

# DAVENPORT'S TENNESSEE WILLS AND ESTATE PLANNING LEGAL FORMS



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# **DAVENPORT'S TENNESSEE WILLS AND ESTATE PLANNING LEGAL FORMS**

**2024 EDITION**

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

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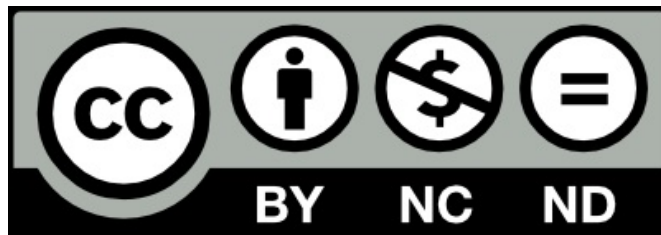
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**CHAPTER****TABLE OF CONTENTS****PAGE**

CH. 1	–	LIST OF FORMS, BOOK BASICS, AND INFORMATION FORM	1
CH. 2	–	LEGAL TERMS AND BASIC PROPERTY LAW	6
CH. 3	–	WILL BASICS	8
CH. 4	–	WILL GIFTS INCLUDING RESIDUE CLAUSE	10
CH. 5	–	DEBT, FAMILY, SPOUSE, HOMESTEAD, AND CHILD ISSUES	15
CH. 6	–	BASIC IDEAS ABOUT HEALTH CARE FORMS	18
<hr/>			
<b>WILL RELATED FORMS</b>			
<hr/>			
CH. 7	–	FORM 1: WILL (STANDARD)	19
CH. 8	–	FORM 2: WILL (GUARDIAN)	23
CH. 9	–	FORM 3: SELF-PROVING AFFIDAVIT	27
CH. 10	–	FORM 4: TANGIBLE PERSONAL PROPERTY MEMORANDUM	29
CH. 11	–	FORM 5: HANDWRITTEN WILL	31
<hr/>			
<b>HEALTH CARE FORMS</b>			
<hr/>			
CH. 12	–	FORM 6: APPOINTMENT OF HEALTH CARE AGENT	33
CH. 13	–	FORM 7: ADVANCE DIRECTIVE FOR HEALTH CARE	35
CH. 14	–	FORM 8: PHYSICIAN ORDERS FOR SCOPE OF TREATMENT	38
<hr/>			
<b>GIVING POWER FORMS</b>			
<hr/>			
CH. 15	–	FORM 9: DURABLE GENERAL POWER OF ATTORNEY	41
CH. 16	–	FORM 10: POWER OF ATTORNEY FOR CARE OF A MINOR CHILD	44
<hr/>			
APPENDIX	–	SAMPLE FILLED OUT LEGAL FORMS	50

# CHAPTER 1

## LIST OF FORMS, BOOK BASICS, AND INFORMATION FORM

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

By Davenport Publishing this book covers Estate Planning in Tennessee. This is doing legal documents now to control health care, property, money, children, and funeral if a person is later absent, sick, or dead.

### 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. This book has many legal forms specially made for Tennessee. Most people use just a few of the forms.

#### 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 if easier legal options are OK later.

**Form 2. Will (Guardian)** – this is a Will with part added to name a person to be Guardian to care for a minor child under 18 if needed (like if both parents later die) and also manage a child’s property and money.

**Form 3. Self-Proving Affidavit** – optional form done with a Will to later help use the Will.

**Form 4. Tangible Personal Property Memorandum** – lets a person easily add to a Will some more gifts to happen after death (but it can only cover “tangible personal property” like furniture, cars, and jewelry).

**Form 5. Handwritten Will** – this Will skips the usual 2 witnesses which saves some work, but all of it must be handwritten by the person doing the Will.

#### HEALTH CARE FORMS

**Form 6. Appointment Of Health Care Agent** – lets a person name someone as “Health Care Agent” to control health care if later needed (like if a person is later incapacitated by inability to be conscious or talk).

**Form 7. Advance Directive For Health Care** – like the previous form this can name an Agent to control health care and, also, it can say to stop health care if doctors later think it won’t help an incapacitated person.

**Form 8. Physician Orders For Scope Of Treatment** – does the serious act of immediately refusing most care, and this can be used in or out of any facility since it is short so paramedics can read it fast.

#### GIVING POWER FORMS

**Form 9. Durable General Power Of Attorney** – lets power over money, property, and other things be shared during a person’s life with a trusted person like a spouse, relative, or friend so they can do things.

**Form 10. Power Of Attorney For Care Of A Minor Child** – lets parent give power over a child under age 18 with someone so they can make decisions about health care and school if needed.

## TENNESSEE LAW ON ESTATE PLANNING COVERS MOST PEOPLE HERE

This book is only for Tennessee since Estate Planning laws and legal documents do vary among states. Tennessee law applies to Estate Planning usually if a person: a) has a main residence here (their "domicile"), or b) resided here and left but always keeps firm plans to leave any new place (even if a person rents a home elsewhere like some students, military, and workers). Note, many people also do health care forms for the state a health facility they use is in. Most immigrants of any kind can do Estate Planning here.

## PERSON HAS POWER TO CONTROL THESE THINGS BUT IT'S OFTEN NOT VITAL

Estate Planning to control health care, property, money, children, funeral, and similar things if a person is absent, sick, or dead is usually easy to do because a person mostly has full power to control these things. Given this usually judges, doctors, and other people mostly just ask: "Based on what a person wrote what did they likely want done?" It is also easy to do because simple legal documents can do the things and simple words can also be used (like listing some property and putting a few names). And despite what many people say often Estate Planning is not worth a lot of effort or money since it often doesn't greatly change the costs, taxes, delays, and later work that is needed. Benefits seem especially low for young people since only 4% of people die by age 50, and only 0.2% of children before age 18 have 2 parents die to need big legal help. Many people spend more energy and money on getting good life insurance to try to help family and friends.

## BOOK IS SHORT, QUICKLY SHOWS LEGAL FORMS, AND USES EMPHASIS

This short book may read rough but it can be read fast and it also quickly shows people many legal forms. For emphasis some paragraph titles, boxes, and underlining is used, some small words are skipped, and end quote marks is put before punctuation. Though optional some legal words like Will and Testator are capitalized.

## THIS BOOK COVERS THE MAIN LEGAL IDEAS AND SHOULD SUIT MOST PEOPLE

This book covers the main U.S. legal ideas on Estate Planning and a few ways Tennessee law is different. This book can't cover all legal issues but should suit most people without some strange situations or wishes. Strange situations or wishes that may need research or a lawyer include: a) strange gift wishes for property and money, b) wealth over \$5 million, c) big medical concerns like extreme age, d) property or money going to a person with a disability or special needs, and e) wish to move or hide assets to qualify for government help.

## FORMS MAKE BINDING LEGAL DOCUMENTS AND BOOK HAS STANDARD FORMS

Legal forms are good at most things involved in Estate Planning and can make binding legal documents. Instead of legal forms a lawyer can be used for Estate Planning but this can be costly, take months of work, and they can make mistakes. In life people often pick a cheaper option. Importantly, often a hospital, charity, state agency, or state legislature has made a form most people use and call the "standard form", and doctors, judges, and other people may not like to follow anything else. This book does provide mostly standard forms.

## PROBABLY RE-DO DOCUMENTS IF DIVORCE, MARRY, HAVE CHILD, OR MOVE

Divorcing, marrying, having a new child, or moving to a new state can have big legal effects, and 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 if people move but this is not always certain.

## DOCUMENTS MAY NEED TO BE WITNESSED, NOTARIZED, AND USED RIGHT

Some legal documents to be valid need to be “witnessed”, which is someone watching the person doing the form sign and then the witness signs it too. Some documents need to be “notarized” where a person who is a “notary” sees a page signed and uses an ink stamp and signs too. A person who is a notary (also called a “notary public”) are at some banks, brokers, insurance agents, courts, law firms, mail-copy stores, and libraries. Many people first use a phonebook to call for a notary willing to help. The words “subscribe” and “execute” means a person signed a document, and “acknowledgment” means a person said a signature was theirs. If a person signs a document in a foreign language it is usually still binding. In a form the word “respectively” means “in the order just stated”. When filling out a form except for signatures the other parts can usually be done in pencil and filled in by anyone. Later people often try to keep the original pages and only hand out copies. Some people have everyone sign multiple copies to have many copies with ink signatures.

## SOME LESS COMMON OR LESS USEFUL FORMS ARE NOT IN THIS BOOK

This book skips some possible but less common or less useful legal documents.

- A “Codicil” can modify or add to a Will but it is easier and legally safer to just rewrite the whole Will.
- Some people do a “Revocable Living Trust” so a Trust entity with a Trustee holds property or money during their life, usually done to after death have faster transfer of things and to avoid small delays, costs, or work by others (by “avoiding probate”). But this is rare as it may require moving most of a person’s things to a Trust causing maybe years of hassle, mostly to avoid later small work for people happy to be getting things.
- “Childrens Trust” papers can be done so upon a death a Trust gets things for a minor child to manage till 18, but this is rarely done due to possible costs and hassles and since it rarely matters (as this book explains).
- 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 usually organ donation in handled in drivers license or state ID paperwork.

### NO FEDERAL, TENNESSEE, OR OTHER TAX IS USUALLY OWED AT A DEATH

Usually no tax is owed due to a death, including no inheritance, estate, death, or any similar taxes. At the federal level, the “Federal Estate And Gift Tax” is only owed if a tax credit is used up that covers \$13.61 million a person after 2023, and this amount will increase each year to adjust for any inflation.

In Tennessee at the state and local level all inheritance, estate, and death taxes were ended over a decade ago and no longer apply to anyone.

A few states may tax property located there if the owner dies, but they usually don’t tax things if the amount of property altogether located there is under \$3 million.

## INFORMATION FORM CAN HELP TELL FAMILY AND FRIENDS THINGS

Many people do some kind of “Information Form” so family or friends after a death know helpful things. People can staple financial records and other pages to this. See form on the next pages to use if wanted.



# 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 number, 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, car loans, 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 code/key:

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

# CHAPTER 2

## LEGAL TERMS AND BASIC PROPERTY LAW

### THERE ARE BASIC LEGAL TERMS AND IDEAS IN ESTATE PLANNING

Some legal words and ideas are basic to Estate Planning.

- “Estate Planning” is about people doing legal documents to control things if later absent, sick, or dead. After a document is done people are mostly 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.
- “Probate” is a legal process to do things after someone’s death like transfer property, handle creditors, and authorize a Guardian. Due to changes in the law probate is now often informal, faster, and less costly.
- 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” document use to be done alongside a Will.
- A person doing a Will is called “Testator” or “Will maker”. Before about the year 2000 a woman Testator was called a “Testatrix” and woman Executor called an “Executrix” but this is no longer often said or written.
- If no valid Will is done a person is “intestate” and then a dead person’s property and money is transferred to a spouse, children, and family as intestate law says. Some people a fine with this. This is covered later.
- A person who died is called the “decedent” or “deceased”. A person getting a Will gift is called a “recipient”, “beneficiary”, or “heir” if related (they “inherit”). “Survive” or “surviving” is to be alive after someone else died. The term “descendants” or “issue” usually means a person’s children and grandchildren.
- A person named in a Will to handle things after someone’s death is called an “Executor”, but if a judge has to pick someone they are called an “Administrator”. The new term “Personal Representative” covers both these things and this new term is now commonly used in Wills in Tennessee and many states.
- Legally property is: 1) “real property” which is land and buildings (“real estate”), 2) “fixtures” which are things tied to real property (like fences, carpets, and wired-in appliances), or 3) “personal property” which is everything else (like household items, clothes, tools, cars, jewelry, art, moneys, accounts, and stocks),
- A person under 18 is usually called a “minor” and often a parent or guardian helps them do things. A minor or other person not reasonably able to make wise decisions lacks “capacity” and is “incapacitated”.
- A document giving power to someone is often called a “Power of Attorney” where the “Principal” gives power to someone called the “Agent” or “Attorney-in-Fact” (but they needn’t be a real attorney or a lawyer).
- State law is the “Tennessee Statutes”. Sometimes a year is given, and often “Annotated” is added which means it is written with explanatory notes. Each law is called a “section” or “statute” shown by the “§” symbol. An example of how to refer to a law is: “Tennessee Code § 32-1-102”. A legal form written by the state into the law for people to find and use if they want is called a “statutory form”.

## ESTATE MEANS PROPERTY OF DECEDENT AND ENTITY HOLDING THINGS

The “estate” or “probate estate” means all property and money of a dead person that at death or soon after didn’t automatically legally go to new owners. Estate is also the name for a temporary entity run by an Executor to do things after a death (it’s like a small corporation, e.g., “Estate of John Alan Smith”).

## PERSON CAN ONLY GIFT IN WILL WHAT THEY OWN AT DEATH

A person can often 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. If people don’t keep track of how much of their money is in an account shared with a spouse, then the account may be seen as jointly owned 50/50. Note, after doing a Will a person can sell stuff, make gifts, or transfer things, so people should consider if they later transferred or lost property they named in a Will gift.

### NON-PROBATE TRANSFERS THAT HAPPEN AUTOMATICALLY IGNORE WILL

It is vital to be aware some money or property of a person who dies may automatically transfer on death or soon after to new owners if certain arrangements were made earlier. This is called “non-probate property”. Such things transfer as arranged even if a Will names the same items in some Will gifts.

Examples are: a) a “designated beneficiary” form was done to name people to get an investment or account, b) transfer-on-death accounts were used, and c) real property is held by 2 people as “joint tenants with survivorship” or similar so at a death the surviving person gets things. Also, usually property in a Trust will ignore a Will and transfer as Trust papers say to. Life insurance usually goes to the named beneficiary.

Trying to do non-probate transfers for all things is called “avoiding probate”, but few people try this since it can cause years of hassle, benefits are small, and often some thing is missed. When doing a Will people should consider non-probate transfers that will occur automatically at a death and consider what will be left.

