- _____ Gifts as defined in Section 26-1A-217

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL the specific authority you WANT to give your agent.)

- _____ Create, amend, revoke, or terminate an inter vivos trust, by trust or applicable law
- _____ Make a gift to which exceeds the monetary limitations of Section 26-1A-217 of the Alabama Uniform Power of Attorney Act, but subject to any special instructions in this power of attorney
- _____ Create or change rights of survivorship
- _____ Create or change a beneficiary designation

_____ Authorize another person to exercise the authority granted under this power of attorney
_____ Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
_____ Exercise fiduciary powers that the principal has authority to delegate

LIMITATIONS ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

Limitation of Power. Except for any special instructions given herein to the agent to make gifts, the following shall apply:

(a) Any power or authority granted to my Agent herein shall be limited so as to prevent this Power of Attorney from causing any Agent to be taxed on my income or from causing my assets to be subject to a "general power of appointment" by my Agent as defined in 26 U.S.C. §2041 and 26 U.S.C. §2514 of the Internal Revenue Code of 1986, as amended.

(b) My Agent shall have no power or authority whatsoever with respect to any policy of insurance owned by me on the life of my Agent, or any trust created by my Agent as to which I am a trustee.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines. For your protection, if there are no special instructions write NONE in this section.

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions. **This Power of Attorney shall not be affected by my disability, incapacity, incompetency, or by lapse of time.**

NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a conservator or guardian of my estate or guardian of my person, I nominate the following person(s) for appointment:

Nominee for conservator of my estate: _____ Phone: _____
Address: _____

Nominee for guardian of my person: _____ Phone: _____
Address: _____

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

SIGNATURE AND ACKNOWLEDGMENT

Signature of Principal

Your Signature Date: _____ Your Phone: _____

Your Name Printed: _____

Your Address: _____

State of Alabama

County of _____

I, _____, a Notary Public, in and for the County in this State, hereby certify that _____, whose name is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the document, he or she executed the same voluntarily on the day the same bears date.

Given under my hand this the _____ day of _____, 20____.

(Seal, if any)

Signature of Notary

My commission expires: _____

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;

- (2) act in good faith;
- (3) do nothing beyond the authority granted in this power of attorney; and
- (4) disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner: **(Principal's Name) by (Your Signature) as Agent**

Unless the Special Instructions in this power of attorney state otherwise, you must also:

- (1) act loyally for the principal's benefit;
- (2) avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) act with care, competence, and diligence;
- (4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;
- (5) cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and
- (6) attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

- (1) death of the principal;
- (2) the principal's revocation of the power of attorney or your authority;
- (3) the occurrence of a termination event stated in the power of attorney;
- (4) the purpose of the power of attorney is fully accomplished; or
- (5) if you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the Alabama Uniform Power of Attorney Act, Chapter 1A, Title 26, Code of Alabama 1975. If you violate the Alabama Uniform Power of Attorney Act, Chapter 1A, Title 26, Code of Alabama 1975, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY (OPTIONAL)

State of Alabama

County of _____

I, _____ (Name of Agent), certify under penalty of perjury that _____ granted me authority as an agent or successor agent in a power of attorney dated _____.

I further [certify] that to my knowledge:

(1) the Principal is alive and has not revoked the Power of Attorney or my authority to act under the Power of Attorney and the Power of Attorney and my authority to act under the Power of Attorney have not terminated;

(2) if the Power of Attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

(3) if I was named as a successor agent, the prior agent is no longer able or willing to serve; and

(4) _____

(Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

Signature of Agent

Agent's Signature Date: _____ Agent's Phone: _____

Agent's Name Printed: _____

Agent's Address: _____

This document was acknowledged before me on _____ (Date)
by _____ (Name of Agent).

(Seal, if any)

Signature of Notary

My commission expires: _____

CHAPTER 13

FORM 7: POWER OF ATTORNEY DELEGATING PARENTAL AUTHORITY

FORM LETS PARENT GIVE POWER TO SOMEONE OVER CHILD UNDER 18

This form lets a parent or guardian of children under 18 give over them to a person named in the form. This form is written to comply with Alabama Code § 26-2A-7 which lets people give power over a child.

