

DAVENPORT'S MISSISSIPPI WILLS AND ESTATE PLANNING LEGAL FORMS

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

**SEE BOOKS AND LEGAL FORMS AT
WWW.DAVENPORTPUBLISHING.COM**

COPYRIGHT © 2023 -- ALEX RUSSELL

CREATIVE COMMONS LICENSE. This work is also licensed under a Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License.

GOVERNMENT WORKS. No claim is made to copyright or ownership of government materials.

SOME STANDARD FORMS. No copyright or ownership is claimed of “standard” forms or leading forms for the state which are provided in this book, but fair use and privilege to use is claimed. Makers of such forms (often a state agency or hospital) have agreed by word, act, and implication the forms may be used and copied if no profit is sought and no substantial changes made to them. Such makers if not a lawyer or law firm are barred from profit or advantage in practicing law by making forms then limiting use. Forms and other related materials are used for educational purposes only. Authors strongly believe in a religious duty to help people and do charity.

PUBLICATION DATA

(informal, library may use different data)

Names: Russell, Alex, 1972- author ; Maxwell, Robert, 1960- author

Title: Davenport’s Mississippi Wills And Estate Planning Legal Forms

Other Titles: Davenport’s Wills

Description: Davenport Publishing 2023

Suggested Identifiers: 9798864912034, LCCN 2021909030, 9798748423373

Subjects: LCSH: Wills--United States;
Wills--United States--Forms;
Estate Planning--United States;
Legal Forms

Classification: LFF KF755 .C55 2022 (or as library chooses)
DDC 346.73 Rus--dc23 (or as library chooses)

9 8 7 6 5 4 3 2 1 0 0 0 0 0 2 3

PERMISSION TO COPY AND USE BOOKS FOR FREE

To help people and groups publisher and authors of the book allow mostly free use by giving all a "Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License".

Basically as image below shows copying or use is OK if it still shows it's **by** the named authors, is **non-commercial** with no price charged, and has **no derivatives** which means no big changes.

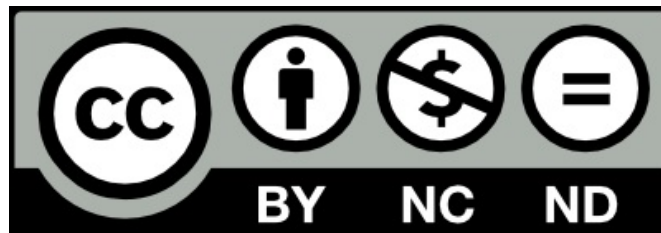
Most users face no limit on copying, using, holding in library to loan out, or giving out copies.

Permission is given to change margins and formatting, do small changes, and cut any blank pages that may occur (but double-check page numbers and table of contents page numbers).

Printing on only 1 side of pages avoids complication of writing on back. Text margins are .75 inches. To do a book not a pamphlet increase left (inside) and decrease right (outside) margins.

Users can design a cover they like better but the word "Davenport" must appear.

Email questions to **davenportpress@gmail.com**.



(This work licensed under a Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License.)

FOR FREE COPIES USE WWW.DAVENPORTPUBLISHING.COM OR BUY AT AMAZON.COM.

WARNING

THIS PUBLICATION IS NOT A SUBSTITUTE FOR LEGAL ADVICE. Publisher and authors say and warn this publication is not giving any legal, accounting, or other professional services or advice, which if wanted can be obtained by consulting in person an attorney or some other professional. **No attorney-client relationship or any relationship creating a duty or obligation is agreed to or created by the purchase or use of this publication or forms.**

**BOOKS AND FORMS FOR OTHER STATES ARE AVAILABLE,
SEE WWW.DAVENPORTPUBLISHING.COM FOR INFORMATION**

<u>CHAPTER</u>	<u>TABLE OF CONTENTS</u>	<u>PAGE</u>
1	Book Basics And List Of Forms	1
2	Terms, Property Law, And Helpful Information Form	4
3	Will Basics	8
4	Wills Gifts Including Residue Clause	10
5	Debt, Marriage, Homestead, And Child Issues	15
6	Basic Ideas About Health Care Forms	18
WILL RELATED FORMS		
7	Form 1: Will (Standard)	19
8	Form 2: Will (Guardian)	23
9	Form 3: Handwritten Will	27
10	Form 4: Self-Proving Affidavit	29
HEALTH CARE FORMS		
11	Form 5: Advance Health-Care Directive	31
12	Form 6: Physician Orders For Scope Of Treatment	40
GIVING POWER FORMS		
13	Form 7: Durable General Power Of Attorney	43
14	Form 8: Power Of Attorney To Delegate Parental Or Legal Custodian Powers	49
Appendix : Sample Filled Out Forms		55

CHAPTER 1

BOOK BASICS AND LIST OF FORMS

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

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

ESTATE PLANNING MOSTLY IS DOING SIMPLE THINGS IN 3 AREAS

Estate Planning is mostly doing simple things in 3 areas: Will Related, Health Care, and Giving Power. This book has 8 ready to use Mississippi legal forms. Many people use just a few of these legal 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 can be used.

Form 2. Will (Guardian) – Will with part added to name a Guardian to care for a minor child under 18 if needed (like if both parents later aren't available) and also if needed manage a child's money and property.

Form 3. Handwritten Will – Will which if all handwritten by a person can skip need for 2 witnesses.

Form 4. Self-Proving Affidavit – form often done with a Will to later help show it was signed correctly.

HEALTH CARE FORMS

Form 5. Advance Health-Care Directive – lets a person name someone to be Agent to control health care if the person is later incapacitated and also lets person give some instructions including about end-of-life issues (many people call this Living Will issues).

Form 6. Physician Orders For Scope Of Treatment – does serious act of saying to paramedics and others immediately from now on do not try health care listed like C.P.R., defibrillation, or tube feeding.

GIVING POWER FORMS

Form 7. Durable General Power Of Attorney – lets power over money, property, and more be shared with a trusted person so they have power to do things, like use accounts, pay bills, get records, or sell items.

Form 8. Power Of Attorney To Delegate Parental Or Legal Custodian Powers – lets a parent give power to someone over a minor child under age 18 to use if needed including health care and school issues.