## THINGS OWNED IN SPECIAL WAYS MAY LIMIT GIFTING IN WILL

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

- “joint tenant with right of survivorship” or similar legal options may be used in papers, so at a death property goes automatically to other named owners despite what a Will says (this is often how spouses hold a home);
- papers say a “life estate” exists, so then if someone dies the other people in papers the get a thing; and
- “Trust property” occurs if paperwork made a Trust entity and then property was transferred into it or this is set to occur, so then the Trust papers control where things put in the Trust go after someone’s death.

Simple “joint ownership” with many owners can occur if people do joint papers, all agree to it, buy with joint funds, or if a gift was to many people. Wills can gift joint property, like “I give my half of boat to Ed Hu”.

# CHAPTER 3

## WILL BASICS

### A WILL LETS A PERSON CONTROL THINGS AFTER THEIR DEATH

A Will is a legal document done by a person to control some things after their death. A person doing a Will is called the “Testator” or “Will maker”. In Tennessee a Testator when signing a Will must be at least age 18, of sound mind (rational with sufficient memory), and not be under duress (unfair pressure or threat).

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

A Will should be kept so it can be found within days of a death, like in a desk, drawer, safe, with a person, or (less often) a bank safe deposit box. Family can be told how to find a Will. Also, though rare, people can file a Will at court for safekeeping, and later after a death family or Executor can withdraw it. In Tennessee a living person can file a Will early for safekeeping as Chancery or Probate Court though this is rarely done.

### A WILL USUALLY IS SIGNED WITH 2 WITNESSES

#### A WILL TO BE VALID USUALLY MUST BE SIGNED WITH 2 WITNESSES

To be a Will words on a page must say or show it is a Will and then a person must usually sign in front of at least 2 persons acting as witnesses who then sign too. A Will just spoken on a video or audio recording usually has no legal effect. Some people modify a Will to have 3 or 4 witnesses in case this later helps. A Testator or a witness usually should use their full legal name unless they greatly dislike and rarely use it. As this book later says if a Will is completely handwritten then the 2 witnesses may not be legally required.

#### WITNESSES SHOULD BE AT LEAST AGE 18 AND NOT GETTING WILL GIFTS

The witnesses to a Will signing can be anyone at least age 18, but preferably not old or living far away. In Tennessee if a person is getting a Will gift they can be a witness but the gifts are void and canceled except by law close family can get up to amount “intestate law” would give them if no Will is done at all. To avoid this issue most lawyers use “disinterested” witnesses who are not benefitting from a Will at all. Though not required most lawyers try to not use witnesses named Executor, Guardian, or similar in a Will. Often used as a witness is a friend, employee at some office or business, stranger, or distant family.

#### AFTER TESTATOR SAYS IT’S THEIR WILL HAVE EVERYONE SIGN THE WILL

In Tennessee law a Testator doing a Will must tell at least 2 witnesses who also sign the Will that the document is a Will (lawyers call publicly saying a document is a Will “publishing a Will”). Often a Testator says to witnesses a thing like: “My name is \_\_\_\_\_ and this is my Will I do voluntarily and I ask you 2 people to witness the signing”. Some Testators chat with witnesses a few minutes about a Will to help show they know what they’re doing. A person doing a Will should sign with 2 or more witnesses who then also sign while all are in 1 room and see the other people sign. People showing others ID is common but not required. Witnesses only read the 1 paragraph they sign. Often a Will has a witness print their name and address. A Testator need not initial the Will pages

## **MOST WILLS SAY TO LATER ALLOW INFORMAL PROBATE AND SKIP BOND**

Most Wills say after a death the family and friends may do “informal probate” which can avoid costs and delays. Informal probate often is done with just 1 court hearing and often is completed in well under 1 year. Most Wills also helpfully say no “bond” or “surety” is required for any Executor, Guardian, or similar persons. A bond is insurance from a company to insure against misconduct. A Testator usually doesn’t want a bond since the persons Testator names are trusted and them later needing a bond will cost the estate money.

## **CANCELING OLD WILLS IS USUALLY NOT A PROBLEM**

So a new Will is followed old Wills should be canceled (“revoked”). To do this a new Will in the first part usually says old Wills are revoked. Or people can revoke a Will by marking it, like with “void” or a giant “X”. Usually crossing out just part of a Will has no effect. Revoking a Will usually doesn’t bring back an earlier Will.

### **A WILL NAMES AN EXECUTOR TO DO THINGS AFTER DEATH**

#### **A WILL NAMES SOMEONE TO BE EXECUTOR TO DO THINGS AFTER A DEATH**

Usually a Will names someone as “Executor” to act after a death. The law gives Executors many helpful legal powers, like to handle debts, find and collect and give new owners property and money, and do probate. If a Will fails to name an Executor a judge can pick someone, but family may argue about who to suggest. An Executor is not expected to pay the dead person’s debts and funeral costs with the Executor’s own money and property. The term “Personal Representative” and not Executor is often used in Tennessee for a person doing this job after a death, and these are similar terms. Will gifts can go to an Executor.

#### **EXECUTOR CAN BE PAID AND ESTATE PAYS FOR EXECUTOR’S EXPENSES**

State law says an Executor can ask to can be paid and usually get paid for the hours of work spent. For example, an Executor spending 5 hours a week for 40 weeks might ask for \$40 an hour and so ask to get paid \$8000. Some Tennessee counties have a policy to give an Executor a percentage of property and money in the decedent’s estate, like 2% or more. Some people modify a Will to say an Executor should not be paid at all. But often Executors later skip asking for pay to not owe income tax and leave more money to later carry out Will gifts. Some people modify a Will to say the Executor should get no pay or less pay. Costs any Executor has like insurance, utilities, repairs, funeral, mortgage, security, accountants, attorneys, and probate costs are paid for with money or property of the estate. Any lawyer hired is usually paid what they and Executor agree on (sometimes this is a lump sum like \$4000 or is an hourly rate like \$300 an hour).

#### **EXECUTOR MUST BE AT LEAST 18 AND SECOND PERSON RARELY IS NEEDED**

In Tennessee a person to be Executor must be at least age 18 and not have a felony criminal record. The person need not live in Tennessee. A judge may later block a person who seems clearly unsuitable. Naming 2 people to be Executor at the same time is rare due to risk of arguments or delays, and since any 1 person named is trusted. People can name a 2nd fallback person to be Executor if needed but most skip this because it is rarely needed and a judge can always pick someone. To add such a 2nd person a Will can say: “or if they’re reasonably unable to serve I name \_\_\_\_\_ to serve”.

# **CHAPTER 4**

## **WILL GIFTS INCLUDING RESIDUE CLAUSE**

### **MAIN USE OF A WILL IS TO WRITE GIFTS TO HAPPEN AFTER DEATH**

Most people use a Will mainly to legally say what happens to their property and money after their death, usually by writing down various Will gifts to occur when they die. Verbal and even writings about this are not usually valid if not in a written Will. A Will can control property acquired after it was signed. The end of this chapter covers “intestate law” which says where a person’s things go at death if no valid Will handles this.

### **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**

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

### **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 items can change, or a Will gift may later fail to occur if property is not owned at death.

### **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 Hu”. Money gifts are easy to write, let equal gifts be made, and are legally safer for many reasons. To carry out money gifts an Executor usually uses accounts or sells some property in the estate.

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

Many Wills like this book’s Will forms say a person named in a Will gift must survive (live past) the Testator for the gift to occur unless gift language specifically says different. If survival is not required for a Will gift then what happens if a person named in a Will gift later dies before Testator can be legally unclear. People doing a Will should consider how Will gifts to people dying before Testator usually have no effect. People if they see a person in a Will gift has died can re-do a Will or just let the Residue Clause handle it.

### **RESIDUE CLAUSE IS CATCH-ALL THAT HELPFULLY GIFTS ANYTHING LEFT**

This chapter later covers how a Residue Clause in Will gifts property or money not already gifted or used.

### **LATER DIVORCE OR MURDER CANCELS WILL GIFTS TO THE ACTING PERSON**

If a person divorces or murders a Testator then by state law usually all Will gifts to them are cancelled.

## **GIFTS IN WILL CAN GO TO A GROUP OR CLASS OF PEOPLE**

To save work a Will gift can go to a group or class of people like certain family if who is meant is later easy to determine. People can say roughly how much in total is gifted to be clearer. Examples are: “I give \$10 to each person in my 2018 bowling team” and “I give \$10 to each of my grandkids so this is about \$100 in total.”

### **IF PERSON DIES WILL GIFT CAN GO TO LINEAL DESCENDANTS PER STIRPES**

A Will gift can say it goes to a person but if they don't survive then to their “lineal descendants per stirpes”. Descendants are a person's children and grandchildren. “Per stirpes” means “by branch” and is about how to spread property and money, and it mostly tries to divide things so each family branch gets an equal share. Most Wills use “lineal descendants” language in a Residue Clause. An example shows how it works:

A Will may say: **“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%.

## **GIFT RECIPIENTS DYING BEFORE TESTATOR IS RARE AND EASY TO HANDLE**

Having a person named in a Will gift die is rare and usually noticed and then people often re-do a Will to replace any dead person in Will gifts, or some people don't act and trust a Residue Clause to handle it.

## **PEOPLE CAN ADD AN ALTERNATE BENEFICIARY LIKE FOR SPECIAL ITEMS**

Some people for the small risk a recipient in a Will gift dies before a Testator, and maybe for special items, write a bit to add an “alternate beneficiary”, like “I give boat to Ed Fox but if they don't survive me to Ann Fox”.

## **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 used to make unequal gifts, like “I give boat 90% to John Smith and 10% to Mary Baker”.

## **PROPERTY OR MONEY IN A JOINT GIFT GOES TO MULTIPLE PEOPLE**

The same property or money can go to many people to each get a part, and this is called a “joint gift”. For example, “I give boat and all hats to Ann Baxter and Mary Ann Swanson” means each person owns part of every item. People later can split things by agreement or an Executor can decide how to divide items. If a person in a joint gift has died their part usually is left to transfer under a Residue Clause.

## **FAMILIES MAY LET PEOPLE TAKE ITEMS BUT LISTS ARE NOT FULLY LEGAL**

Many families let people take items unofficially in ways a person before they died mentioned, wrote on notes, or showed by stickers. If anyone officially objects a judge will have a Will and law be fully followed, but later people can voluntarily retransfer items.

## **CAN LEAVE SOME WILL GIFT AREAS BLANK OR WRITE TO SAY SKIP GIFTS**

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



## **RESIDUE CLAUSE GIFTING ANYTHING LEFT IS MAIN WAY TO GIFT THINGS**

### **THE RESIDUE CLAUSE IS A CATCH-ALL THAT GIFTS ANYTHING LEFT**

Most Wills by the end have a Residue Clause to give property or money left in a person's estate not gifted earlier in a Will or used other ways. All that is left this way is called the "Residue". Many people let this clause handle most things. This avoids all need to list and describe property and money and also has less legal risk.

### **USUAL RESIDUE CLAUSE HAS 2 PARTS**

A short 2 part Residue Clause is usual and is used in this book's Will forms, and it has:

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

#### **EXAMPLE OF 2 PART RESIDUE CLAUSE:**

**"RESIDUE CLAUSE: The rest, residue, and remainder of my estate, and anything else, I give to:**

**a) to Jay Doe my husband who survive me and with persons just named who survive me taking the share of non-survivors, then if anything remains**

**b) to Sam Doe, Ann Wu, and Pam Ax and if any of those just named do not survive me their part goes to their lineal descendants per stirpes."**

In this example things may go to "descendants" so to a person's children and grandchildren, and things may be divided "per stirpes" which means equal among family branches. In this example if Jay Doe has survived he gets everything. If he has died and also Sam Doe hasn't survived but he left 2 children then, legally, Sam's 2 children split the 1/3 share of his (so get 1/6 each) and the other 2 persons in 2nd part (Ann Wu and Pam Ax) get 1/3 each. Usually the first people named in the clause won't die so gets things.

### **SOME PEOPLE USE PERCENTAGES TO GIFT DIFFERENT AMOUNTS OF RESIDUE**

Some people use percentages in a Residue Clause to get the exact split wanted. This can gift a lot (like to a person's children) and gift a small bit (like to a grandchild or more distant people). *See example in Appendix.*

### **SOME PEOPLE WRITE THE SAME THING IN BOTH PARTS OR SKIP A PART**

Some people put the same names in both clause spaces or skip part of it to do certain things. For example, a person with no spouse may skip the 1st part and in 2nd part name their children (including any who died who had kids of their own) so all branches of a person's descendants get a share. *See example in Appendix.*

### **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 A WILL**

### **PUTTING NAMES OF PEOPLE OR GROUPS IN A WILL IS FAIRLY EASY**

Putting names in a Will is fairly easy. Later a judge or Executor assume a person putting names in a Will meant to gift to people they know, so common names are OK unless 2 friends or family use the same name. Details can help if names won't be recognized or to be friendly, like "I give \$5 to my nurse Sue Smith" and "I give \$5 to loyal pal Ed Dutton". If people mostly used a nickname "also known as" or "a/k/a" may help, like "I give \$5 to Dan Smith a/k/a Big Red". Gifts can go to a charity, a government, or a group, like "I give \$8 to Goodwill Charities, "I give \$8 to the Smith County Library in Tennessee", and "I give \$8 to Holy Trinity Church of Dallas, Texas". People sometimes phone to learn a charity's or organization's official name.