FORM CAN GIVE POWER TO SOMEONE OVER CHILD UNDER 18

In the form a parent or guardian called in the form the “Principal” can give power over their children under age 18 to a person they named who is called in the form the “Agent”. Often Agent is also called the “Attorney-in-Fact”. Most often named Agent to help with children is a relative, friend, teacher, or coach. This form is sometimes used if parent or child is away from the other for work, school, drug treatment, sports, prison or jail, immigration, military, month long visit with family or friends, or if child is sick in hospital (and needs a person close by to make quick decisions). This form is also sometimes done if a person watched a child periodically, like a few times a week. The form is usually not done for brief situations like babysitter, daycare, week with relative, or any cases where a parent can reach a child fast. Using this form may avoid need for serious legal actions like legal guardianship or change of custody. The form is effective for 1 year or any shorter period written. No power over adoption or marriage is given. The parent who did the form can fire the person or over-rule a decision so really power is shared.

FORM IS SIGNED BY PARENT OR GUARDIAN WITH A NOTARY

The form to be valid is signed by a parent or guardian in front of a notary who then notarizes and signs. Some people modify form to add a 2nd parent to make it likelier people trust the form. Once done some cautious people quickly show the form to schools and doctors to tell them they should follow the form later. Once signed usually people give the form to the person getting power to use if needed. This form has an optional “Acceptance” page the Agent can do to show they agree to act and understand what they can do. To cancel the form a person should take back copies and usually tell places shown the form it’s canceled.

POWER OF ATTORNEY DELEGATING PARENTAL AUTHORITY

This document is made pursuant to Alabama Code § 26-2A-7, Delegation of powers by parent or guardian; parental authority, and also other laws.

I, _____, who reside at _____
_____ am the Principal
doing this Power of Attorney document.

I am a parent or guardian of the following children under age 18:

Name of child: _____ Date of birth: _____

Name of child: _____ Date of birth: _____

Name of child: _____ Date of birth: _____

Name of child: _____ Date of birth: _____

I, the Principal, do hereby name the following person as my Agent:

Name of Agent: _____ Agent's Phone: _____

Agent's Address: _____

I hereby grant this Agent general authority to act for me with respect to the health, support, education, or maintenance of the person or property of the minor children who are named in this document. But no power to consent to marriage or adoption is given. This does not relieve me or any other parent or guardian of the primary responsibility for the minor child.

This Power of Attorney and grant of power shall commence immediately and shall expire 1 year from the date of this document unless another date is provided here.

Expiration date if not expiring in 1 year: _____

I give my Agent full power and authority to do, take, and perform all and every act they in their sole discretion finds proper in the exercise of any of the rights and powers granted in this document or in relation to or furtherance of these. My Agent may do any thing or take any action I could do if personally present. I ratify and confirm all things and acts of my Agent by virtue of this document and the rights and powers herein granted.

Any person, including my Agent, may rely upon the validity of this Power of Attorney or a copy of it unless that person knows it has terminated or is invalid.

SIGNATURE AND ACKNOWLEDGMENT

Signature of Principal

Printed Name: _____ Phone: _____

State of Alabama

County of _____

I, _____, a Notary Public, in and for the County in this State, hereby certify that _____, whose name is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the document, he or she executed the same voluntarily on the day the same bears date.

Given under my hand this the _____ day of _____, 20_____.

Signature of Notary

(Seal, if any)

My commission expires: _____

ACCEPTANCE BY AGENT

(OPTIONAL)

I, _____, the undersigned, do hereby accept the appointment as Agent according to the Power of Attorney dated _____ which involves the following minor children:

Name of child: _____ Date of birth: _____

Name of child: _____ Date of birth: _____

Name of child: _____ Date of birth: _____

Name of child: _____ Date of birth: _____

I agree that I will as Agent comply with and perform my duties in the best interest of the minor children, all in accordance with the Power of Attorney document and state law at Alabama Code § 26-2A-7.

SIGNATURE

Signature of Agent

Printed Name: _____

Phone: _____

CHAPTER 14

FORM 8: AFFIDAVIT TO CONTROL BODILY REMAINS

LETS PERSON NAME SOMEONE AND GIVE INSTRUCTIONS FOR DEAD BODY

This form lets a person control what happens with their dead body (their “remains”) and related things.