MISSISSIPPI LAW ON ESTATE PLANNING COVERS MOST PEOPLE HERE

This book is only for Mississippi since Estate Planning law and legal documents do vary between states. Usually a state's Estate Planning law applies if a person's primary residence is here (often called "domicile"). Many judges say "residence" occurs if a person lives in a place and for a moment has no clear plans to leave. Later plans to move don't matter till people actually move. Note, people can stay under their previous state's Estate Planning laws after they move from it if people have some plans to leave any new state eventually. For example, people who move to a new state for months or more for travel, school, work projects, or the military often can keep legal ties to their old state. Immigrants here of any kind can do Estate Planning. For health care people often do legal documents to match the state a hospital or other health facility is in.

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

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

THIS BOOK COVERS MAJOR LEGAL IDEAS AND SHOULD SUIT MOST PEOPLE

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

LEGAL FORMS CAN HELP MANY AND THIS BOOK HAS "STANDARD FORMS"

Studies on Estate Planning show a surprising 60% of adults have not done anything, 19% used a lawyer for this, and 21% used legal forms. Legal forms are good at most things involved in Estate Planning and can make binding legal documents that judges, doctors, families, banks, and others legally must follow. Instead of legal forms a lawyer can be used for Estate Planning but it can be costly, take months of work, and they can make mistakes. In life people often weigh costs, benefits, and risks and often pick a cheap option. Also, often a hospital, state agency, charity, or state legislature has made a form most people use and call the "standard form", and doctors, judges, and other people may not like to follow anything else even if a lawyer wrote it. This book does provide the standard form for Mississippi in a subject area if it exists.

ESTATE PLANNING OFTEN IS NOT VITAL AND WORTH SPENDING MUCH ON

Despite what many people think Estate Planning often does not greatly change the costs, taxes, delays, and work involved in these areas, so it often is not vital and worth spending much money and energy on. Benefits seem very low for young people even if they're parents since only about 4% of people die by age 50, and only about 0.13% of children under 18 had both parents die to need big legal help. See *Social Security Tables: Felicitie Bell; Parent Mortality Census SIPP Paper #288*. Instead of costly Estate Planning many people buy life insurance, like some people pay yearly for \$100,000 term life with no exam ("simplified issue").

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

To be legally valid and enforceable some legal documents need to be “witnessed”, which is someone watching the person doing the form sign and then the witness signs too. Some legal documents need to be “notarized”, which is a person who is a “notary” see signing and then use ink stamp and they sign too. Notaries (also called a “notary public”) are at some banks, brokers, insurance agents, courts, law offices, libraries, mailing or copying centers, and government offices, but they can choose not to help if they’re busy or only help current customers. Using a phonebook to call first may help people find a helpful notary. In legal documents the words “subscribe” or “execute” means a person signed it, and “acknowledgment” means a person somehow showed a 2nd person like a notary or a witness they intended to do a document. If a person signs a legal document in a language they don’t understand it is still usually valid and binding.

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

When filling out a legal form except for signatures other parts can be filled in by someone not doing the form with good handwriting or typing. After a form is done usually people try to keep the original and hand out copies. Some people have everyone sign multiple copies to have multiple 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 documents.

- A “Codicil” can modify a Will but it is easier and legally safer to just rewrite the whole Will.
- 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.
- Mississippi has no legal form for funeral and burial issues so some people handle this in other forms.
- Mississippi law does not let a short “Gift List” or “personal property memo” be used to add gifts to a 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 avoid small delays, costs, or work of others (by “avoiding probate”). But this is rarely done 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 (like as part of a Will) so at a death a Trust gets money or property for a minor child to manage until 18, but this is uncommon due to possible cost and hassle, since it rarely matters (as this book explains), and since most Wills already arrange other legal help for young children.

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

Divorcing, marrying, having a new child, or moving to a new state can have big legal effects, 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.

NO FEDERAL OR MISSISSIPPI TAX IS USUALLY OWED DUE TO A DEATH

Usually no tax is owed as a result of a death, including no estate, inheritance, death, or similar taxes. This is because the Federal Estate And Gift Tax only starts when a tax credit is used up covering \$13.99 million a person in 2025 or later. At the state and local level Mississippi no longer has any inheritance or estate taxes that may apply. Most people don’t need to worry about more tax being owed due to a death.

CHAPTER 2

TERMS, PROPERTY LAW, AND HELPFUL INFORMATION FORM

THERE ARE BASIC TERMS AND IDEAS IN ESTATE PLANNING

Some legal terms and ideas are basic to Estate Planning.

- “Estate Planning” is 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.
- A “Will” or “will” (this book uses upper case “W”) is a legal document done to control issues after death. The phrase “Last Will And Testament” is used since a “Testament” long ago was a small document done along with a Will to do some things. If no Will is done a person is described as being “intestate”.
- A person who died is called the “decedent” or “deceased”. A person getting a Will gift is called “recipient”, “beneficiary”, or “heir” if related (they “inherit”). “Survive” or “surviving” is to be alive after someone died. The term “descendants” usually means a person’s children, grandchildren, and great-grandchildren.
- A person named to handle and do things after someone’s death is usually called an “Executor”, but if a judge has to pick someone they are called an “Administrator”. The term “Personal Representative” covers both these terms and is now the common term used in Mississippi for a person doing things after a death.
- A person doing a Will is called “Testator” or “Will maker”. Before about 1990 a woman Testator was called a “Testatrix” and woman Executor called an “Executrix” but this is no longer often done.
- “Probate” is a legal process to do things after someone’s death like transfer property, handle creditors, and authorize a Guardian. Due to nice changes in law probate is now often informal, faster, and less costly.
- “Property” is either: 1) “real property” which is land and buildings (“real estate”), 2) “personal property” which is things not real property, like cash, accounts, stocks, tools, clothes, cars, jewelry, and art, or 3) “fixtures” which are things tied to real property (like fences, posts, lighting, and wired-in appliances).
- Legal documents to control health care things are often called “Advanced Directives”.
- In Mississippi a person under 18 is usually called a “minor” and often a parent or guardian helps them. 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 lawyer).
- State law is called the “Mississippi Code”. A law is called a “statute” or “section” shown by “§” or “s” mark. Mississippi law has about a hundred parts called “titles”. A law can be referred to in a few ways, like Mississippi Code § 91-5-1, MS Code § 91-5-1, Miss. Code Ann. § 91-5-1, or Mississippi Statutes § 91-5-1. A legal form written in state law for people to find and use if wanted is usually called a “statutory form”.