### **PUTTING DESCRIPTIONS OF ITEMS IN WILL GIFTS IS FAIRLY EASY**

Describing items in gifts is fairly easy. Later a judge or Executor assume a person in a Will meant to gift items they own, and rarely do people own similar things so there is later confusion. Often OK is doing gifts with simple words like: "I give ax to Ed Wu" and "I give big table to Jed Fox". It's OK to gift by category or a list, like: "I give tools to Sam Lee" and "I give cow, van, and harp to Sue Hill". For financial items plain words can be used, like "I give bank accounts and stocks to Ann Bima", or details can be used, like: "I give Wells Fargo bank account ending 8714 to Tom Hud". Gifting using a location is riskier as judges will ignore a Will gift if it seems items were placed to affect gifting and for no "independently significant" life reason. So, "I give Ed Po items in my desk and safe" a judge might not follow, but "I give Ed Po hats at cabin" likely is OK.

### **DESCRIBING REAL PROPERTY IS HARD IF NOT USING RESIDUE OR TITLE**

Gifting real property (real estate) and fixtures (things tied to real property like fences, furnaces, and wiring) at death can be hard to do right and the legally safer way to do this is:

a) do nothing specific so it's handled by a Will residue clause, or b) have a lawyer or other person put names in a deed or other document for the real property so then named persons legally get it when the owner dies.

Gifting real property at death a few other ways is legally harder. Helpfully a gift of real property using a location by law gifts all land, buildings, and fixtures located there with no need to list out what's there.

It is possible to gift real property at a particular address with very plain words, like a house, fixtures, and land can be fully given by something like: "I give 86 Hart Street, East Memphis, Tennessee, to Sue Ann Brown".

People can do a blanket gift giving all of a kind of property, like, "I give all real property and fixtures in Kenton County, Tennessee to Ann Ivy Hill " or "I give all real property and fixtures of mine to Eric Paul Carlson".

Giving real property in a Will using a "legal description" is how some lawyers do it, but this can be hard to do. If using a legal description people must write without mistakes the full legal description of maybe many lines into a Will with no abbreviation at all. A legal description might be found on a deed or on mortgage papers. Legal descriptions may refer to a "lot" or "blocks" on a map which is recorded in land records of a county, or it may refer to a path around the land borders with various angles, distances, and iron stakes.

## PUTTING CONDITIONS ON WILL GIFTS IS 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 attorney’s fees. Due to all this conditions are rarely put on Will gifts.

## MOST WILLS HAVE A MISCELLANEOUS PART WITH HELPFUL LANGUAGE

Most Wills have a “Miscellaneous” page with legal language that might help avoid later legal problems.

### OFTEN AT START OF WILL A PERSON NAMES ANY SPOUSE AND CHILDREN

Many Wills start with a place for a Testator to name any current living spouse and children of any age. Natural and adopted children should be put here including any born outside of marriage, but no stepchildren. People without this family can skip this or just write “none”. Not doing this may invalidate a Will by indicating a person is mentally unfit, or let a spouse or child not listed ask a judge to give them part or everything by saying a Testator just forgot them. After listing people in a Will a Testator is mostly free to give them nothing.

## MOST STATES AND WILLS SAY PEOPLE TO GET GIFTS MUST SURVIVE 5 DAYS

Helpful laws in most states and all this book’s Will forms say if a person dies within 5 days (120 hours) of a Testator or simultaneously, then they are legally seen as dying before the Testator. This skips the need to prove exact time of death (like if people die in 1 accident), and avoids a Will gift or right to something going to someone who then soon dies within days (so an item may have to go through multiple probate proceedings).

### INTESTATE LAW COVERS PROPERTY OR MONEY NOT HANDLED BY WILL

Tennessee “intestate law” says if a person dies with no valid Will or if anything is left after Will and other transfers are done then certain surviving (living) family get property and money left in a person’s estate. Note, “descendants” and “issue” mean a person’s children and grandchildren, and if someone dies who would’ve got an intestate share then often their closest descendants get that share. Many people like intestate law and choose to skip a Will, but often a Will has some real benefit. State intestate law which is mostly at Tennessee Code § 31-2-104 if it applies basically says in the following order:

- 1) if decedent (the person who died) left a surviving living spouse but no descendants, the spouse gets all;
- 2) if decedent left a spouse and some descendants, then the spouse gets the greater of 1/3 of things or a child’s share (in some cases if there’s only 1 child this is 1/2), and the descendants like children and grandchildren of the decedent split the remainder (2/3 usually) in a certain standard way set by state law;
- 3) if decedent left no surviving spouse or descendants but left some parents, then the parents get things;
- 4) if decedent left no surviving spouse or descendants or parents, then any brothers and sisters get things with their own children and grandchildren taking their share if they are deceased;
- 5) if anything is left after the above steps are followed then other closest family of a decedent get things; and
- 6) if none of the above persons survive, then the decedent’s estate goes to the state of Tennessee.

# CHAPTER 5

## DEBT, FAMILY, SPOUSE, HOMESTEAD, AND CHILD ISSUES

### THIS CHAPTER IS ABOUT COMPLEX ISSUES IT MAY HELP TO LEARN ABOUT

This chapter is about some complex issues some people face. People who want can do more research.

#### DEBT ISSUES

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

If a person who dies (a decedent) had debts then creditors owed may ask a judge to be paid from the decedent's money or property before Will gifts and certain transfers occur. How debts are paid is set by state law and a Will need not cover this. Funds to pay debts comes from decedent's money and property so may affect (in order) the Will Residue, Will general gifts, Will specific gifts, and non-probate transfers. Probate, health care, taxes, and funeral costs by law have some priority to be paid first. For various reasons often not all creditors owed are ever paid. People should consider how paying debts may use up money or property of a decedent, leaving less to carry out Will gifts. Note, a spouse and family usually aren't liable for decedent's debts unless they actually guaranteed or co-signed. People who want can do research.

##### SECURED DEBTS LIKE MORTGAGE OR VEHICLE LIEN ARE NOT PAID OFF

Laws in most states say do not pay off any secured debts on property of a decedent like a house mortgage or vehicle lien even if other debts are paid by Executor or in probate. This avoids using up estate resources on paying these often big debts. All this book's Will forms clearly say do not usually pay off any secured debts. But if a Testator wants they can 1) put in a Will an order to pay (like, "Executor pay off the house mortgage"), or 2) gift enough money to pay off a secured debt like a mortgage or lien to the person getting the property. Most banks let the new owners after a death keep paying monthly any secured debt like a mortgage or lien. People who want can research Tennessee law.

#### FAMILY ISSUES

##### FAMILY RIGHTS MAY BE USED TO GET FAMILY THINGS BEFORE DEBTS

Many states have "Family Rights" any spouse or young children can use which are used before most debts of decedent are paid and even before Will gifts are ever carried out. These rights may help the family get something even if there is little of value and debts are big. Tennessee partly has these legal rights. Tennessee law has an "Exempt Property" right that says any surviving spouse or if there's no spouse then children under 18 can quickly claim \$50,000 of decedent's property and money to use to live well. Tennessee law has a "Spousal Allowance" right to 1 year of money support to aid a spouse or minor children. The amount depends on how much a decedent supported the family (for example often over \$20,000 is paid). Tennessee law has a "Small Estate Affidavit" family can use to quickly give a spouse or children most things if a decedent left under \$50,000 or property and money, and this can avoid delay and need for complex probate. Basically, most people with a spouse or young children accept their family has rights to get some things. So family don't cause legal trouble by using these rights often a person gives over 50% of their things and any family house they own to any spouse or young child. People who want can research Tennessee law.

## SPOUSE ISSUES

### TENNESSEE USES SEPARATE PROPERTY LAW FOR SPOUSES

Tennessee like most states not in the West U.S. uses the Separate Property Law system that says any married person mostly owns their money and property separately and not jointly shared with a spouse. Due to this a married person here is often free to sell during life or gift by Will most their property and money and not involve a spouse. But joint and not separate ownership can arise other ways, like by agreement, both spouses paying part of the purchase price, if a gift was to both spouses, or if paperwork calls it joint.

### COMMUNITY PROPERTY LAW APPLIES IN OTHER STATES FOR SPOUSES

There are 9 states mostly in the West U.S.A. that use “Community Property” law for married people (Arizona, California, Louisiana, Idaho, Nevada, New Mexico, Texas, Washington, and also Wisconsin). This law says if a married person lives in these states most property or money gotten is usually owned 50/50 by spouses as “Community Property” if it relates to activities during marriage (like from labor or wages, major physical or mental effort, or active management of a business) or if bought or improved with other Community Property. Most people avoid these issues unless recently moving to or from these states.

### SPOUSE CAN GET SHARE INSTEAD OF FOLLOWING WILL

In most states a spouse if unhappy with what a Will and other transfers may give them has options. In Tennessee a spouse has a right to choose (elect) an “Elective Share” of some of a decedent’s property and money. Many states set the Elective Share at 50%. In some cases this can cover things decedent gave away recently or controlled but not owned. Tennessee is a bit unique and sets the share at 10% to start which rises to 40% after 9 years of marriage. To avoid this both spouses would have to sign a long pre-nuptial or post-nuptial agreement from a lawyer which is rarely done. Also, a spouse unhappy with what they get may sue claiming promises were made, like: “He said I’d get \$50,000 if I helped during his illness”. Usually to avoid a spouse wanting to use these rights most married people by Will or other ways give over 1/2 their money and property to any spouse. People who want can research Tennessee law.

## HOMESTEAD ISSUES

In many states a surviving spouse or children till age 18 have under a “Homestead Law” some right to get (or just stay in for years) a house or mobile home if owned by the decedent. Tennessee partly has this right. If a decedent owned a home then Tennessee law gives family some right to stay, and often a spouse can live there till death, or if there is no spouse then minor children can live there till 18. Note, any person getting use or ownership of a home may have to pay mortgage payments coming due or the property may be foreclosed. If because of creditors wanting to be paid or other reasons a house can’t be kept for family then under Tennessee law the family may have right to get instead \$35,000 of money and property of the decedent. Due to all this often a person a family home they own to family by Will or some other way so they don’t bother to try to use these rights. People who want can research Tennessee law.

## CHILD ISSUES

### CAN NAME “GUARDIAN OF THE PERSON” TO PERSONALLY CARE FOR CHILD

If a parent dies with a child under age 18 then any other natural or adopted parent (but not a step-parent) usually automatically gets control of the child's personal care (including health care, school, and home issues). This won't occur only if the other parent will be unavailable a long time or is proven unfit in court which is rare. But just in case it's ever needed (like later both parents die) a Will often names a healthy willing relative or friend as “Guardian of the Person” to if needed give this care for a child. Some states just call this a Guardian.

### CAN NAME “GUARDIAN OF THE ESTATE” TO MANAGE FINANCES OF CHILD

Since a child until age 18 can't legally easily control property and money a Will often names a person to have the job of managing property and money a child has or may get. This person decides each year how to use property and money on a child's needs (like on school, health care, and living costs) and then usually at age 18 anything left then goes to the child. A person paying things for a child can later ask to be paid back. In Tennessee a person managing property and money for a minor is called a “Guardian of the Estate” or similar, but some states call this a “Conservator”. As a nice 2nd option to avoid legal work and costs most Wills say an Executor may name a person including themselves as “Custodian” to handle a child's property and money under the Uniform Transfers To Minors Act.

### MOST WILLS NAME 1 PERSON TO CARE FOR CHILD AND THEIR PROPERTY

This book's Will forms and most parents name the same 1 person to care for a child and also manage a child's property and money. A Will can be changed to name different people for the 2 jobs, but this is rarely worth it since parents dying is rare, rarely do children get much, a person caring for children usually if smart enough to handle finances, and naming different people can lead to arguments and lawsuits.

### PERSON TO HELP A CHILD MUST BE AT LEAST 18

In Tennessee to serve in these jobs a person must be at least 18 and not have a felony criminal record. But they needn't live here. A judge may later block a person who seems too unsuitable like due to major history of child abuse, fraud, or irresponsibility. The choice by the last living parent is usually followed unless it won't be best for a child. If no Will picks a person for a position or they're unavailable a judge can pick someone, but family may argue and fight about who to suggest. Naming 2 people to act at the same time in the same job is rare since 2 persons may argue and any person named is often smart enough to act alone. Sometimes the 2 people in a married couple are named for the same position but there can be big problems if they divorce or argue. Some Wills add a 2nd person to serve if the 1st person named isn't later available, like: “or if they are later unable to serve I name \_\_\_\_\_ to serve”). Most people skip naming a fallback person since it's rarely needed, if a problem is seen a Will can be redone, or a judge can pick someone.

### NAMING PERSONS TO HELP CHILD RARELY MATTERS

A child under 18 having parents die is rare so parents shouldn't worry much about naming people to help. A good study looked at 72,240 people under age 18 and found only 2014 had lost 1 parent (so 2.78%) and only 97 had lost 2 parents (so a very small 0.13%). *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” or similar.

■ In legal documents people can give written medical instructions that doctors, family, and Agent must obey.

■ Parents even without legal documents usually have power over health care of children under age 18.

■ Some married people do documents to give a spouse power over medical care if they are incapacitated. Some adults give this power to parents. Young people are rarely badly sick so often skip doing these things.

■ 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 try most medical care (sometimes this is called a “Do-Not-Resuscitate” if about resuscitation or called a “Physician’s Order” if about many treatments).

# CHAPTER 7

## FORM 1: WILL (STANDARD)

### FORM 1 IS A STANDARD WILL THAT IS FLEXIBLE BUT WITHOUT GUARDIAN

Form 1 is a flexible Will that lets a person control many things after their death. This form has no part about a Guardian so is for a person with no child under age 18. A person doing a Will is called a Testator.

### THIS FORM IS A WILL WITH SEVERAL PARTS

The form starts with lines for a person to put their name (a full legal name is best but not required) and place of main residence (most put a county but some put a city). The Will is still valid if people later move.

**Paragraph 1, “Living Spouse And Children”,** is used to write names of any living spouse and living children (but not step-children) of any age (or if there are none skip this or maybe put “none”). This helps show a person is mentally fit enough to do a Will. Wrongly not listing someone may cause legal problems.

**Paragraph 2, “Gifts”,** has many spaces to make some specific gifts of particular property or some general gifts like of money. People can delete, copy and paste to add more, or leave blank these gift lines.