CAN NAME PERSON TO CONTROL DEAD BODY

The form lets someone be named to control a person’s dead body and related issues like funeral, burial, cremation, ceremonies, and buying goods and services for this. If this form is not done then by state law control is usually by closest family (starting with spouse, then children, then parents, and then siblings). People do this form rarely and usually only if family may be too upset while mourning, be bad with money, or do unwanted things. Payment for things comes from pre-paid funeral accounts, insurance, and a dead person’s or estate’s money and property, and Executor and family legally must help arrange payment.

CAN GIVE INSTRUCTIONS AND DECEDENT SHOULD GET WHAT THEY WANTED

The form has an area to add specific instructions by checking a box and writing these, but many people skip this and trust people to do what they mentioned. Legally people including family should do the funeral, burial, and related things a dead person wanted if their properly, money, and estate can clearly afford it. Note, about half of people skip doing much until months later and after burial or cremation is fully done, and this lets people have time to calm down and gives people time to arrange time off work and to travel. Importantly, if a family quickly asks a funeral home or crematorium for “Direct Burial” or “Direct Cremation” this does the burial and cremation without any of family watching but it can reduce costs by up to 80%. Cremation is more affordable than burial and about half of people are now picking cremation.

SIGN FORM WITH NOTARY

To complete form it is signed by person in front of a notary who then notarizes it. Once done the form should be given to someone to hold or put in a place it can be found quickly within 1 or 2 days of a death.

AFFIDAVIT TO CONTROL BODILY REMAINS

(Alabama Code § 34-13-11)

State of Alabama

County of _____

I, _____ designate _____
to control the disposition of my remains upon my death.

I _____ have _____ have not attached specific directions concerning the disposition
of my remains.

If specific directions are attached (or included), the designee shall substantially
comply with those directions, provided the directions are lawful and there are
sufficient resources in my estate to carry out those directions.

Specific directions: _____

(see any accompanying pages)

Signature

NOTARY PUBLIC: Subscribed and sworn to before me this _____ day of the
month of _____ of the year _____.

Signature of notary public

APPENDIX: SAMPLE FILLED OUT FORMS

TO GET FORMS TO USE PEOPLE CAN:

- (1) PHOTOCOPY BOOK PAGES,
- (2) TEAR OUT PAGES FROM A BOOK, OR
- (3) DOWNLOAD BOOK WITH FORMS FROM WWW.DAVENPORTPUBLISHING.COM
AND USUALLY PDF FORM AT IS BEST TO AVOID SPACING/FORMAT CHANGES.

EMAIL ANY COMMENTS TO DAVENPORTPRESS@GMAIL.COM.

On the next pages to show how it can be done are some sample filled out legal forms.

People can add words to legal forms by computer or typewriter to be neater, but many people just by hand use pen, marker, or pencil to handwrite words into forms.

It is not required but is bit better if signatures are in ink or marker not pencil.

Many parts of the forms especially Will gifts can be left empty and unfilled.

Anyone can fill in words in legal form not just the person doing the form, like a friend with neat writing can fill in all the words, addresses, and dates that are needed.
Only the final signatures must be done by each person who wants the form.

To add words in form by pen, pencil, typewriter, or computer any of these is fine:

"I appoint John Doe as Agent" ,
"I appoint John Doe as Agent",
"I appoint John Doe as Agent".

When doing forms it may help to know "respectively" means "in order just stated".

People need not worry about neatness or small mistakes, and a document is usually fine if those people who knew a decedent in life can tell the likely meaning.

Sample Filled Out Form: Last Will and Testament (Standard)
with Gifts section skipped to not bother with this

LAST WILL AND TESTAMENT

I, Paul Thomas Maxwell, of Calhoun County, Alabama, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and acting voluntarily.

1. GIFTS. I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

2. RESIDUE. I give the rest and residue and remainder of my estate, my money and property of any kind and nature, and anything I have an interest in so long as it was not transferred by other Will provisions (all of which is called the “residue”), as follows:

a) to Susan Lee Maxwell who survive me with persons just named who survive me taking the share of non-survivors, then

b) to Oscar David Maxwell and Jennifer Judy Tabor and if any of those just named do not survive me their part goes to their lineal descendants, per stirpes.

3. ADMINISTRATION. I name and appoint Susan Lee Maxwell as Personal Representative including for me, my Will, and my estate.

4. MISCELLANEOUS. The following applies to this Will and generally.

My main residence is in Alabama and Alabama law should apply to this Will.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by Testator at death shall lapse and be of no effect including no payment of money shall be done in its place, all without ademption.