“ESTATE” MEANS PROPERTY OF DECEDENT AND ENTITY HOLDING THINGS

First, the “estate” or “probate estate” means all property and money of a dead person that at death or soon after didn’t somehow legally automatically go to new owners. Second, estate is also the word for the temporary entity run by an Executor to do things after a death (it’s like a small corporation). A dead person’s money and accounts might be renamed or moved to a bank under an estate name, like “Estate of Ed Hud”.

PERSON CAN ONLY GIFT IN WILL WHAT THEY OWN AT DEATH

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

THINGS OWNED IN SPECIAL WAYS MAY LIMIT GIFTING IN WILL

A person should consider if they own real estate or other property in special 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, so then property transfers automatically to the other named owners regardless of a Will, which in some states is often how spouses hold their home;
 - papers say a “life estate” exists, so then if life of someone ends the other people in papers get item; 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.
- Plain “joint ownership” with many people owning a thing can occur if people do joint papers, all agree to it, buy with joint funds, or if a gift was to many. Wills can gift joint property, like “I give my half of boat to Ed Hu”.

NON-PROBATE TRANSFERS THAT HAPPEN AUTOMATICALLY IGNORE A WILL

It is important to know that money or property of a decedent that for some reason automatically transfers on death or soon after to new owners is called “non-probate property”. Such things transfer as arranged even if a Will name the same items. Examples of non-probate property are: a) a “designated beneficiary” form was done that names people to get an account or investment, b) transfer-on-death accounts, 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. And property in a Trust usually will ignore a Will and transfers as the Trust papers say. Life insurance usually goes to the beneficiary named in insurance forms. 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 a tiny thing is missed. When doing a Will people should consider non-probate transfers that will occur automatically on death and consider what property and money will then be left to follow a Will.

“HELPFUL INFORMATION” FORM CAN TELL FAMILY AND FRIENDS THINGS

People can do an unofficial “Helpful Information” form banks, lawyers, and planners suggest so family and friends after a death will know things. People can staple records or lists to it. See form on next pages.

ESTATE PLANNING HELPFUL INFORMATION

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

1. Personal Information (Name, Birthdate, Social Security 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, vehicle loan, and accounts payable:

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

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

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

CHAPTER 3

WILL BASICS

WILL LETS “TESTATOR” CONTROL THINGS AFTER DEATH

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

A WILL MUST BE SIGNED WITH 2 WITNESSES

WILL MUST SHOW IT’S A WILL, BE DECLARED A WILL, AND BE WITNESSED

A document to be a Mississippi Will must show it’s a Will by its words, the person doing it must indicate it’s a Will to witnesses and ask them to sign, and the person doing it must sign it in front of 2 witnesses who then sign too. A Will spoken aloud on a video or audio recording with no writing usually has no legal effect.

WITNESSES SHOULD BE PEOPLE AT LEAST AGE 18

A person to witness a Will must be at least age 18. It is slightly better if witnesses are not very old or live far away like out of state. Though it is allowed it is preferable a witness not be named as Executor, Guardian, or to a similar job in the Will. Often used as witnesses are friends, neighbors, strangers, or family.

WILL GIFTS TO A WITNESS LIKELY WON’T BE CARRIED OUT

Will gifts which name a witness usually are invalid and won’t later be carried out unless there are 2 other sufficient witnesses. A small exception says a witness can get up to the amount they’d get by “intestate law” which normally applies if there is no Will. To avoid this issue often witnesses are chosen who won’t benefit directly by a Will. Using witnesses named in Will gifts doesn’t invalidate the Will and it is still enforceable.

TESTATOR MUST ALOUD “DECLARE” THE WILL AND ASK WITNESSES TO SIGN

The law says a person must “declare” a Will and ask witnesses sign it. Usually this means a Testator says a thing like, “My name is _____ and this is the Will I want and do voluntarily and want you 2 people to witness”. Some Testators also chat a few minutes with witnesses to help show they are of sound mind.

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

The person doing the Will should sign it with 2 witnesses who then also sign. Everyone should be in 1 room and see others sign. Witnesses and Testator showing each other an ID is not required but is common. A Testator or witness should use their full legal name unless they dislike it and rarely use it. The Testator need not initial Will pages. Witnesses only read the 1 paragraph they sign. Witnesses should print their names and addresses by their signatures. Disabled people who can’t sign by hand should see a lawyer.

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

People should keep a Will so it can be found within days of a death, like in a desk, drawer, safe, or less often a safe deposit box. It can be given to a person to hold. It may help to tell others how to find or get a Will. Most Mississippi counties no longer let a Will be filed at court during a person’s lifetime for safekeeping.

CANCELING OLD WILLS IS USUALLY NOT A PROBLEM

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

MOST WILLS SAY TO SKIP COSTLY BOND FOR EXECUTOR AND OTHERS

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

MOST WILLS SAY FAMILY MAY LATER DO “INFORMAL PROBATE”

Most Wills say after a death family and friends may later do “informal probate” which can avoid costs and delays. Informal probate often has just 1 court hearing is needed and probate is done in well under 1 year.

MOST WILLS HAVE A “MISCELLANEOUS” PART WITH HELPFUL LANGUAGE

Most Wills have a “Miscellaneous” page with paragraphs of legal language to avoid some legal problems. This can help if later legal problems occur. A person doing a Will need not understand these paragraphs.

A WILL NAMES AN EXECUTOR TO DO THINGS AFTER DEATH

WILL NAMES SOMEONE AS “EXECUTOR” TO DO THINGS AFTER A DEATH

Usually a Will names someone as “Executor” to act after a death like handle debts, find and collect and give new owners property and money, and do probate. The law gives Executors many helpful legal powers. If a Will fails to name an Executor a judge can pick someone, but family may argue about who to suggest. The term “Personal Representative” and not “Executor” is now often used in Mississippi for the person doing things after a death, but these terms mostly mean the same thing. Will gifts can go to an Executor.

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

In Mississippi normally an Executor can ask to be paid for the time they spend working on estate things, and sometimes paid to them is 1-5% of the value of the estate. Some Testators don’t want this and add a line to a Will saying don’t pay Executor at all. But many many Executors just skip asking for pay to not owe income tax and leave more resources to carry out Will gifts. Expenses an Executor has like for probate, insurance, repairs, mortgage payments, utilities, and similar items is paid for using estate money or property. Any lawyer an Executor hires usually is paid hourly or as the Executor and lawyer agree.