**Paragraph 3, “Separate Writings”,** says to follow any separate writings done apart from the Will that gifts tangible personal property in manner allowed by state law.

**Paragraph 4, “Residue”,** has a Residue Clause to say any property and money left after earlier Will parts and other transfers is to be distributed in the way a person wrote in the blank parts of this paragraph.

**Paragraph 5, “Administration”,** names a person to be Personal Representative to do things after a person’s death (in the past the term Executor was usually used in Tennessee for the person doing this).

**Paragraph 6, “Miscellaneous”,** has paragraphs of legal language to help avoid certain legal issues.

Last is a paragraph for Testator to put the date and sign, and a paragraph for 2 witnesses to put the date, sign, and print the addresses they live at.

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

In a Will “Residue Clause” anything left over after other Will parts is transferred as the clause directs. Many people use a Residue Clause to gift most their 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 died before the Will maker then other persons named here in this 1st space take the dead person’s share, and
- 2) a 2nd space to name people to get things if all people named in the 1st space have died, and if any people named in the 2nd space have died their shares go to “lineal descendants” like their children.

People often put in the 1st space a spouse or closest family or friends, and in 2nd space next closest people.

### TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will after being filled out (except bits intentionally left blank) must be signed by the person doing the Will (the “Testator”) in front of at least 2 persons acting as witnesses at least age 18 who then also sign.



# LAST WILL AND TESTAMENT

I am \_\_\_\_\_ of \_\_\_\_\_, Tennessee, and I revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and act voluntarily.

**1. LIVING SPOUSE AND CHILDREN.** To show I am mentally fit and have sufficient memory to do a Will I do say I now have the following living spouse and living children:

\_\_\_\_\_  
\_\_\_\_\_.

**2. 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 _____
I give _____	to _____
I give _____	to _____

**3. SEPARATE WRITINGS.** I may do writings separate from this Will to gift tangible personal property as allowed by state law, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

**4. RESIDUE.** The rest, residue, and remainder of my estate, and anything else, I give:

a) to \_\_\_\_\_ who survive me, and with persons just named who survive me taking the share of non-survivors, then if anything remains

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

**5. ADMINISTRATION.** I name, nominate, and appoint \_\_\_\_\_ as Personal Representative including for me, my Will, and my estate.

**6. MISCELLANEOUS.** The following applies to this Will and generally.

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Tennessee law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after my death as practical but only those items my Personal Representative chooses to pay.

Any gift of money in this Will has priority over gifts in any separate writing.

Priority of Will gifts of the same type is based on the order they are made in this Will.

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

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

If a Will gift reasonably mentions survival then survival is an absolute condition and anti-lapse laws or similar provisions have no effect and without survival the gift lapses. Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me the part to them lapses and instead goes to other surviving recipients.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

In this Will any gendered word includes all genders, and the singular includes the plural and vice versa, and the word "they" can mean a single person or many persons.

Unless a Will specifically says otherwise a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, and a recipient of a Will gift of property takes it subject to debts. Also, no recipient of property who may lose it or who pays to keep it may have my estate or other people pay or do exoneration.

If I lost or no longer have an item in a Will specific gift then the gift is extinguished.

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 with no inventory, appraisal, or other action.

I give any Personal Representative the a) fullest authority, discretion, and powers allowed by state law, b) power to lease, sell, mortgage, convey, or keep property including real property in a manner and time they deem helpful or proper, c) authority to settle or pay claims or debts in the time and manner they choose, and d) power and authority provided in any part of Tennessee Code § 35-50-110. Any Personal Representative has all powers and authority that may be given by statute or common law in any jurisdiction they act.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor's property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Conservator and Guardian of the Estate and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in the place of and have all powers like the others named here.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative may access, manage, delete, modify, transfer, and otherwise control any digital accounts and assets I had any interest in or power over.

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

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to act under the Tennessee Uniform Transfers to Minors Act or similar law anywhere, and may pick a person to be Custodian including themselves.

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

### **TESTATOR**

IN WITNESS WHEREOF, I, \_\_\_\_\_, the Testator, have signed this document as my Will in the presence of the persons witnessing this Will at my request on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Testator

### **WITNESSES**

SIGNED, DECLARED, AND PUBLISHED by \_\_\_\_\_, the Testator, as the Will of Testator, in the presence of us, the undersigned, who, at the Testator's request and in the sight and presence of the Testator and each other, have subscribed our names hereto to act as attesting witnesses on the date above written.

\_\_\_\_\_  
Signature of Witness #1

\_\_\_\_\_  
Address of Witness #1

\_\_\_\_\_  
Signature of Witness #2

\_\_\_\_\_  
Address of Witness #2

# CHAPTER 8

## FORM 2: WILL (GUARDIAN)

### FORM 2 IS A WILL WITH GUARDIAN PART FOR A PERSON WITH YOUNG CHILD

Form 2 is a Will with a Guardian part to be used by a person with a minor child under age 18.

### FORM IS A WILL WITH SEVERAL PARTS INCLUDING A GUARDIAN PART

The form starts with lines for a person to put their name (a full legal name is best but not required) and place of main residence (most put a county but some put a city). The Will is still valid if people later move.

**Paragraph 1, “Living Spouse And Children”,** is used to write names of any living spouse and living children (but not step-children) of any age (or if there are none skip this or maybe put “none”). This helps show a person is mentally fit enough to do a Will. Wrongly not listing someone may cause legal problems.

**Paragraph 2, “Gifts”,** has many spaces to make some specific gifts of particular property or some general gifts like of money. People can delete, copy and paste to add more, or leave blank these gift lines.

**Paragraph 3, “Separate Writings”,** says to follow any separate writings done apart from the Will that gifts tangible personal property in manner allowed by state law.

**Paragraph 4, “Residue”,** has a Residue Clause to say any property and money left after earlier Will parts and other transfers is to be distributed in the way a person wrote in the blank parts of this paragraph.

**Paragraph 5, “Administration”,** names a person to be Personal Representative to do things after a person’s death (in the past the term Executor was usually used in Tennessee for the person doing this).

**Paragraph 6, “Guardian”,** names a person to care for minor children under age 18 if needed (like if both parents die) and also names a person to manage property and money of any person under age 18.

**Paragraph 7, “Miscellaneous”,** has paragraphs of legal language to help avoid certain legal issues.

Last is a paragraph for Testator and 2 witnesses to put some dates, names, addresses.

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

In a Will “Residue Clause” anything left over after other Will parts is transferred as the clause directs. Many people use a Residue Clause to gift most their 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 died before the Will maker then other persons named here in this 1st space take the dead person’s share, and
- 2) a 2nd space to name people to get things if all people named in the 1st space have died, and if any people named in the 2nd space have died their shares go to “lineal descendants” like their children.

People often put in the 1st space a spouse or closest family or friends, and in 2nd space next closest people.

### TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will after being filled out (except bits intentionally left blank) must be signed by the person doing the Will (the “Testator”) in front of at least 2 persons acting as witnesses at least age 18 who then also sign.

# LAST WILL AND TESTAMENT

I am \_\_\_\_\_ of \_\_\_\_\_, Tennessee, and I revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and act voluntarily.

**1. LIVING SPOUSE AND CHILDREN.** To show I am mentally fit and have sufficient memory to do a Will I do say I now have the following living spouse and living children:

\_\_\_\_\_  
\_\_\_\_\_.

**2. 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 \_\_\_\_\_.

**3. SEPARATE WRITINGS.** I may do writings separate from this Will to gift tangible personal property as allowed by state law, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

**4. RESIDUE.** The rest, residue, and remainder of my estate, and anything else, I give:

a) to \_\_\_\_\_ who survive me, and with persons just named who survive me taking the share of non-survivors, then if anything remains

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

**5. ADMINISTRATION.** I name, nominate, and appoint \_\_\_\_\_  
as Personal Representative including for me, my Will, and my estate.

**6. GUARDIAN.** I name \_\_\_\_\_ to be Guardian of the Person  
of any minor child of mine and to have care, authority, custody, and other control of them.  
I name this same person to be Guardian of the Estate for the estate, property, and money of  
any minor person under age 18 and to have care, control, and power over all such things.

**7. MISCELLANEOUS.** The following applies to this Will and generally.

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Tennessee law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after  
my death as practical but only those items my Personal Representative chooses to pay.

Any gift of money in this Will has priority over gifts in any separate writing.

Priority of Will gifts of the same type is based on the order they are made in this Will.

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

I am intentionally not providing by Will or other ways for some family, including I am  
not providing for some children of mine and also children of a deceased child of mine.

If a Will gift reasonably mentions survival then survival is an absolute condition and  
anti-lapse laws or similar provisions have no effect and without survival the gift lapses.  
Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any  
do not survive me the part to them lapses and instead goes to other surviving recipients.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

In this Will any gendered word includes all genders, and the singular includes the  
plural and vice versa, and the word “they” can mean a single person or many persons.

Unless a Will specifically says otherwise a secured debt including a mortgage or lien  
shall not be paid off including by a Personal Representative or in probate, and a recipient  
of a Will gift of property takes it subject to debts. Also, no recipient of property who may  
lose it or who pays to keep it may have my estate or other people pay or do exoneration.

If I lost or no longer have an item in a Will specific gift then the gift is extinguished.

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 with no inventory, appraisal, or other action.

I give any Personal Representative the a) fullest authority, discretion, and powers  
allowed by state law, b) power to lease, sell, mortgage, convey, or keep property including  
real property in a manner and time they deem helpful or proper, c) authority to settle or pay  
claims or debts in the time and manner they choose, and d) power and authority provided  
in any part of Tennessee Code § 35-50-110. Any Personal Representative has all powers  
and authority that may be given by statute or common law in any jurisdiction they act.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor’s

property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Conservator and Guardian of the Estate and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in the place of and have all powers like the others named here.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative may access, manage, delete, modify, transfer, and otherwise control any digital accounts and assets I had any interest in or power over.

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

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to act under the Tennessee Uniform Transfers to Minors Act or similar law anywhere, and may pick a person to be Custodian including themselves.

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

### **TESTATOR**

IN WITNESS WHEREOF, I, \_\_\_\_\_, the Testator, have signed this document as my Will in the presence of the persons witnessing this Will at my request on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Testator

### **WITNESSES**

SIGNED, DECLARED, AND PUBLISHED by \_\_\_\_\_, the Testator, as the Will of Testator, in the presence of us, the undersigned, who, at the Testator's request and in the sight and presence of the Testator and each other, have subscribed our names hereto to act as attesting witnesses on the date above written.

\_\_\_\_\_  
Signature of Witness #1

\_\_\_\_\_  
Address of Witness #1

\_\_\_\_\_  
Signature of Witness #2

\_\_\_\_\_  
Address of Witness #2

## **CHAPTER 9**

### **FORM 3: SELF-PROVING AFFIDAVIT**

#### **FORM CAN BE DONE TO HELP WITH THE WORK OF USING A WILL LATER**

This form is optional but can be done after a Will is done to help with the legal work involved in later using a Will after a death.

#### **FORM HELPS SHOW A WILL WAS PROPERLY SIGNED**

The Self-Proving Affidavit helps “prove” a Will was signed properly. If this form isn’t done then after a death a little more work is needed to get evidence from either witnesses to the Will signing, persons familiar with signatures of people, or a handwriting expert. Without the Self-Proving Affidavit there is a bit more legal risk a Will won’t be followed later. But of people doing Wills about half skip a Self-Proving Affidavit mostly due to the hassle of finding a notary on top of 2 witnesses each time a Will is done, and since it requires more work by the person doing a Will mostly just to save later work of people happy to be getting things under a Will.

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

For this form to be valid a person who is a notary (also called a “notary public”) must see the Testator and 2 witnesses sign this form and then the notary notarizes the form. A notary can be found and asked to help at a bank, copy-mail center, brokers, insurance agents, library, court, government office, and many other places (using a phonebook to find a helpful notary is common). This form is often signed a few minutes after a Will is signed but it can be done later (even years later) when all can meet with a notary. But this Affidavit form can’t legally be done before the Will it supports is done. This form when completed is often kept paper-clipped to the Will it supports.



# SELF-PROVING AFFIDAVIT

STATE OF TENNESSEE )  
 )  
COUNTY OF \_\_\_\_\_ )

Before me, a notary public in the above state and county, on this day personally appeared before me the persons who are named \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, and \_\_\_\_\_, and \_\_\_\_\_, who are known to me to be the Testator and Witnesses respectively, and whose names are subscribed to the annexed or foregoing instrument in their respective capacities. All of said persons being by me duly sworn, the Testator declared to me and to the said Witnesses in my presence that said instrument is the Will of the Testator that the Testator had willingly made and executed it as the Testator's free act and deed for the purposes therein expressed. The Witnesses, each upon oath, stated to me in the presence and hearing of the Testator that the Testator had declared to them that the instrument is the Will of the Testator and that the Testator executed same as such and wanted each of them to sign it to act as a witness. Upon oath each Witness stated further that the Witness did sign the same to act as witness in the presence of each other and the Testator and at the Testator's request; that the Testator was at that time 18 years of age or over and was of sound mind; that to the best of the knowledge of the Witnesses the Testator was not under any restraint or undue influence or in any respect incompetent to make a Will; and that each of said Witnesses was then at least 18 years of age.

Signature of Testator

Signature of Witness

Signature of Witness

Notary or Officer:

Subscribed and sworn to by the above-named Testator and Witnesses before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public

My commission expires:

# CHAPTER 10

## FORM 4: TANGIBLE PERSONAL PROPERTY MEMORANDUM

### FORM LETS MORE GIFTS TO OCCUR AFTER DEATH BE EASILY WRITTEN OUT

This form lets more gifts to occur after death be added to a Will. Many call this form a “List” or “Memo”.