If a gift or section in this Will reasonably mentions survival in any way then survival is an absolute condition and anti-lapse laws or similar have no effect.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive Testator their part to them lapses and instead goes to other surviving recipients.

Any failure to make more or any Will gifts to current children or current spouse at the time I do this Will is intentional and not a mistake to remedy.

No gift or transfer I made during my life to a person reduces or offsets a Will gift, unless during my life I expressly usually called it a loan or advancement.

Unless another meaning is shown by context use of plural includes the singular and vice versa, and also masculine, feminine, and neuter words are used interchangeably.

Unless another meaning is shown “they” means both one person and multiple persons.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by the Personal Representative or during probate, b) the recipient of a Will gift of property takes it subject to any debts, and c) no such recipient who later loses the property to a debtor or who pays a debtor to avoid foreclosure or other loss may require the estate, heirs, devisees, or others to pay recipient back or do anything.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and without doing any action or filings in court.

I give any Personal Representative a) the fullest authority, powers, and discretion allowed by state law, b) authority to lease, sell, mortgage, convey, or retain property including real property in any such manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts at any time they in their sole discretion choose. Any Personal Representative shall also have all powers found in Alabama state law existing on the date of this Will and any other powers hereafter conferred by law.

A Personal Representative shall have sole discretion how to balance people’s feelings and pick property or divide a gift to carry out a general gift or a gift to multiple persons.

If context permits the terms Personal Representative, Executor, and Administrator are interchangeable as if all were written, and Guardian of the Estate is interchangeable with Conservator. The terms Residue and Residuary are also interchangeable.

I request any lawyers be paid hourly or a fixed sum and not by any percentage.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances owed, and property I have or had a power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type, Conservator, Custodian, and any fiduciary under this Will or otherwise shall qualify and serve without bond, security, surety, or any similar thing.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

A Personal Representative may at any time transfer money or property of any minor under age 18 to a Custodian to serve under the Alabama Uniform Transfers to Minors Act or similar law anywhere. A Personal Representative may select the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

TESTATOR

IN WITNESS WHEREOF, I, Paul Thomas Maxwell, the Testator, publish, declare, and sign this instrument as my Will this 22nd day of June, 2022, and do hereby declare that I sign and execute this instrument as my Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

Paul Thomas Maxwell
Testator signature

WITNESSES

We, Eve Mable Rogers and Mary Ann Moon, the witnesses, do now sign our names to this instrument, and do hereby declare that the Testator willingly signs and executes this instrument as the Testator's Will, and that each of us witnesses in the presence and hearing of the Testator hereby signs this Will as a witness to the Testator's signing, and that to the best of our knowledge the Testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Eve Mable Rogers
Witness

14 2nd St., Montgomery, Alabama
Witness Address

Mary Ann Moon
Witness

835 Buffalo Road, Chicago, IL 66018
Witness Address

Sample Filled Out Form: Last Will and Testament (Standard)
with Residue Clause using percentages and Guardians part used

LAST WILL AND TESTAMENT

I, Paul Brian Kent, of Madison County, Alabama, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and acting voluntarily.

1. GIFTS. I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give big oak table to Anne J. Smith .

I give \$5,000 to Loretta Marsha Switt .

I give 63 Ivy Road, Huntsville, Alabama to Kenneth Victor Poppler.

I give all land I own inside Shelby County, Alabama to Greta Olivia Fox .

I give 903 Iceberg Road, Anchorage, Alaska to James Eric Hanson .

I give Bronze Roman Lamp to Anne Kilby and Kevin Kilby.

I give wedding ring to Ruth Jones.

I give all jewelry not given above to Kay Pidoski.

I give \$781.35 to Wanda Kay Zinski .

I give Wells Fargo acct ending in #8923 to Lawrence Deer a hunting buddy .

I give 1998 Ford truck to John Rupert Smith .

I give \$200 to Kent Food Shelf on Smith Road in Montgomery, Alabama .

I give all spare tires and auto parts I own to Victor Perez my mechanic .

I give \$1000 each to each of my grandchildren .