EXECUTOR IS PERSON AT LEAST 18 AND SECOND PERSON RARELY NEEDED

A person to be Executor must be 18 or older and not have a bad criminal record like a felony conviction. A person to be Executor need not reside in Mississippi but being local can make the work much easier. Naming 2 people to both be Executor is allowed but rare due to the risk of arguments and delays, and since any 1 person named should be trusted. A few people name a 2nd person to be Executor if the 1st person is not later available but most skip this since this rarely occurs and if needed a judge can pick someone. To add such a 2nd person a person could add: “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 SAY GIFTS TO HAPPEN AFTER DEATH

Most people use a Will mainly to 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 proper Will. A Will can control property acquired after it was signed. The very 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 rights which this book later explains.

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 Hill”. Money gifts are easy to write, let equal gifts be made, and are safer since specific items might not be owned at death. To carry out money gifts an Executor uses some accounts or sells property.

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

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

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 what happens if a named recipient is dead can be unclear (state laws can be very complex). 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.

CONDITIONS ON WILL GIFTS ARE RARE DUE TO POSSIBLE PROBLEMS

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

PEOPLE CAN ADD AN “ALTERNATE BENEFICIARY” LIKE FOR SPECIAL ITEMS

A person named in a Will gift dying before a Testator is rare, and if seen people can re-do a Will to name a new person or let a Will's Residue Clause handle it. Some people to prepare for this chance maybe for special items write an alternate beneficiary, like “I give boat to Ed Liu but if they don't survive me to Ann Liu”.

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

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

CAN SAY IF PERSON IN GIFT DIES THEN IT GOES TO “LINEAL DESCENDANTS”

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” is about “how” to spread things and means “by branch”, and basically tries to divide things so basically 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, under the law Ken Wu himself gets 50% and Ben Wu's 2 children each get 25%.

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 Ed Wu and 10% to Joe Hud”.

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 especially family if who is meant is later easy to determine. People can say about how much in total is gifted to be clearer. Examples are: “I give \$10 to each person on my 2018 dart team” and “I give \$10 to each of my grandkids so this is about \$80 in total.”

MISSISSIPPI LAW DOES NOT LET A “LIST” OR “MEMO” ADD GIFTS TO A WILL

The law in Mississippi unlike many states does not officially let a “List” or “Memo” be done outside a Will to add gifts. Despite this many people do a list or memo and trust their family to follow it (see next paragraph).

AFTER A DEATH FAMILIES OFTEN LET PEOPLE TAKE ITEMS UNOFFICIALLY

After a death many families all agree to unofficially let people take small items in ways a dead person mentioned, wrote on a memo or list or note, put on stickers, or would want, and this often is not a problem. If anyone objects a judge will have the law and Will be followed but then people can voluntarily transfer items.

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

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

LATER DIVORCE OR MURDER CANCELS WILL GIFTS

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

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

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

Most Wills by their end have a Residue Clause to gift any property or money not gifted earlier in a Will or used in other ways. Things transferred this way is called the “Residue”. Many people gift most their money and property this way by intentionally not mentioning in a Will most things so the Residue Clause handles it. Using the Residue Clause to give things avoids need to describe things and has less legal risk. Many people with a spouse or young children mostly use a Residue Clause and don’t do many other gifts. After applying a Residue Clause if anything is somehow left then a decedent’s closest heirs get things (this is closest family).

USUAL RESIDUE CLAUSE HAS 2 PARTS

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

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

EXAMPLE OF 2 PART RESIDUE CLAUSE:

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

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

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

A FEW PEOPLE REWRITE A RESIDUE CLAUSE TO HAVE 1 PART

A normal Residue Clause of 2 parts is often fine. A small fraction of people may want to modify a Will to have a “1 Part Residue Clause” since it tends to gift to a group more equally and is simpler to understand. People with no spouse and no young children are likelier to do this change, but even they often don’t bother. See Example below for exact words to use if people want to change to a 1 Part Residue Clause.

EXAMPLE OF 1 PART RESIDUE CLAUSE:

“RESIDUE CLAUSE: The rest, residue, and remainder of my estate, property of any kind and nature, and anything I have an interest in, I give to Adam Doe and Beth Wu who survive me, and to lineal descendants per stirpes of any person just named who did not survive me.”

In this example if Adam hasn’t survived but had 2 children they each get 25%, and if Beth Wu survived she gets 50%. Or if Beth Wu also hadn’t survived and had 5 kids they split her part and each gets 10%.

MUST SUFFICIENTLY DESCRIBE NAMES AND PROPERTY IN A WILL

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

Putting names in Wills is fairly easy. A judge or Executor assume a person in a Will meant people they know, so common names are OK unless 2 friends or family have the same name. Details can help if names won't be recognized or to be friendly, like "I give \$5 to my nurse Sue Ax" and "I give \$5 to loyal pal Ed Lee". If people used a nickname "also known as" or "a/k/a" may help, like "I give \$5 to Dan Smith a/k/a Old Fishy". Gifts can go to a charity, government, or group, like "I give \$80 to The Salvation Army, "I give \$10 to DeSoto County Library, MS", and "I give \$5 to Lob Church, Rex, Texas". People often phone to get a charity's name.

PUTTING DESCRIPTIONS OF ITEMS IN WILL GIFTS IS FAIRLY EASY

Describing items in gifts is easy since people rarely own similar items. Often fine are gifts like: "I give ax to Ed Wu" and "I give big table to Ann Fox". It's OK to gift by category or list, like: "I give tools to Sam Lee" and "I give cow, van, and harp to Sue Mo". Financial assets can use plain words, like "bank accounts" or "stocks", but details can help, like: "US Bank account ending #1511". Gifting using a location is riskier as judges will ignore Will gifts if it seems items were placed to affect gifting and no "independently significant" life reason. So, "I give Ed Po items in safe and desk" judges might not follow, but "I give Ed Po hats in attic" likely is OK.

DESCRIBING REAL PROPERTY IS HARD SO MANY USE RESIDUE OR TITLE

The easier and safer way to gift real property (real estate) at death is: 1) do nothing specific so it's handled by a Will Residue Clause, or 2) have a broker or lawyer add names to a deed or similar to get real property.

Gifting real property other ways is harder though possible. Helpfully a Will gift of real property described by location legally does gift all land, buildings, and fixtures located there with no need to describe what's there.