### FORM GIVES EASY AND QUICK WAY TO WRITE MORE GIFTS OF PROPERTY

This form lets people easily add to a Will more gifts to occur after death. To use this form a valid Will must say separate writings like this form can be used, and most Wills say this (including this book’s Wills). If this form and a Will gift the same item then legally the Will controls what happens. If 2 forms cover the same item the more recently done page controls. People can modify or add to an existing form page if a new date and signature is done. To avoid delay the form will be ignored if not found within 90 days of the person’s death.

### FORM CAN ONLY GIFT TANGIBLE PERSONAL PROPERTY

By law the form can only gift “tangible personal property”. This is property that is tangible (touchable), so not accounts, not moneys, and not investments where ownership involves papers or a bank or other entity. This is property that is personal property, so not real property (land or buildings) and not fixtures (anything tied to land). The form can’t gift any money, whether coin or paper currency and even if antique. The form can’t give property used in a trade or business. Improper property written in the form is later just ignored. This form is often used to gift clothes, furniture, cars, boats, antiques, appliances, tools, materials, art, and jewelry.

It may help to see the Tennessee law allowing the form, which says:

#### **Section 32-3-115 - Written statement or list to dispose of items of tangible personal property**

- (a) (1) [A] will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money, evidences of indebtedness, documents of title, securities, and property used in a trade or business.
- (2) To be admissible under this section as evidence of the intended disposition, the writing:
- (A) Must:
    - (i) Be either in the handwriting of the testator or signed by the testator;
    - (ii) Be dated; and
    - (iii) Describe the items and the devisees with reasonable certainty;
  - (B) May be prepared before or after the execution of the will;
  - (C) May be altered by the testator after its preparation, provided that the testator signs and dates the alteration; and
  - (D) May be a writing that has no significance apart from its effect upon the dispositions made by the will.
- (3) If more than one (1) otherwise effective writings exist or a single writing contains properly signed and dated alterations, the provisions of the most recent writing or alteration revoke any inconsistent provisions of all prior writing[.]

### TO COMPLETE THE FORM A PERSON SIGNS AND DATES IT

The form must be signed and usually dated, and no witnesses are needed. Pages of this form are often kept by a Will. To cancel this form it can be destroyed, crossed out, or just thrown away so it isn’t found later.

# **TANGIBLE PERSONAL PROPERTY MEMORANDUM**

In this writing are gifts of tangible personal property to occur at my death, but this writing if not found by someone within 90 days of my death is canceled.

I may do many pages of these writings which should all be seen as one document. If there are conflicts among such writings the provisions of the more recent writing will revoke the inconsistent provisions of a prior writing.

If a person getting a gift below does not survive me such gift is void and canceled.

## **DESCRIPTION OF PROPERTY**

## **NAME OF PERSONS TO GET PROPERTY**

_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____
_____	to _____

**DATE:** \_\_\_\_\_

**SIGNED:** \_\_\_\_\_

# CHAPTER 11

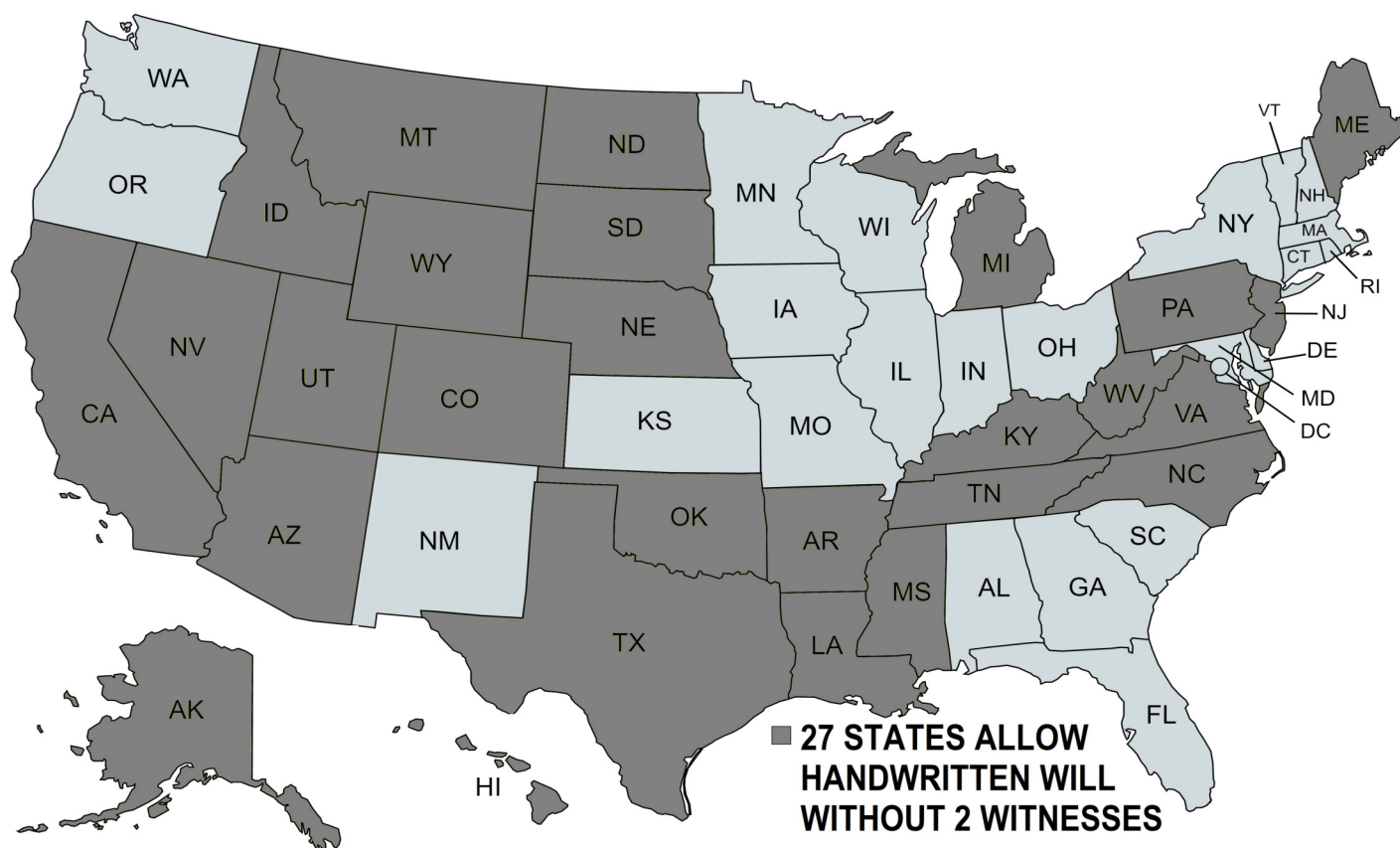
## FORM 5: HANDWRITTEN WILL

### WILL CAN SKIP USING THE NORMAL 2 WITNESSES IF IT'S HANDWRITTEN

A Handwritten Will is a Will that is easier to do since it doesn't need 2 witnesses if it is all handwritten.

### HANDWRITTEN WILL WITHOUT WITNESSES IS ALLOWED IN MAINE

In 27 states including Tennessee a person doing a Will can skip the usual legal need for 2 witnesses if : 1) it is all handwritten by the person doing the Will (not photocopied, typed, computer printed, or handwritten by anyone else), and 2) it is signed and dated. Many people call this a “Handwritten Will” and many lawyers call this a “Holographic Will”. Handwritten Wills are allowed since handwriting is harder to fake, people may be in an emergency or rush, witnesses may be scarce in the countryside, it is private, it can be cheap by skipping complexity and people, and it is traditional to allow this especially in rural places. The 27 states with Handwritten Wills have 55% of the U.S. population. See states with Handwritten Wills on map below in dark.



### HANDWRITTEN WILLS ARE USUALLY FINE BUT REQUIRE LATER WORK

Some lawyers warn against Handwritten Wills saying they often read confusingly, skip legal words that help in some cases, and are found invalid more often – but some studies show they are liked and often fine. To use a Handwritten Will later after a death work is needed and some people must in writing or in testimony say handwriting looks like the Testator's. But a normal Will if no Self-Proving Affidavit was done also needs similar proof from people like from a witness to the signing or other proof of signing. Handwritten Wills tend to be done by people who are young so unlikely to need a Will soon, who are in a hurry, who want to fix a mistake, who before a trip want to pick a Guardian, who moved to a new state, or who plan to re-do the Will.

## WORDS BELOW ON THIS PAGE CAN BE USED FOR A HANDWRITTEN WILL

People can do a Handwritten Will in a sentence that is legal but may leave out helpful parts, for example: *"As my Will I give my estate and all else to Ann Baker who shall be Executor. - Dan Baker"* But it is recommended people use more complex words for a Handwritten Will shown on this page below. To do this people should change the names and words below on this page to match what they want done. If some people named to get things later die it is best to quickly re-do the Will and name different people. The last paragraph about Guardians for children can be skipped if a person has no children under age 18. This Will must be all handwritten by the person doing it on some paper (pencil is allowed) and then signed and dated by the person (usually in pen or permanent marker).

### W I L L

1. *I am John Max Hill and I currently live in York County, Tennessee. I revoke any prior Wills and Codicils and declare this to be my Will.*
2. *I give my estate and all property and money to Mary Ann Hill and Joy Ann Baxter. My not giving to other family of mine is intentional.*
3. *I name Mary Ann Hill as Personal Representative for me, my Will, and my estate. I request informal probate.*
4. *No bond, surety, or similar is needed for any Personal Representative, Guardian of any type, or other fiduciary.*
5. *If ever needed for a minor child I name Nancy Susan Dodd my sister as Guardian of the Person to have care, custody, and control of them. I name this same person as Guardian of the Estate to have control and power over any minor child's estate, property, and money.*

*May 8, 2024*

*John Max Hill*

# CHAPTER 12

## FORM 6: APPOINTMENT OF HEALTH CARE AGENT

### FORM CAN NAME HEALTH CARE AGENT

This form lets a person name someone as “Health Care Agent” to make health care decisions if needed. This form is written by the state Department of Health. This form is usually skipped since the next form in this book also can name a Health Care Agent, but some people to keep things simple do only this form.

### AGENT CONTROLS HEALTH CARE IF A PERSON IS LATER INCAPACITATED

This form lets a person name someone as “Health Care Agent” to get power to make medical decisions if the person is later incapacitated (like by inability to stay conscious, be rational, or communicate somehow). Often named as Agent is a spouse, adult child, or a friend. Naming a family member as the Agent can avoid any need to rush to see judge to get power in an emergency. A person’s doctor or anyone associated with a place giving health care usually should not be Agent. The form has spot to name an “Alternate” to serve if the first person is unavailable but many people skip this since this is rarely needed. Many people especially in other states call this kind of form a “Health Care Power Of Attorney”.

### PERSON SIGNS FORM IN FRONT OF A NOTARY OR 2 WITNESSES

To complete the form a person signs in front of a notary who then notarizes the form or, alternatively in front of 2 witnesses at least age 18 who then also sign. Neither witness can be named as Agent in the form and at least 1 must not be related to the person doing the form or likely to benefit from their death. The form once signed usually is shown to any place that may give care to make it part of a person’s file. The form can be kept until needed or immediately handed it to the Agent or family to use if ever needed. To cancel the form a person should tell the Agent and usually any places that were shown the form.

# APPOINTMENT OF HEALTH CARE AGENT

(Tennessee Department of Health)

I, \_\_\_\_\_, give my agent named below permission to make health care decisions for me if I cannot make decisions for myself, including any health care decision that I could have made for myself if able. If my agent is unavailable or is unable or unwilling to serve, the alternate named below will take the agent's place.

## Agent:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

(\_\_\_\_\_) \_\_\_\_\_  
Area Code Home Phone Number

(\_\_\_\_\_) \_\_\_\_\_  
Area Code Work Phone Number

(\_\_\_\_\_) \_\_\_\_\_  
Area Code Mobile Phone Number

\_\_\_\_\_  
Patient's name (please print or type) Date

## Alternate:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

(\_\_\_\_\_) \_\_\_\_\_  
Area Code Home Phone Number

(\_\_\_\_\_) \_\_\_\_\_  
Area Code Work Phone Number

(\_\_\_\_\_) \_\_\_\_\_  
Area Code Mobile Phone Number

\_\_\_\_\_  
Signature of patient (must be at least 18 or emancipated minor)

To be legally valid, **either** block A or block B must be properly completed and signed.

## Block A Witnesses (2 witnesses required)

1. I am a competent adult who is not named above.  
I witnessed the patient's signature on this form.

\_\_\_\_\_  
Signature of witness number 1

2. I am a competent adult who is not named above. I am not related to the patient by blood, marriage, or adoption and I would not be entitled to any portion of the patient's estate upon his or her death under any existing will or codicil or by operation of law. I witnessed the patient's signature on this form.

\_\_\_\_\_  
Signature of witness number 2

## Block B Notarization

Notary or Officer:

STATE OF TENNESSEE

COUNTY OF \_\_\_\_\_

I am a Notary Public in and for the State and County named above. The person who signed this instrument is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is shown above as the "patient." The patient personally appeared before me and signed above or acknowledged the signature above as his or her own. I declare under penalty of perjury that the patient appears to be of sound mind and under no duress, fraud, or undue influence.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public

# CHAPTER 13

## FORM 7: ADVANCE DIRECTIVE FOR HEALTH CARE

### IN FORM CAN REFUSE FURTHER MEDICAL CARE IF LATER FALL BADLY ILL

This form can 1) name a person to control health care and 2) say to stop most health care if later doctors think more care won't help. This form is made by the Tennessee Department of Health and is very popular and found places like [www.tn.gov/content/dam/tn/health/documents/Advance\\_Directive\\_for\\_Health\\_Care.pdf](http://www.tn.gov/content/dam/tn/health/documents/Advance_Directive_for_Health_Care.pdf).