2. RESIDUE. I give the rest and residue and remainder of my estate, my property of any kind and nature, and anything I have an interest in (all of which is called the “residue”), so long as any such thing was not transferred by other Will provisions, as follows:

a) to Ruth May Kent my wife who survive me with persons just named who survive me taking the share of non-survivors, then

b) to 45% to Oscar Elliot Kent my son and 45% to Karen Lisa Lundy my daughter and 10% to Pedro Juan Sanchez and if any of those just named do not survive me their part goes to their lineal descendants, per stirpes.

3. ADMINISTRATION. I name and appoint Ruth May Kent as Personal Representative including for me, my Will, and my estate.

4. GUARDIAN. I name and appoint Karen Lisa Fox my sister as Guardian to have control, authority, and custody of any minor child, and, also, this same person is named and appointed to have control and authority over any minor child's property, money, and estate (including they should be Conservator if this if needed).

5. MISCELLANEOUS. The following applies to this Will and generally.

My main residence is in Alabama and Alabama law should apply to this Will.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words "give" and "gift" also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by Testator at death shall lapse and be of no effect including no payment of money shall be done in its place, all without ademption.

If a gift or section in this Will reasonably mentions survival in any way then survival is an absolute condition and anti-lapse laws or similar have no effect.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive Testator their part to them lapses and instead goes to other surviving recipients.

Any failure to make more or any Will gifts to current children or current spouse at the time I do this Will is intentional and not a mistake to remedy.

No gift or transfer I made during my life to a person reduces or offsets a Will gift, unless during my life I expressly usually called it a loan or advancement.

Unless another meaning is shown by context use of plural includes the singular and vice versa, and also masculine, feminine, and neuter words are used interchangeably.

Unless another meaning is shown "they" means both one person and multiple persons.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by the Personal Representative or during probate, b) the recipient of a Will gift of property takes it subject to any debts, and c) no such recipient who later loses the property to a debtor or who pays a debtor to avoid foreclosure or other loss may require the estate, heirs, devisees, or others to pay recipient back or do anything.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and without doing any action or filings in court.

I give any Personal Representative a) the fullest authority, powers, and discretion allowed by state law, b) authority to lease, sell, mortgage, convey, or retain property including real property in any such manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts at any time they in their sole discretion choose. Any Personal Representative shall also have all powers found in Alabama state law existing on the date of this Will and any other powers hereafter conferred by law.

A Personal Representative shall have sole discretion how to balance people's feelings and pick property or divide a gift to carry out a general gift or a gift to multiple persons.

If context permits the terms Personal Representative, Executor, and Administrator are interchangeable as if all were written, and Guardian of the Estate is interchangeable with Conservator. The terms Residue and Residuary are also interchangeable.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances owed, and property I have or had a power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type, Conservator, Custodian, and any fiduciary under this Will or otherwise shall qualify and serve without bond, security, surety, or any similar thing.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

A Personal Representative may at any time transfer money or property of any minor under age 18 to a Custodian to serve under the Alabama Uniform Transfers to Minors Act or similar law anywhere. A Personal Representative may select the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

TESTATOR

IN WITNESS WHEREOF, I, Paul Brian Kent, the Testator, publish, declare, and sign this instrument as my Will this 30th day of December, 20 19, and do hereby declare that I sign and execute this instrument as my Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

Paul Brian Kent

Testator signature

WITNESSES

We, Olivia Joy Pawlenty and Roy Felix Pawlenty, the witnesses, do now sign our names to this instrument, and do hereby declare that the Testator willingly signs and executes this instrument as the Testator's Will, and that each of us witnesses in the presence and hearing of the Testator hereby signs this Will as a witness to the Testator's signing, and that to the best of our knowledge the Testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Olivia Joy Pawlenty

Witness

87 Forest Road, Huntsville, AL 35720

Address

Roy Felix Pawlenty

Witness

87 Forest Road, Huntsville, AL 35720

Address

Sample Filled Out Form: Last Will and Testament (Standard)
with Gifts section mostly skipped and Will modified to have 1 Part Residue Clause

LAST WILL AND TESTAMENT

I, **David Eric Smith**, of **Mobile** County, Alabama, do hereby revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and acting voluntarily.

1. GIFTS. I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give \$500 to each of my brothers, sisters, and cousins.

I give \$1000 to Baker Food Shelf on Palm Road in Mobile, Alabama.