It is possible to gift real property with very plain words, like a house, fixtures, and land can be fully given by something like: "I give 21 Salem Road, Hattiesburg, Mississippi to Mary Ellen Brown".

Or people can do a blanket gift giving all of a kind of property, like, "I give all real property and fixtures in Rankin Co., Mississippi to Ann Sue Hill" or "I give all real property and fixtures in any place to Paul Ian Rex".

Giving real property in a Will using a "legal description" is how many lawyers do it, but this can be hard to do. If using a legal description people must copy 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" in a subdivision 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.

INTESTATE LAW CONTROLS THINGS NOT COVERED BY WILL OR SIMILAR

“INTESTATE LAW” CONTROLS THINGS NOT HANDLED BY A WILL OR SIMILAR

State “intestate law” says where property and money goes if you die with no valid Will or if things are left after a Will is followed, and if no other transfers apply. People may like what state intestate law says and intentionally skip a Will. The law basically gives a dead person’s things to closest surviving (living) family. Note, under intestate law if a person’s child has died any living children of them often get things in their place which is called “representation”.

Intestate law in Mississippi if it applies to you (like if you have no valid Will) says, in order:

1. If you are survived by a spouse but no children, then the spouse gets all your property and money left;
2. If you are survived by children but no spouse, then the children get all;
3. If you are survived by a spouse and some children, then the spouse and all children get equal shares;
4. If you don’t leave any of the above surviving people, then things go to any of your parents who survive;
5. If you don’t leave any of the above surviving people, then things go to any surviving brothers and sisters;
6. If you don’t leave any of the above surviving people, then things go to certain other close family of you who survive; and
7. If you don’t leave any of the above surviving people, then things go (“escheat”) to the state of Mississippi.

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

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

If there is a spouse often a person does small gifts to friends and family, then uses the Residue Clause of the Will to gift all remaining to the spouse, and then names a few fallback persons in the Residue Clause.

If there is no spouse and no child often a person does a few small gifts, and then names some family or friends in the Residue Clause to get everything remaining.

A parent with young children if married to the other parent often does small gifts to friends and family, then in the Residue Clause gives mostly to a spouse, and then names children as fallbacks in the Residue Clause.

A parent with young children if not married or close to the other parent often does small gifts to friends and family, and then uses the Residue Clause to gift all remaining to their children.

CHAPTER 5

DEBT, MARRIAGE, HOMESTEAD, AND CHILD ISSUES

MANY PEOPLE CAN SKIP LEARNING ABOUT CERTAIN COMPLEX ISSUES

A few people face issues about debt, marriage, homestead, and children that can be very complex and hard to understand. These issues only matter to some people and others can skip parts of this Chapter.

DEBT ISSUES

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

If a decedent had a lot of debts any creditors may ask a judge to be paid from 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 describe this. Funds to pay debts comes from decedent's property and estate so may affect (in order) the Will Residue, Will general gifts, Will specific gifts, and non-probate transfers. Probate, health care, and funeral debts by law have priority to be paid first. Note, for various reasons often not all debts are ever paid. People should consider how paying debts may use up money or property, leaving less to carry out Will gifts. A spouse and family usually aren't liable at all for decedent's debts unless they guaranteed or co-signed.

"FAMILY RIGHTS" OR OTHER THINGS MAY BE USED TO GET FAMILY THINGS

Most states in laws have "family rights" a decedent's surviving spouse or young children can choose to use, and this may let them get some of decedent's things before most of decedent's debts are paid back and also before a Will and other transfers occur. Mississippi law partly has these rights to some degree. First, a surviving spouse or young children can claim "exempt property" of a decedent, and this is property and money of a decedent that by state bankruptcy law is mostly safe from creditors trying to collect a debt. This usually is \$10,000 of household items and cash, \$30,000 of equity in a mobile home if no homestead is claimed, some retirement or school accounts of decedent, and for a surviving spouse over age 70 up to \$50,000 of various other accounts. See Mississippi Code § 85-3-1 for a full list of exempt property. Second, a surviving spouse or dependent children can ask for a "Family Allowance" for money to live on for 1 year or so if property they got isn't enough (often family get a sum equal to decedent's post-tax income). Third, a spouse and in rare cases children have a homestead right to use the homestead, and a spouse has the Elective Share right to get about 1/2 of decedent's estate (these 2 rights are cover on the next page). Obviously if a spouse or children use these rights this leaves less property and money of the decedent to carry out Will gifts or other transfers so may interfere with these. So that family don't bother to use family rights most people give mostly to any spouse or young children (like over 50% and any family house).

SECURED DEBTS LIKE MORTGAGE OR VEHICLE LIEN ARE NOT PAID OFF

Laws in most states say don't pay off secured debts of a decedent like a house mortgage or vehicle lien on property even if other debts are paid by Executor or in probate. This avoids using estate funds on paying these big debts. All this book's Will forms say don't usually pay off 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 debt to the person getting a property. Most banks let new owners keep paying monthly a secured debt.

MARRIAGE ISSUES

MOST STATES USE “SEPARATE PROPERTY LAW” FOR SPOUSES

Mississippi and most states use the “Separate Property Law” system saying that a married person mostly owns their money and property separately and not jointly with a spouse. Therefore a spouse is mostly free to sell during life or gift by Will any money and property they own separately and not involve their spouse. But joint ownership by 2 spouses and not separate ownership can arise in many ways, like by agreement, paying half a purchase price, a gift was to both spouses, or if joint paperwork is done. Also many married people do a deed or other papers so a house on 1 spouse’s death automatically goes to the other spouse.

“COMMUNITY PROPERTY” LAW APPLIES IN OTHER STATES FOR SPOUSES

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

SPOUSE CAN CLAIM “ELECTIVE SHARE” INSTEAD OF THEM FOLLOWING WILL

A spouse if unhappy with what a Will and other transfers may give them has a right to instead choose (elect) an “Elective Share” of a dead spouse’s property and money rather than take what a Will says they get. Most states do this for a spouse for fairness, so a spouse has resources to live on, and so early divorce isn’t the only way to be financially secure. In Mississippi the Elective Share is usually set at 1/2 of the deceased spouse’s estate, property, and money. The law has certain complications that can vary this amount a bit. Clearly a spouse using the Elective Share and other rights to get half or so of a decedent’s things may use up much of what decedent had and interfere with other transfers. To avoid a spouse wanting to use the Elective Share and other rights most people give over 1/2 their things to any spouse (including any family house).