### IN FIRST PART OF FORM A HEALTH CARE AGENT CAN BE NAMED

Like the previous form in this book, in this form a person can name someone as Health Care Agent to make health care decisions the person is later incapacitated (like by inability to stay conscious, be rational, or communicate somehow). The Agent can use some judgment but must follow written instructions and should do what the person would want. Naming a family member as Health Care Agent can avoid their need to rush to court to get power in some cases.

### IN SECOND PART OF FORM CAN SAY HOW TO STOP MOST HEALTH CARE

In Part 2 of this form a person can say how health care should stop if they are ever incapacitated, in bad health, and doctors think more care won't help. This is often call the "Living Will" since it helps living people. There are many options to pick from which doctors can explain. But most people just skip this part about stopping health care because it is stressful to decide these matters, this issue does not always occur, and most people trust their family or Agent to if needed wisely decide when to stop care.

### THE AGENT CAN BE GIVEN POWER OVER FUNERAL AND RELATED MATTERS

By law a person's closest family usually control a person's funeral, burial, cremation, and related matters (in order this is a spouse, adult child, parent, sibling, and then other close family). But if wanted a person can in the form instead give the Health Care Agent the job of controlling bodily remains. This is often only done if family may be too upset after a death, may be bad with handling money, or may do unwanted things. Basically any Agent or family should do what a person said they wanted especially in writing if any money, property, and insurance the dead person left can afford it. To give this power to the Health Care Agent a person can write a thing like:

"The Health Care Agent will direct disposition of my bodily remains and related matters like funeral, cremation, burial, ceremonies, and remembrance meals".

### PERSON SIGNS FORM IN FRONT OF NOTARY OR 2 WITNESSES

To complete the form a person signs in front of a notary or in front of 2 witnesses at least 18 who then also sign. Neither witness can be named as Agent in the form and at least 1 must not be related in any way to person doing the form or likely to benefit from their death. A person can keep the signed form till it is needed or quickly give it to the Agent or family members to have. The form usually should be quickly shown to any place that may give care to make it part of a person's medical file. To cancel the form a person should tell Agent and usually tell any places that were shown the form.



**ADVANCE DIRECTIVE FOR HEALTH CARE\***  
(Tennessee)

**Instructions:** Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

I, \_\_\_\_\_, hereby give these advance instructions on how I want to be treated by my doctors and other health care providers when I can no longer make those treatment decisions myself.

**Part 1 Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: \_\_\_\_\_ Relation: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Other Phone: \_\_\_\_\_

**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: \_\_\_\_\_ Relation: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Other Phone: \_\_\_\_\_

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

**Part 2 Indicate Your Wishes for Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "no" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

<input type="checkbox"/>	<input type="checkbox"/>	<b>Permanent Unconscious Condition:</b> I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<b>Permanent Confusion:</b> I become unable to remember, understand, or make decisions. I do not recognize loved ones or cannot have a clear conversation with them.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<b>Dependent in all Activities of Daily Living:</b> I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<b>End-Stage Illnesses:</b> I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is needed most of the time and activities are limited due to the feeling of suffocation.
Yes	No	

**Indicate Your Wishes for Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "no" below, I have indicated treatment I **do not want**.

<input type="checkbox"/>	<input type="checkbox"/>	<b>CPR (Cardiopulmonary Resuscitation):</b> To make the heart beat again and restore breathing after it has stopped. Usually this involves electric shock, chest compressions, and breathing assistance.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<b>Life Support / Other Artificial Support:</b> Continuous use of breathing machine, IV fluids, medications, and other equipment that helps the lungs, heart, kidneys, and other organs to continue to work.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<b>Treatment of New Conditions:</b> Use of surgery, blood transfusions, or antibiotics that will deal with a new condition but will not help the main illness.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<b>Tube feeding/IV fluids:</b> Use of tubes to deliver food and water to a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.
Yes	No	

**Part 3** Other instructions, such as hospice care, burial arrangements, etc.: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach additional pages if necessary)

**Part 4** Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

- ☐ Any organ/tissue                      ☐ My entire body                      ☐ Only the following organs/tissues: \_\_\_\_\_  
\_\_\_\_\_  
☐ No organ/tissue donation

---

**SIGNATURE**

**Part 5** Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Patient)

**Block A** Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent. I witnessed the patient's signature on this form.
2. I am a competent adult who is not named as the agent. I am not related to the patient by blood, marriage, or adoption and I would not be entitled to any portion of the patient's estate upon his or her death under any existing will or codicil or by operation of law. I witnessed the patient's signature on this form.

\_\_\_\_\_  
Signature of witness number 1

\_\_\_\_\_  
Signature of witness number 2

**Block B** You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE  
COUNTY OF \_\_\_\_\_

I am a Notary Public in and for the State and County named above. The person who signed this instrument is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who signed as the "patient." The patient personally appeared before me and signed above or acknowledged the signature above as his or her own. I declare under penalty of perjury that the patient appears to be of sound mind and under no duress, fraud, or undue influence.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public

**WHAT TO DO WITH THIS ADVANCE DIRECTIVE:** (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; (4) provide a copy to the person(s) you named as your health care agent.

\* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

# CHAPTER 14

## FORM 8: PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

### IN FORM CAN REFUSE MOST HEALTH CARE STARTING IMMEDIATELY

The Physician Orders For Scope Of Treatment form, often called the “P.O.S.T.” form, does the serious act of saying immediately no longer give most health care. The form can be used in or out of a facility since it is short so paramedics can read it fast, and longer forms usually won’t be followed outside a facility. This form is rarely used by people.

### FORM LETS PERSON PICK WHICH CARE TO IMMEDIATELY NO LONGER GET

The form has room to pick which care to immediately no longer give, and often a person says to not give antibiotics, artificial feeding, and resuscitation. Resuscitation includes electric shocks to restart the heart and cardio-pulmonary resuscitation (C.P.R.) to restart the heart or breathing. Pain relief and comfort care are still usually given so a person who did the form is often still taken by paramedics to get this care. A person if not incapacitated can change their mind, like not show the form to paramedics or tell a doctor to give all care. The form can be used in or out of a facility since it is short so paramedics can read it fast, and longer forms usually won’t be followed outside a facility. But this form is usually only done by very sick or very old people. The word “Physician” means a doctor. This form is often called the “Do Not Resuscitate” form but technically this is a different older form which the P.O.S.T. replaced in Tennessee.

### FORM IS SIGNED BY PERSON AND PERSON’S PHYSICIAN

This form must be signed by person and their physician or similar professional. If a person is actually incapacitated a person’s family or agent can do this form. The form once done should be shown to places that may give care to make it part of a person’s medical file. People often keep the form nearby to show to paramedics or similar people who may try to give some health care (like in pocket, on bedside table, taped on fridge, in wallet, or as part of a special bracelet). To cancel the form a person usually should tell all places who saw the form it is canceled. Most people tell family if they do this form so they can quickly tell people if needed. Note, some people also get a “Tennessee POST bracelet” with form information on it (people should be sure to get Tennessee version).

**Tennessee Physician Orders for Scope of Treatment (POST, sometime called "POLST")**

This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.

Patient's Last Name

First Name/Middle Initial

Date of Birth

**Section A**  
*Check One Box Only*

**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.**

☐ **Resuscitate (CPR)**                      ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)**

When not in cardiopulmonary arrest, follow orders in B, C, and D.

**Section B**  
*Check One Box Only*

**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.**

- ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.**
- ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatment.**
- ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.**

*Other Instructions:* \_\_\_\_\_

**Section C**  
*Check One*

**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.**

- ☐ No artificial nutrition by tube.  
☐ Defined trial period of artificial nutrition by tube.  
☐ Long-term artificial nutrition by tube.

*Other Instructions:* \_\_\_\_\_

**Section D**  
*Must be Completed*

**Discussed with:**

- ☐ Patient/Resident  
☐ Health care agent  
☐ Court-appointed guardian  
☐ Health care surrogate  
☐ Parent of minor  
☐ Other: \_\_\_\_\_ (Specify)

**The Basis for These Orders Is: (Must be completed)**

- ☐ Patient's preferences  
☐ Patient's best interest (patient lacks capacity or preferences unknown)  
☐ Medical indications  
☐ (Other) \_\_\_\_\_

Physician/NP/CNS/PA Name (Print)

Physician/NP/CNS/PA Signature

Date

MD/NP/CNS/PA Phone Number:

NP/CNS/PA (Signature at Discharge)

( )

**Signature of Patient, Parent of Minor, or Guardian/Health Care Representative**

**Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your agent/surrogate.**

Name (Print)

Signature

Relationship (write "self" if patient)

Agent/Surrogate

Relationship

Phone Number ( )

Health Care Professional Preparing Form

Preparer Title

Phone Number  
( )

Date Prepared

## Directions for Health Care Professionals

### Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid. POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Person with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

### Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

### Reviewing POST

This POST should be reviewed if:

- (1) The patient is transferred from one care setting or care level to another, or
- (2) There is a substantial change in the patient's health status, or
- (3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

**COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.**





# CHAPTER 15

## FORM 9: DURABLE GENERAL POWER OF ATTORNEY

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

The form lets a person give power to someone to do things with person's money, property, debt, and more. Some people this a "Financial Power Of Attorney".

### FORM GIVES POWER TO LET SOMEONE CONTROL PROPERTY AND MONEY

The form lets someone (called in the form the "Principal") give power to a person (called in the form the "Attorney-in-Fact") to do things involving Principal's money, property, and other things. Often the person named is a trusted person like spouse, relative, or friend. This can let someone pay bills, move money in accounts, buy or sell items, sign contracts, take out debt, hire workers, and get information from others. This can help if a person is sick, busy, or away. The form may help person stay home and not need a nursing home or other serious legal action. People with capacity still have power to do things and can always overrule or fire the Attorney-in-Fact. Having a fallback person is rarely needed so often is skipped. People can modify form to add instructions and limits on power, but most people don't do this since they trust the Attorney-in-Fact and banks and others won't follow the form if powers given aren't very clear. The form is called "Durable" since it still has power even if person doing the form becomes incapacitated. The form is called "General" since power over all areas is given not just a few specific areas. Later if Agent signs things it should be like, "Ed Doe signing as Attorney-in-Fact under a Power of Attorney for Ann Po".

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

Doing this form can be risky and lead to loss of money and property since an Agent can do unwise things or criminal things. Agents have a "duty of care" and can be sued later but they might be out of money so can't undo their harm. Usually banks or others can't be blamed for obeying an Agent. Due to risks many people skip using this form or ask a lawyer for advice.

### IT MAY BE IMPROPER FOR AGENT TO MAKE GIFTS OR DO OTHER THINGS

This area of law is complex and basic acts may be fine like paying bills, moving funds, or getting records. But less usual acts may be improper and even a crime by Agent like as gift handing out money or property to family or friends, making risky investments, or doing unusual acts.

### PERSON SIGNS FORM IN FRONT OF A NOTARY

The form must be signed by person doing it in front of a notary. Once signed the form can be kept till needed or given quickly to person getting power to use if needed. Some extra cautious people show the form quickly to banks or others to tell them to later follow it. To cancel the form a person should tell the person who got power and take back copies, and sometimes tell all people who saw the form it is canceled. The second page of the form is an optional Affidavit that banks and others may later ask Affidavit-in-Fact sign to confirm the form still is valid and not canceled.

# DURABLE GENERAL POWER OF ATTORNEY

I, \_\_\_\_\_ of \_\_\_\_\_, Tennessee, appoint \_\_\_\_\_ as my attorney-in-fact to act in my capacity and to do every act that I may legally do through an attorney-in-fact.

This is a general power of attorney, and listing specific items, acts, rights, or powers does not limit or restrict the general and unlimited powers granted the attorney-in-fact.

Power and authority given my attorney-in-fact includes those in Tennessee Code § 34-6-109 and all its parts, which statute is incorporated by reference herein as fully as if copied here.

This power of attorney is effective immediately when signed.

This power of attorney shall not be affected by subsequent disability or incapacity of the principal, or by lapse of time.

A third party who receives a copy of this document may act under it, and revocation is effective to a third party only when they learn of revocation.

No bond or other security is required from the attorney-in-fact even if the principal experiences disability or incapacity.

I, the Principal, am signing my name to this Power of Attorney on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Principal

Notary or Officer:

STATE OF TENNESSEE

COUNTY OF \_\_\_\_\_

On this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the notary public who has signed below, personally appeared \_\_\_\_\_ the person named above, who is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

# AFFIDAVIT BY ATTORNEY-IN-FACT

(OPTIONAL -- MAY BE DONE LATER)

State of Tennessee

County of \_\_\_\_\_

Before me, the undersigned authority, there personally appeared \_\_\_\_\_ the Affiant of this document who swore or affirmed:

1. Affiant is the Attorney-in-Fact named in the Durable General Power of Attorney executed by \_\_\_\_\_ ("Principal") on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

2. The Principal is not deceased, and has not revoked, terminated, or suspended, either partially or completely, the above-described Durable General Power of Attorney;

3. A petition to determine the incapacity of or to appoint a conservator for the Principal is not pending; and

4. Affiant agrees not to exercise powers granted by the Durable General Power of Attorney if Affiant has knowledge that it has been revoked, terminated, or suspended, either partially or completely, or is no longer valid because of the death of the Principal or any other grounds.

**Note:** Pursuant to Tennessee Code Annotated § 34-6-105(c), an affidavit done by an Attorney-in-Fact stating the above is conclusive proof of the nonrevocation or nontermination of the power of attorney.

\_\_\_\_\_  
Affiant

Notary or Officer:

Sworn to and subscribed before me by \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



# CHAPTER 16

## FORM 10: POWER OF ATTORNEY FOR CARE OF A MINOR CHILD

### FORM LETS PARENT GIVE POWER TO SOMEONE OVER MINOR CHILD

This form lets parents give power to someone over a child under 18 years of age (called a “minor”). A legal guardian can also use this form. This form is by the Tennessee government and available many places like online at [https://www.tn.gov/content/dam/tn/education/legal/legal\\_poa\\_minor\\_child\\_form.pdf](https://www.tn.gov/content/dam/tn/education/legal/legal_poa_minor_child_form.pdf).