2. RESIDUE. The rest and residue and remainder of my estate, my property of any kind and nature, and anything I have an interest in, I give to **Adam Michael Smith and Ann Sue Baker who survive me** and to lineal descendants per stirpes of a person just named who did not survive me.

3. ADMINISTRATION. I name and appoint **Ann Sue Baker** as Personal Representative including for me, my Will, and my estate.

4. MISCELLANEOUS. The following applies to this Will and generally.

My main residence is in Alabama and Alabama law should apply to this Will.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by Testator at death shall lapse and be of no effect including no payment of money shall be done in its place, all without ademption.

If a gift or section in this Will reasonably mentions survival in any way then survival is an absolute condition and anti-lapse laws or similar have no effect.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive Testator their part to them lapses and instead goes to other surviving recipients.

Any failure to make more or any Will gifts to current children or current spouse at the time I do this Will is intentional and not a mistake to remedy.

No gift or transfer I made during my life to a person reduces or offsets a Will gift, unless during my life I expressly usually called it a loan or advancement.

Unless another meaning is shown by context use of plural includes the singular and vice versa, and also masculine, feminine, and neuter words are used interchangeably.

Unless another meaning is shown “they” means both one person and multiple persons.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by the Personal Representative or during probate, b) the recipient of a Will gift of property takes it subject to any debts, and c) no such recipient who later loses the property to a debtor or who pays a debtor to avoid foreclosure or other loss may require the estate, heirs, devisees, or others to pay recipient back or do anything.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and without doing any action or filings in court.

I give any Personal Representative a) the fullest authority, powers, and discretion allowed by state law, b) authority to lease, sell, mortgage, convey, or retain property including real property in any such manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts at any time they in their sole discretion choose. Any Personal Representative shall also have all powers found in Alabama state law existing on the date of this Will and any other powers hereafter conferred by law.

A Personal Representative shall have sole discretion how to balance people’s feelings and pick property or divide a gift to carry out a general gift or a gift to multiple persons.

If context permits the terms Personal Representative, Executor, and Administrator are interchangeable as if all were written, and Guardian of the Estate is interchangeable with Conservator. The terms Residue and Residuary are also interchangeable.

I request any lawyers be paid hourly or a fixed sum and not by any percentage.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances owed, and property I have or had a power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type, Conservator, Custodian, and any fiduciary under this Will or otherwise shall qualify and serve without bond, security, surety, or any similar thing.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

A Personal Representative may at any time transfer money or property of any minor under age 18 to a Custodian to serve under the Alabama Uniform Transfers to Minors Act or similar law anywhere. A Personal Representative may select the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

TESTATOR

IN WITNESS WHEREOF, I, **David Eric Smith**, the Testator, publish, declare, and sign this instrument as my Will this **21st** day of **June, 2021**, and do hereby declare that I sign and execute this instrument as my Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

David Eric Smith

Testator signature

WITNESSES

We, **Harriet Potter** and **Pamela Bonnie Rooker**, the witnesses, do now sign our names to this instrument, and do hereby declare that the Testator willingly signs and executes this instrument as the Testator's Will, and that each of us witnesses in the presence and hearing of the Testator hereby signs this Will as a witness to the Testator's signing, and that to the best of our knowledge the Testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Harriet Potter

Witness signature

204 Main Street, Mobile, AL 36525

Witness address

Pamela Bonnie Rooker

Witness signature

27 Dog River Road, Pinewood, AL 36703

Witness address

Sample Filled Out Form: Self-Proving Clause

SELF-PROVING AFFIDAVIT

STATE OF ALABAMA

COUNTY OF MOBILE

We, David Eric Smith, Harriet Potter, and Pamela Bonnie Rooker, the Testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the Testator signed and executed the instrument as Testator's last will and that Testator had signed willingly (or willingly directed another to sign for Testator), and that Testator executed it as Testator's free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the Testator, signed the Will as witness and that to the best of each witness's knowledge the Testator was at that time 18 years of age or older, of sound mind and under no constraint or undue influence.

David Eric Smith

Testator

Harriet Potter

Witness

Pamela Bonnie Rooker

Witness

Subscribed, sworn to and acknowledged before me by David Eric Smith, the Testator, and subscribed and sworn to before me by Pamela Bonnie Rooker and Harriet Potter, witnesses, this 21st day of June, 2021.

SEAL



John Smith

(Signed)

Notary

(official capacity of officer)