HOMESTEAD ISSUES

FAMILY MAY HAVE HOMESTEAD RIGHT TO USE DECEDENT’S HOMESTEAD

Under Mississippi law a surviving spouse for their life unless they remarry has a “homestead” right to use the homestead property. This usually is the house and surrounding land the decedent lived in and can cover up to 160 acres. In rare cases dependent children also can ask to stay in the family home till they are 18. The homestead right will override for a time any attempt by the decedent to give the homestead property to someone else. During this time those occupying the homestead must pay any mortgage interest, property taxes, and not harm the property. Creditors of decedent may not try to collect by involving the homestead property unless they were given a mortgage. Clearly if a spouse or children use the homestead right to stay this may interfere with or delay the decedent giving the homestead property to other people. Due to all this a person with a spouse or children under 18 usually gives the homestead property to them.

CHILD ISSUES

WILL CAN NAME “GUARDIAN OF THE PERSON” TO CARE FOR YOUNG CHILD

If a parent dies with a child under 18 any other natural or adopted parent (but not a step-parent) almost always automatically gets control of the child's care (including health care, school, and home issues). This won't occur only if they'll be unavailable a long time or are proven unfit in court which is very rare. But just in case it is later needed (like if later both parents die) a Will often names a healthy and willing relative or friend to be if needed “Guardian of the Person” to care for a child and have these powers.

WILL CAN NAME “GUARDIAN OF THE ESTATE” TO HANDLE CHILD'S PROPERTY

Since a child until age 18 can't legally manage money or property a Will often names a person to act as “Guardian of the Estate” to manage the child's property and money (some call this person the “Conservator”). They decide each year how to use this property and money for a child's costs (like school, living, and health care) till usually age 18 when all left goes to a child. Judges often hold a yearly hearing to review spending. Anyone paying things for a child can ask to be paid back from a child's money and property. And as a nice option most Wills at the end say an Executor may instead let a “Custodian” they pick manage a young child's property or money just like a Guardian of the Estate does. This is allowed by the new “Uniform Transfers To Minors Act” law which lets a Custodian do these things with less work, costs, and delays than usual.

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

This book's Will forms and most people in Mississippi name the same person to be Guardian of the Person caring for a child and also be Guardian of the Estate caring for a child's money and property. People can modify a Will to name different people for the 2 positions if wanted. But naming different people is rarely worth the bother since parents dying is rare, rarely do children get much, a person smart enough to handle a child usually can handle money, and naming different people can lead to arguments and lawsuits about spending.

PERSON TO BE A GUARDIAN MUST BE AT LEAST 18 AND NOT A BAD CRIMINAL

A person to be a Guardian must be 18 or older and not have a bad criminal record like a felony conviction. A person to be a Guardian need not reside in Mississippi but being local can make their work much easier. Choice for Guardian by the last living parent usually is followed. If no Will names a person to be a Guardian or they're unavailable a judge can pick, but family may argue about who family will suggest to the judge. Naming 2 people for a single position to act at the same time is rare since then the 2 persons may argue and any 1 person named should be smart enough to act alone. Some Wills do add a 2nd fallback person to help a child if the 1st person is unavailable, like: “or if they are later reasonably unable to serve I name ____ to serve”). But many people skip naming a fallback person since it's rarely needed, if a problem is seen a Will can be redone, and a judge always can pick someone.

NAMING GUARDIANS RARELY MATTERS DESPITE PARENT'S WORRYING

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

CHAPTER 6

BASIC IDEAS ABOUT HEALTH CARE FORMS

SOME BASIC IDEAS HELP PEOPLE UNDERSTAND HEALTH CARE FORMS

Some ideas help people understand health care forms.

- By law people control their health care unless “incapacitated” by insufficient ability to a) communicate verbally or by notes, b) be rational, or c) be conscious. Unless incapacitated people just tell doctors what health care they want. In actuality most people keep control of health care till death or till no big treatment options remain, but people may worry they may be incapacitated a long time so do some health care forms.
- If an adult 18 or older becomes incapacitated the adult’s closest family like spouse or adult child can make emergency decisions but they usually must then rush to a judge to get further power if no legal document gives them full power over health care.
- In forms a person can be named to have control of health care if needed who is often called “Agent”.
- In forms people can give written health care instructions doctors, family, Agent, and others must obey.
- Parents do have power over health care of their child under age 18.
- Some **young married people** give a spouse power over health care in case they are ever incapacitated. Some **young adults** give this power to parents. **Young people** are less often ill so often skip doing things.
- Pain relief like pain drugs and comfort care is usually given even if forms say to stop or limit other care.
- Most people only do a single long health care form that has a spot to give someone power over health care and a spot for instructions (this is often called a “Health Care Power of Attorney” though names vary).
- For the rare times stopping health care (“pulling the plug”) likely matters due to extreme illness or old age:
 - most people do nothing special and trust family or Agent for health care to decide on stopping care based on many factors like pain, cost, hassle, suffering and time of treatment, beliefs, and chances of recovery;
 - a few people do a serious document to say to stop most health care if later doctors decide a person is incapacitated, has an irrevocable terminal condition or likely won’t regain good consciousness, and more medical care won’t help (this document to stop care is often called a “Living Will” though names vary);
 - a few people do a serious document to starting immediately block certain health care (and this often 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 AND WITHOUT A GUARDIAN

Form 1 is a standard Will that is flexible and lets a person control many different things after their death. This form has no part about a Guardian so this form is for a person with no minor child under age 18. The title of “Last Will And Testament” is used for the form because long ago a “Testament” was a legal document often done alongside a Will. The person doing a Will for themselves is called the “Testator”.

FORM IS A WILL WITH SEVERAL PARTS

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

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

The 2nd paragraph, “Residue”, has a Residue Clause to say property and money left after other Will parts and other transfers is to be distributed in the way a person wrote in the blank parts of this paragraph.

The 3rd paragraph, “Administration”, has a space to name a Personal Representative to handle legal and other matters after a person’s death (some states and people use the old term “Executor” for this).

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

Last is a paragraph for the person doing the Will as Testator to date and sign and print their name and address, and a paragraph for the 2 witnesses to sign and print their name and 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 person named here has died before the Will maker then any other persons named here in this 1st space take their 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 2 persons acting as witnesses at least age 18 who then also sign the Will. Testator should aloud declare to witnesses it is Testator’s Will and ask 2 people witness it, and many people say a thing like: “My name is _____ and this is my Will that I do voluntarily and want you 2 people to witness”. Testator and witnesses should be in 1 room and see all others sign. Usually people try to pick witnesses so no Will gift is going to them. Witnesses usually just read the 1 paragraph of the Will they are signing below. Once completed a Will usually should be kept so it can be found quickly within weeks of a Testator’s death.