### FORM CAN DESIGNATE SOMEONE TO HAVE POWER OVER CHILD

In the form parents can name a person (called the “Caregiver”) to get power over a minor child under 18. This form can let a friend, relative, or teacher make decisions if needed about a child, including health care, school, food, home, and discipline. This form is often used if a parent is away from a child for work, school, sports, drug treatment, prison or jail, immigration, military, month long visit with family or friends, or if a child is sick in hospital and needs someone with authority close by. The form is usually not done for a short time of few days, minor situations like babysitter or day care or week with relatives, or cases where a parent can come quickly if needed. A parent usually can fire the Caregiver or overrule a decision.

### IN FORM PERSON WHAT HARDSHIP CAUES NEED FOR CAREGIVER

Tennessee law says to use the form the person given power must be staying with the child and reside in state, but this can include a short time or visit. The law says if both parents have legal custody they both must sign, and a parent without legal custody can just be mailed notice and this noted. If possible it is best if both 2 parents sign. The law says to use the form a “hardship” must be present but what this means is undefined, but often used are a) serious physical or mental illness of parent or child, b) incarceration of parent, c) natural disaster resulting in loss of child’s home, d) immigration reasons, e) military service, f) education or training in distant place, and g) work of parent in distant place. Many schools to allow enrollment may require a hardship be major. In the form in Question 6 it asks about hardship, and often “serious illness” or “other, absence for work” is used. In Question 7 it asks a parent to initial to say which powers are given and often all powers are given. Many parents write to give more power, like: “Caregiver is given all power and authority the parents have over or involving the child and could exercise if personally present, including health care, education, and discipline.” In Question 15 both a Caregiver and parents must initial a line to say they won’t enroll a child in a school just for sports or education advantages.

### FORM IS SIGNED BY PARENTS SIGNING BEFORE NOTARY OR 2 WITNESSES

The form has room for parents and Caregiver to sign before a notary who then must notarize the form. The law now lets instead of a notary that 2 witnesses see the parents sign (they needn’t a Caregiver sign). All parents with legal custody should sign the form, but a parent without legal custody can just be mailed notice and the 2nd parent signature spot left blank. But rarely will a school, doctor, or other person worry about missing 2nd parent signature. The form when signed can be kept by a parent until needed but often is quickly given to Caregiver to use if needed. To cancel the form a parent should tell the person who got power and take back copies, and then maybe tell everyone who saw the form that it is cancelled.

## **POWER OF ATTORNEY FOR CARE OF A MINOR CHILD**

Use of this form is authorized by T.C.A. § 34-6-301 et seq. Completion of this form, along with the proper signatures, is sufficient to authorize enrollment of a minor in school and to authorize medical treatment. However, a school district may require additional documentation/information as permitted by this section of Tennessee law before enrolling a child in school or any extracurricular activities. *Please print clearly.*

**Part I:** To be filled out and/or initialed by parent(s)/legal guardian(s).

1. Minor Child's Name \_\_\_\_\_

2. Mother/Legal Guardian's Name & Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. Father/Legal Guardian's Name & Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Caregiver's Name & Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. (\_\_\_\_) Both parents are living, have legal custody of the minor child and have signed this document;

**OR**

(\_\_\_\_) One parent is deceased;

**OR**

(\_\_\_\_) One parent has legal custody of the minor child and both parents have signed this document and consent to the appointment of the caregiver;

**OR**

(\_\_\_\_) One parent has legal custody of the minor child, and has sent by Certified Mail, Return Receipt requested, to the other parent at last known address, a copy of this document and a notice of the provisions in § 34-6-305; or the non-custodial parent has not consented to the appointment and consent cannot be obtained because \_\_\_\_\_.

6. Temporary care-giving authority regarding the minor child is being given to the caregiver because of the following type of hardship (**check at least one**):

(\_\_\_\_) the serious illness or incarceration of a parent or legal guardian;

- (\_\_\_\_) the physical or mental condition of the parent or legal guardian or the child is such that care and supervision of the child cannot be provided;
- (\_\_\_\_) the loss or uninhabitability of the child's home as a result of a natural disaster;
- (\_\_\_\_) the need for medical or mental health treatment (including substance abuse treatment) by the parent or legal guardian; or,
- (\_\_\_\_) other (please describe) \_\_\_\_\_  
\_\_\_\_\_.

7. (\_\_\_\_) I/We the undersigned, authorize the named caregiver to do one or more of the following:
- (\_\_\_\_) enroll the child in school and *extracurricular activities* (including but not limited to Boy Scouts, Boys & Girls Club),
- (\_\_\_\_) obtain medical, dental, and mental health treatment for the child, and
- (\_\_\_\_) provide for the child's food, lodging, housing, recreation and travel.

- (\_\_\_\_) I/We grant the following additional power to the named caregiver: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

8. (\_\_\_\_) I/We understand that this document does not provide legal custody to the caregiver. If at any time I/we disagree with a decision of the named caregiver or choose to make any healthcare or educational decisions for my/our child, I/we must revoke the power of attorney, in writing, and provide written documentation to the health care provider and the local education agency (i.e., school).
9. (\_\_\_\_) I/We understand that this document may be terminated in another written document signed by either parent with legal custody or by any order of a court with competent jurisdiction.

**Part II:** To be initialed by caregiver.

10. (\_\_\_\_) I understand that this document, properly executed, gives me the right to enroll the minor child in the local education agency serving the area where I reside.
11. (\_\_\_\_) I understand that this document does not provide me with legal custody.

12. (\_\_\_\_) I understand that, prior to enrollment, the local education agency may require documentation of the minor child's residence with a caregiver and/or documentation or other verification of the validity of the stated hardship.
13. (\_\_\_\_) I understand that, except where limited by federal law, I shall be assigned the rights, duties, and responsibilities that would otherwise be assigned to the parent, legal guardian or legal custodian pursuant to Tennessee Code Annotated Title 49.
14. (\_\_\_\_) I understand that, if the minor child ceases to reside with me, I am required by law to notify any person, school or health care provider to whom I have given this document.

**Part III:** To be initialed by parent(s) and caregiver.

15. (\_\_\_\_) (\_\_\_\_) We understand that, by accepting the power of attorney, if we enroll a student in a school system while fraudulently representing the child's current residence or the parents' hardship or circumstances for using the power of attorney, either or both of us is liable for restitution to the school district for an amount equal to the per pupil expenditure for the district in which the student is fraudulently enrolled. Restitution shall be cumulative for each year the child has been fraudulently enrolled in the system and may include costs and fees related to litigation.

---

I/We declare under penalty of perjury under the laws of the State of Tennessee that the foregoing is true and correct.

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_  
**Mother/Legal Guardian** Date: \_\_\_\_\_

The Mother/Legal Guardian, \_\_\_\_\_, personally appeared  
before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**NOTARY PUBLIC**

My commission expires:  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_  
**Father/Legal Guardian**

Date: \_\_\_\_\_

The Father/Legal Guardian, \_\_\_\_\_, personally appeared  
before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires:  
\_\_\_\_\_

\_\_\_\_\_  
**NOTARY PUBLIC**

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_  
**Caregiver**

Date: \_\_\_\_\_

The Caregiver, \_\_\_\_\_, personally appeared before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires:  
\_\_\_\_\_

\_\_\_\_\_  
**NOTARY PUBLIC**

\_\_\_\_\_  
In lieu of a notary, pursuant to Tennessee Code Annotated § 34-6-302, the Legal  
Guardian(s) may complete the following acknowledgement by two witnesses.  
\_\_\_\_\_

The Legal Guardian(s) signed or acknowledged signing this document in my presence  
and, based upon personal observation, appears to be emotionally and mentally competent  
to complete this Power of Attorney for Care of a Minor Child form. Two witnesses must  
sign and date their signatures concurrently (at the same time) and in each other's  
presence.

\_\_\_\_\_  
**(Signature of Witness #1)**

\_\_\_\_\_  
**(Date)**

**NOTICE TO THE LOCAL EDUCATION AGENCY AND/OR HEALTH CARE PROVIDER:**

Pursuant to T.C.A. § 34-6-308, no person, school official or health care provider who acts in good faith reliance on a power of attorney for care of a minor child to enroll the child in school or to provide medical, dental or mental health care, without actual knowledge of facts contrary to those authorized, is subject to criminal or civil liability to any person, or is subject to professional disciplinary action for such reliance. This section shall apply even if medical, dental, or mental health care is provided to a minor child or the child is enrolled in a school in contravention of the wishes of the parent with legal custody of the minor child, as long as the person, school official or health care provider has been provided a copy of an appropriately executed power of attorney for care of a minor child, and has not been provided written documentation that the parent has revoked the power of attorney for care of a minor child.

Additionally, pursuant to T.C.A. § 34-6-310, a person who relies on the power of attorney for care of a minor child has no obligation to make any further inquiry or investigation. Nothing in this part shall relieve any individual from liability for violations of other provisions of law.

# **APPENDIX:**

## **SAMPLE FILLED OUT LEGAL 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 USING PDF FORM 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 better if signatures and dates are in ink or marker (not pencil).

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

Anyone can fill in the words in a 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 signatures must be done by each person doing the form for themselves.

When adding words in a form any of these is a fine way to do this:

"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 the order just stated".

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

**Sample Filled Out Form : Will (Standard)**  
**with Gifts section skipped to not bother making small gifts**  
**LAST WILL AND TESTAMENT**

I, Paul Samuel Maxwell, of Shelby County, Tennessee, do revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and act voluntarily.

**1. LIVING SPOUSE AND CHILDREN.** To show I am mentally fit and have sufficient memory to do a Will I do say I now have the following living spouse and living children:

none

---

**2. 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 \_\_\_\_\_.

SKIPPED

**3. SEPARATE WRITINGS.** I may do writings separate from this Will to gift tangible personal property as allowed by state law, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

**4. RESIDUE.** The rest, residue, and remainder of my estate, and anything else, I give:

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

b) to Oscar Adam Maxwell and Mary Ann Tabor and if any of those just now named do not survive me their part goes to their lineal descendants per stirpes.



**5. ADMINISTRATION.** I name, nominate, and appoint Susan Maxwell my sister as Personal Representative including for me, my Will, and my estate.

**6. MISCELLANEOUS.** The following applies to this Will and generally.

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Tennessee law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after my death as practical but only those items my Personal Representative chooses to pay.

Any gift of money in this Will has priority over gifts in any separate writing.

Priority of Will gifts of the same type is based on the order they are made in this Will.

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

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

If a Will gift reasonably mentions survival then survival is an absolute condition and anti-lapse laws or similar provisions have no effect and without survival the gift lapses. Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me the part to them lapses and instead goes to other surviving recipients.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

In this Will any gendered word includes all genders, and the singular includes the plural and vice versa, and the word "they" can mean a single person or many persons.

Unless a Will specifically says otherwise a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, and a recipient of a Will gift of property takes it subject to debts. Also, no recipient of property who may lose it or who pays to keep it may have my estate or other people pay or do exoneration.

If I lost or no longer have an item in a Will specific gift then the gift is extinguished.

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 with no inventory, appraisal, or other action.

I give any Personal Representative the a) fullest authority, discretion, and powers allowed by state law, b) power to lease, sell, mortgage, convey, or keep property including real property in a manner and time they deem helpful or proper, c) authority to settle or pay claims or debts in the time and manner they choose, and d) power and authority provided in any part of Tennessee Code § 35-50-110. Any Personal Representative has all powers and authority that may be given by statute or common law in any jurisdiction they act.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor's property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Conservator and Guardian of the Estate and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in the place of and have all powers like the others named here.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative may access, manage, delete, modify, transfer, and otherwise control any digital accounts and assets I had any interest in or power over.

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

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

A spouse using dower or curtesy rights may not get any gift or benefits of this Will.

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to act under the Tennessee Uniform Transfers to Minors Act or similar law anywhere, and may pick a person to be Custodian including themselves.

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

### TESTATOR

IN WITNESS WHEREOF, I, Paul Samuel Maxwell, the Testator, have signed this document as my Will in the presence of the persons witnessing this Will at my request on this 8th day of January, 2023.

Paul Samuel Maxwell

Signature of Testator

### WITNESSES

SIGNED, DECLARED AND PUBLISHED by Paul Samuel Maxwell, the Testator, as the Will of Testator, in the presence of us, the undersigned, who, at the Testator's request and in the sight and presence of the Testator and each other, have subscribed our names hereto to act as attesting witnesses on the date above written.

Susan Ann Moon

Signature of Witness #1

14 2nd Street, Chattanooga, TN 37844

Address of Witness #1

Eve Mable Smith

Signature of Witness #2

35 Buffalo Road, Denver, Colorado 80101

Address of Witness #2

## Sample Filled Out Form : Will (Guardian)

with many gifts written in Gifts section, Guardian Clause used,  
and Residue Clause using percentages

### LAST WILL AND TESTAMENT

I, Paul Brian Baker of Hamilton County, Tennessee, do revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and act voluntarily.

**1. LIVING SPOUSE AND CHILDREN.** To show I am mentally fit and have sufficient memory to do a Will I do say I now have the following living spouse and living children:

Ruth May Baker wife Oscar Elliot Baker young son  
Karen Lisa Lundy daughter Derek Rupert Baker son.

**2. 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 copper bucket I bought at Tennessee State Fair to Anne J. Smith.

I give \$5,000 and Ford Truck to Loretta Marsha Baxter.

I give buildings, land, and fixtures at 63 Wentworth Road, Nashville, Tennessee,  
to Kenneth Alan Ford.

I give all real property and fixtures I own in Hamilton County in Tennessee to  
Amy Marie Fox and Pamela Sue Fox.

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

I give Irish jewelry and my wedding ring to Mary Natalie Swanson.