LAST WILL AND TESTAMENT

I, _____, of _____, Mississippi, 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. 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 _____.

I give _____ to _____.

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

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

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

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

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

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

The facts support and Testator wants Mississippi law to apply to this Will and Testator.

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

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

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

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

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

I am intentionally not providing by Will or other ways for some family and this is not a mistake or omission to remedy. I declare it is my specific intent not to make other provisions or gifts to people, including to my children or their issue.

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

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

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

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and 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, and c) authority to settle or pay claims or debts as they in their sole discretion choose. Any Personal Representative is given all powers that may be given or held by them under Mississippi law.

Any Personal Representative paying things for my estate should be paid this back.

A lawyer should be paid as Personal Representative agreed to pay and no percentage.

Any Personal Representative has sole discretion how to balance feelings of people and pick property or divide a gift to do a general gift or a gift to multiple persons.

Any Guardian of the Estate or a Custodian managing a minor’s property or money may use or invade the principal, sell the property, and do any other action without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Guardian of the Estate and Guardian of Property and Conservator and Custodian are interchangeable, and residue and residuary are interchangeable.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances

owed, and property I have or had a power of appointment or testamentary disposition over.

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

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

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

TESTATOR

IN WITNESS WHEREOF, I, the Testator, publish, declare, seal, and sign this instrument as my Will willingly in the presence of each of the undersigned witnesses, and I execute it as my free and voluntary act for the purposes herein expressed, on the _____ day of _____, 20____.

Testator (signature)

Name and Residence of Testator (printed)

WITNESSES

We whose names are hereby subscribed do hereby certify and declare that _____, the Testator and maker and publisher of the foregoing Will, executed the same in the presence of each of us, and at the same time declared to each of us that the same was the Will of the Testator, and we, thereupon, at Testator's request, in the presence of the Testator and each other, sign our names as witnesses this _____ day of _____, 20____.

Witness (signature)

Name and Residence of Witness (printed)

Witness (signature)

Name and Residence of Witness (printed)

CHAPTER 8

FORM 2: WILL (GUARDIAN)

FORM 2 IS BASIC WILL WITH GUARDIAN CLAUSE FOR YOUNG CHILD

Form 2 is a Will with a Guardian part to be used by a person with a minor child under the age of 18. The title of “Last Will And Testament” is used for the form because long ago a “Testament” was a legal document often done alongside a Will. The person doing a Will for themselves is called the “Testator”.

FORM IS A WILL WITH SEVERAL PARTS

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

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

The 2nd paragraph, “Residue”, has a Residue Clause to say property and money left after other Will parts and other transfers is to be distributed in the way a person wrote in the blank parts of this paragraph.

The 3rd paragraph, “Administration”, has a space to name a Personal Representative to handle legal and other matters after a person’s death (some states and people use the old term “Executor” for this).

The 4th paragraph, “Guardian”, names a person to if needed care for minor children as Guardian of the Person, and also if needed act as Guardian of the Estate to manage a child’s property and money.

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

Last is a paragraph for the person doing the Will as Testator to date and sign and print their name and address, and a paragraph for the 2 witnesses to sign and print their name and 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 person named here has died before the Will maker then any other persons named here in this 1st space take their 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 2 persons acting as witnesses at least age 18 who then also sign the Will. Testator should aloud declare to witnesses it is Testator’s Will and ask 2 people witness it, and many people say a thing like: “My name is _____ and this is my Will that I do voluntarily and want you 2 people to witness”. Testator and witnesses should be in 1 room and see all others sign. Usually people try to pick witnesses so no Will gift is going to them. Witnesses usually just read the 1 paragraph of the Will they are signing below. Once completed a Will usually should be kept so it can be found quickly within weeks of a Testator’s death.

LAST WILL AND TESTAMENT

I, _____, of _____, Mississippi, 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. 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 _____.

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

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

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

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

4. GUARDIAN. I hereby name _____ to be if needed the Guardian of the Person of any minor child of mine and to have care, authority, control, custody, and other control of them (and they shall be a General Guardian will full power in these things). I also name this same person to be if needed Guardian of the Estate of any minor child of mine or other minor and their property, money, and estate (and they shall be a General Guardian will full power in these things). The Guardian of the Estate shall also serve as Conservator for any such child and their estate and property if this is helpful.

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

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

The facts support and Testator wants Mississippi law to apply to this Will and Testator.

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

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

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

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

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

I am intentionally not providing by Will or other ways for some family and this is not a mistake or omission to remedy. I declare it is my specific intent not to make other provisions or gifts to people, including to my children or their issue.

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

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

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

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and 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, and c) authority to settle or pay claims or debts as they in their sole discretion choose. Any Personal Representative is given all powers that may be given or held by them under Mississippi law.

Any Personal Representative paying things for my estate should be paid this back.

A lawyer should be paid as Personal Representative agreed to pay and no percentage.

Any Personal Representative has sole discretion how to balance feelings of people and pick property or divide a gift to do a general gift or a gift to multiple persons.

Any Guardian of the Estate or a Custodian managing a minor’s property or money may use or invade the principal, sell the property, and do any other action without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Guardian of the Estate and Guardian of Property and Conservator and Custodian are interchangeable, and residue and residuary are interchangeable.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances

owed, and property I have or had a power of appointment or testamentary disposition over.

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

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

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

TESTATOR

IN WITNESS WHEREOF, I, the Testator, publish, declare, seal, and sign this instrument as my Will willingly in the presence of each of the undersigned witnesses, and I execute it as my free and voluntary act for the purposes herein expressed, on the _____ day of _____, 20____.

Testator (signature)

Name and Residence of Testator (printed)

WITNESSES

We whose names are hereby subscribed do hereby certify and declare that _____, the Testator and maker and publisher of the foregoing Will, executed the same in the presence of each of us, and at the same time declared to each of us that the same was the Will of the Testator, and we, thereupon, at Testator's request, in the presence of the Testator and each other, sign our names as witnesses this _____ day of _____, 20____.