I give all jewelry not given above to Kay Baxter and Mary Baxter.

I give \$781.35 to Mary Natalie Swanson and Kevin Kilby.

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

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

**3. SEPARATE WRITINGS.** I may do writings separate from this Will to gift tangible personal property as allowed by state law, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

**4. RESIDUE.** The rest, residue, and remainder of my estate, and anything else, I give:

a) to Ruth May Baker who survive me and with persons just named who survive me taking the share of non-survivors, then if anything remains

b) to 50% to Oscar Elliot Baker, 35% to Karen Lisa Lundy, 5% to Mary Sue Baker, and 10% to Luis Sanchez my friend and if any of those just now named do not survive me their part goes to their lineal descendants per stirpes.

**5. ADMINISTRATION.** I name, nominate, and appoint Ruth May Baker as Personal Representative including for me, my Will, and my estate.

**6. GUARDIAN.** I name Amanda Sue Brubaker to be Guardian Of The Person of any minor child of mine and to have care, authority, custody, and other control of them. I name this same person to be Guardian of the Estate for the estate, property, and money of any minor child under age 18 and to have care, control, and power over all such things.

**7. MISCELLANEOUS.** The following applies to this Will and generally.

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Tennessee law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after my death as practical but only those items my Personal Representative chooses to pay.

Any gift of money in this Will has priority over gifts in any separate writing.

Priority of Will gifts of the same type is based on the order they are made in this Will.

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

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

If a Will gift reasonably mentions survival then survival is an absolute condition and anti-lapse laws or similar provisions have no effect and without survival the gift lapses. Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me the part to them lapses and instead goes to other surviving recipients.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

In this Will any gendered word includes all genders, and the singular includes the plural and vice versa, and the word "they" can mean a single person or many persons.

Unless a Will specifically says otherwise a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, and a recipient of a Will gift of property takes it subject to debts. Also, no recipient of property who may lose it or who pays to keep it may have my estate or other people pay or do exoneration.

If I lost or no longer have an item in a Will specific gift then the gift is extinguished.

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 with no inventory, appraisal, or other action.

I give any Personal Representative the a) fullest authority, discretion, and powers

allowed by state law, b) power to lease, sell, mortgage, convey, or keep property including real property in a manner and time they deem helpful or proper, c) authority to settle or pay claims or debts in the time and manner they choose, and d) power and authority provided in any part of Tennessee Code § 35-50-110. Any Personal Representative has all powers and authority that may be given by statute or common law in any jurisdiction they act.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor's property or money may use or invade the principal and sell property without court action.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative may access, manage, delete, modify, transfer, and otherwise control any digital accounts and assets I had any interest in or power over.

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

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

A spouse using dower or curtesy rights may not get any gift or benefits of this Will.

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to act under the Tennessee Uniform Transfers to Minors Act or similar law anywhere, and may pick a person to be Custodian including themselves.

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

### TESTATOR

IN WITNESS WHEREOF, I, Paul Brian Baker, the Testator, have signed this document as my Will in the presence of the persons witnessing this Will at my request on this 15th day of March, 2019.

Paul Brian Baker

Signature of Testator

### WITNESSES

SIGNED, DECLARED AND PUBLISHED by, Paul Brian Baker the Testator, as the Will of Testator, in the presence of us, the undersigned, who, at the Testator's request and in the sight and presence of the Testator and each other, have subscribed our names hereto to act as attesting witnesses on the date above written.

Olivia Anna Paulson

Signature of Witness #1

82 Forest Road, Nashville, TN 38204

Address of Witness #1

Matthew John Paulson

Signature of Witness #2

82 Forest Road, Nashville, TN 38204

Address of Witness #2

## Sample Filled Out Form : Will (Guardian)

with Gifts section left unused and, then,  
the Residue Clause done only using 2nd space so as to  
gift to all branches of person's descendants equally

### LAST WILL AND TESTAMENT

I, Thomas Roger Tedford of Knox County, Tennessee, do revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and act voluntarily.

**1. LIVING SPOUSE AND CHILDREN.** To show I am mentally fit and have sufficient memory to do a Will I do say I now have the following living spouse and living children:

Mary Paula Tedford my daughter Gina Lola Smith my daughter  
\_\_\_\_\_.

**2. 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 _____

**3. SEPARATE WRITINGS.** I may do writings separate from this Will to gift tangible personal property as allowed by state law, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

**4. RESIDUE.** The rest, residue, and remainder of my estate, and anything else, I give:

a) to \_\_\_\_\_ who survive me and with persons just named who survive me taking the share of non-survivors, then if anything remains

b) to Brian Alan Tedford my deceased son, Mary Paula Tedford my daughter, and Gina Lola Smith my daughter and if any of those just now named do not survive me their part goes to their lineal descendants per stirpes.

**5. ADMINISTRATION.** I name, nominate, and appoint Mary Paula Tedford as Personal Representative including for me, my Will, and my estate.

**6. MISCELLANEOUS.** The following applies to this Will and generally.

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Tennessee law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after my death as practical but only those items my Personal Representative chooses to pay.

Any gift of money in this Will has priority over gifts in any separate writing.

Priority of Will gifts of the same type is based on the order they are made in this Will.

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

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

If a Will gift reasonably mentions survival then survival is an absolute condition and anti-lapse laws or similar provisions have no effect and without survival the gift lapses.

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

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

In this Will any gendered word includes all genders, and the singular includes the plural and vice versa, and the word "they" can mean a single person or many persons.

Unless a Will specifically says otherwise a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, and a recipient of a Will gift of property takes it subject to debts. Also, no recipient of property who may lose it or who pays to keep it may have my estate or other people pay or do exoneration.

If I lost or no longer have an item in a Will specific gift then the gift is extinguished.

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 with no inventory, appraisal, or other action.

I give any Personal Representative the a) fullest authority, discretion, and powers allowed by state law, b) power to lease, sell, mortgage, convey, or keep property including real property in a manner and time they deem helpful or proper, c) authority to settle or pay claims or debts in the time and manner they choose, and d) power and authority provided in any part of Tennessee Code § 35-50-110. Any Personal Representative has all powers

and authority that may be given by statute or common law in any jurisdiction they act.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor's property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Conservator and Guardian of the Estate and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in the place of and have all powers like the others named here.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative may access, manage, delete, modify, transfer, and otherwise control any digital accounts and assets I had any interest in or power over.

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

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to act under the Tennessee Uniform Transfers to Minors Act or similar law anywhere, and may pick a person to be Custodian including themselves.

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

### **TESTATOR**

IN WITNESS WHEREOF, I, , Thomas Roger Tedford , the Testator, have signed this document as my Will in the presence of the persons witnessing this Will at my request on this 22nd day of July, 20 23 .

Thomas Roger Tedford

Signature of Testator

### **WITNESSES**

SIGNED, DECLARED AND PUBLISHED by Thomas Roger Tedford , the Testator, as the Will of Testator, in the presence of us, the undersigned, who, at the Testator's request and in the sight and presence of the Testator and each other, have subscribed our names hereto to act as attesting witnesses on the date above written.

Maria Bonita Buena

Signature of Witness #1

101 Fox Rd., Apt. #35 Clayton, TN 37010

Address of Witness #1

Richard Max West

Signature of Witness #2

28 Miller Avenue, Pineville, TN 37404

Address of Witness #2



**Sample Filled Out Form : Will (Standard)**  
**with Will modified to have a 1 Part Residue Clause**

**LAST WILL AND TESTAMENT**

I, John David Smith, of Davidson County, Tennessee, do revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and act voluntarily.

**1. LIVING SPOUSE AND CHILDREN.** To show I am mentally fit and have sufficient memory to do a Will I do say I now have the following living spouse and living children:

my son Adam Michael Smith  
\_\_\_\_\_.

**2. 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 \$200 to each of my nieces and nephews so about \$2,800 in total.

I give \$400 to Garner Food Shelf in Memphis, Tennessee by city hall.

I give \$340 to my old church Trinity Catholic Church in Pueblo, Colorado.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

**3. SEPARATE WRITINGS.** I may do writings separate from this Will to gift tangible personal property as allowed by state law, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

**4. RESIDUE.** The rest, residue, and remainder of my estate, and anything else, I give to: Adam Michael Smith and Judy Paula Ford who survive me and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.

**5. ADMINISTRATION.** I name, nominate, and appoint Judy Paula Ford my sister as Personal Representative including for me, my Will, and my estate.

**6. MISCELLANEOUS.** The following applies to this Will and generally.

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Tennessee law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after my death as practical but only those items my Personal Representative chooses to pay.

Any gift of money in this Will has priority over gifts in any separate writing.

Priority of Will gifts of the same type is based on the order they are made in this Will.

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

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

If a Will gift reasonably mentions survival then survival is an absolute condition and anti-lapse laws or similar provisions have no effect and without survival the gift lapses. Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me the part to them lapses and instead goes to other surviving recipients.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

In this Will any gendered word includes all genders, and the singular includes the plural and vice versa, and the word "they" can mean a single person or many persons.

Unless a Will specifically says otherwise a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, and a recipient of a Will gift of property takes it subject to debts. Also, no recipient of property who may lose it or who pays to keep it may have my estate or other people pay or do exoneration.

If I lost or no longer have an item in a Will specific gift then the gift is extinguished.

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 with no inventory, appraisal, or other action.

I give any Personal Representative the a) fullest authority, discretion, and powers allowed by state law, b) power to lease, sell, mortgage, convey, or keep property including real property in a manner and time they deem helpful or proper, c) authority to settle or pay claims or debts in the time and manner they choose, and d) power and authority provided in any part of Tennessee Code § 35-50-110. Any Personal Representative has all powers and authority that may be given by statute or common law in any jurisdiction they act.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor's property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Conservator and Guardian of the Estate and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in the place of and have all powers like the others named here.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative may access, manage, delete, modify, transfer, and otherwise control any digital accounts and assets I had any interest in or power over.

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

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

A spouse using dower or curtesy rights may not get any gift or benefits of this Will.

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to act under the Tennessee Uniform Transfers to Minors Act or similar law anywhere, and may pick a person to be Custodian including themselves.

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

### **TESTATOR**

IN WITNESS WHEREOF, I, John David Smith, the Testator, have signed this document as my Will in the presence of the persons witnessing this Will at my request on this 30th day of December, 20 19.

John David Smith

Signature of Testator

### **WITNESSES**

SIGNED, DECLARED AND PUBLISHED by John David Smith, the Testator, as the Will of Testator, in the presence of us, the undersigned, who, at the Testator's request and in the sight and presence of the Testator and each other, have subscribed our names hereto to act as attesting witnesses on the date above written.

Mark Elliot Potter

Signature of Witness #1

24 Pine St., Sherwood, TN 37404

Address of Witness #1

Ann Paula Blom

Signature of Witness #2

80 Oak Ave., Edison, Tennessee 38371

Address of Witness #2

# Sample Filled Out Form : Self-Proving Affidavit

## SELF-PROVING AFFIDAVIT

STATE OF TENNESSEE )

COUNTY OF DAVIDSON )

Before me, a notary public in the above state and county, on this day personally appeared before me the persons who are named, John David Smith, Mark Elliot Potter, and Ann Paula Blom, who are known to me to be the Testator and Witnesses respectively, and whose names are subscribed to the annexed or foregoing instrument in their respective capacities. All of said persons being by me duly sworn, the Testator declared to me and to the said Witnesses in my presence that said instrument is the Will of the Testator that the Testator had willingly made and executed it as the Testator's free act and deed for the purposes therein expressed. The Witnesses, each upon oath, stated to me in the presence and hearing of the Testator that the Testator had declared to them that the instrument is the Will of the Testator and that the Testator executed same as such and wanted each of them to sign it to act as a witness. Upon oath each Witness stated further that the Witness did sign the same to act as witness in the presence of each other and the Testator and at the Testator's request; that the Testator was at that time 18 years of age or over and was of sound mind; that to the best of the knowledge of the Witnesses the Testator was not under any restraint or undue influence or in any respect incompetent to make a Will; and that each of said Witnesses was then at least 18 years of age.

John David Smith  
Signature of Testator

Mark Elliot Potter  
Signature of Witness

Ann Paula Blom  
Signature of Witness

Subscribed and sworn to by the above-named Testator and Witnesses before me this 30th day of December, 20 19.

Karen D. Sugg  
Notary Public  
My commission expires: \_\_\_\_\_



## TANGIBLE PERSONAL PROPERTY MEMORANDUM

In this writing are gifts of tangible personal property to occur at my death, but this writing if not found by someone within 90 days of my death is canceled.

I may do many pages of these writings which should all be seen as one document. If there are conflicts among such writings the provisions of the more recent writing will revoke the inconsistent provisions of a prior writing.

If a person getting a gift below does not survive me such gift is void and canceled.

<u>DESCRIPTION OF PROPERTY</u>	<u>NAME OF PERSONS TO GET PROPERTY</u>
1998 Ford Truck	to Kevin Swenson
1.3 carat diamond ring + Irish rings	to Ann Sue Reed
14 ft power boat + kayak + paddles	to Luke Wheeler
Amish style bench	to Reba Stewart
glass table, telescope, umbrellas	to Wendy Stewart
Irish wood cups, oak platter, red vase	to Mary and Cindy Lott
painting of sailboat in storm	to Mary Lott
chainsaw with number 382937	to Mary Lott
chainsaw with number 89930	to Matt Smith
antique lanterns + repair kits	to Sue Park maid at Hart Hotel
lamp kept on porch	to Mary Kay Poppler
sewing machines	to Mary Kay Poppler
rocking chair bought in Oregon	to Don Winkler boat mechanic
all fishing poles and fishing nets	to Joe "Fish" Hoss, fishing pal
hats at cabin	to Ken Baker
all clothing except hats at cabin	to Melissa and Arthur Smith
	to
	to
	to

DATE: 8-15-2024

SIGNED: John David Smith