Witness (signature)

Name and Residence of Witness (printed)

Witness (signature)

Name and Residence of Witness (printed)

CHAPTER 9

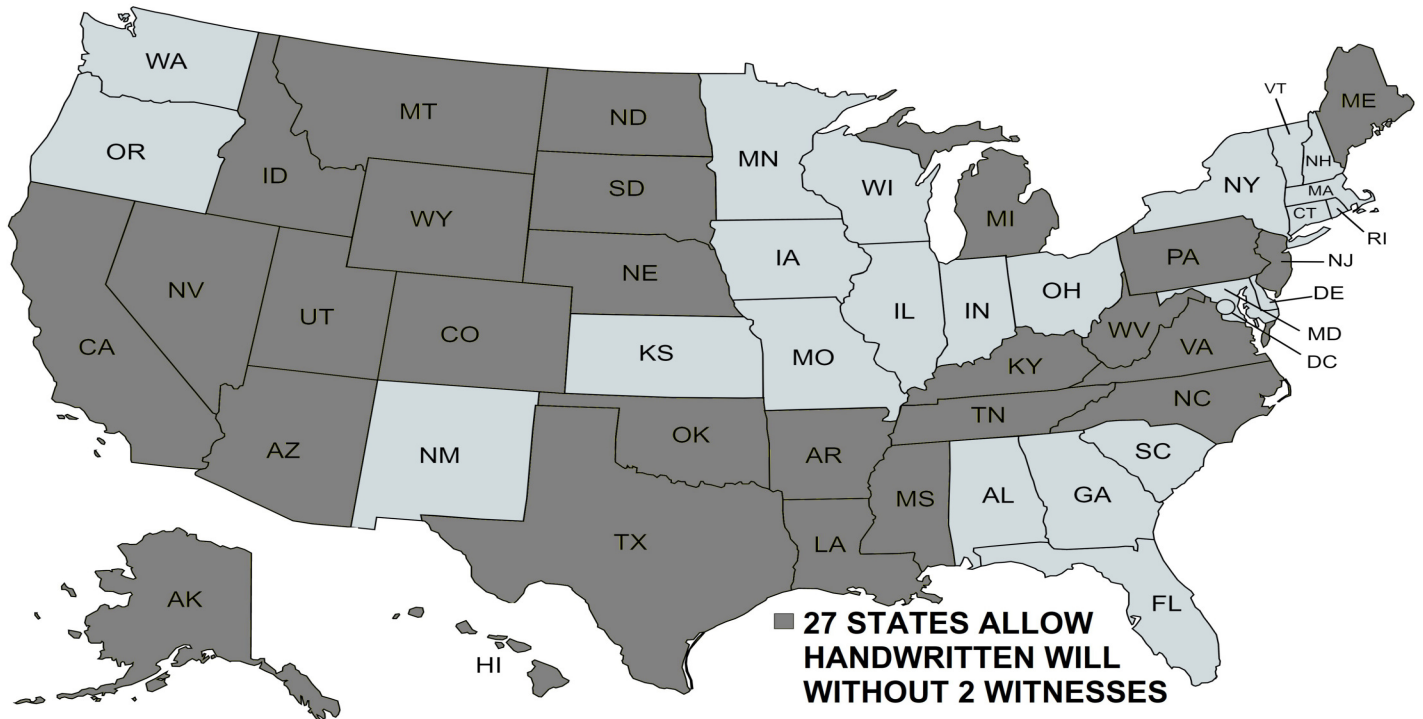
FORM 3: HANDWRITTEN WILL

WILL CAN SKIP USING THE NORMAL 2 WITNESSES IF IT IS ALL HANDWRITTEN

A “Handwritten Will” (often called a “Holographic Will” by lawyers) is a Will that is easier to do since it does not need the usual 2 witnesses if it is completely handwritten by the person doing the Will.

HANDWRITTEN WILL WITHOUT WITNESSES IS ALLOWED IN MISSISSIPPI

In 27 states including Mississippi a person doing a Will can skip having the usual 2 witnesses for a Will 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 lawyers call this a “Holographic Will” (Holo means Whole and Graph means Image in the Greek language lawyers use). State lawmakers allow this since handwriting is hard to fake, people may be in emergency or rush, witnesses may be scarce in the countryside or emergencies, it is private, it can be cheap by skipping complexity and people, and it is traditional especially in rural places. States that allow Handwritten Wills have about 55% of the U.S. population so Handwritten Wills are familiar to judges, lawyers, and other people in many places. Lawmakers want people to have this simple option. 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 usually fine. After a death to use a Handwritten Will some person must in writing or in testimony say the handwriting looks like the Testator, which can be a hassle to get. But a normal Will if no Self-Proving Affidavit was done also needs similar proof 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 do a better Will later.

WORDS ON BOTTOM OF 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.

The words below mainly say property and money goes to the persons whose names are written in the Will.

If some people named to get things later die it is usually best to re-do the Will and name different people.

The last paragraph about Guardians for children can be skipped if a person has no child under age 18.

This Will must be all handwritten and signed by person doing it on some paper, and using pencil is fine.

W I L L

1. *I am John David Smith and I now live in Hinds County, Mississippi.
I revoke any prior Wills and Codicils and declare this to be my Will.*
2. *I give my estate and all else to Jane Eve Smith and Wendy Sue
Baxter. My not giving to some other family members is intentional.*
3. *I name Jane Eve Smith as Executor for me, my Will, and my
estate. I request informal probate.*
4. *No Executor or Guardian or similar shall have to provide a bond.*
5. *For any minor child of mine I name Mary Sue Hill as Guardian of
the Person and as Guardian of the Estate for them.*

May 8, 2023 John David Smith

CHAPTER 10

FORM 4: SELF-PROVING AFFIDAVIT

FORM IS SOMETIMES DONE WITH WILL TO REDUCE LATER LEGAL WORK

This form can be done to help with the later legal work involved with people using a Will after a death. This form must be done with a notary. This form is not required to have a valid Will and is often skipped.

FORM HELPS TO LATER SHOW WILL WAS PROPERLY SIGNED

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

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

To complete the Self-Proving Affidavit form a notary (also called "notary public") must see the form signed by the Testator and the 2 witnesses to the Will signing, and then the notary signs and notarizes it. The form is often done a few minutes after a Will is signed but it also can be done much later (even years later) when Testator and 2 witnesses can meet a notary. Any notary will know how to fill out and sign the Self-Proving Affidavit. The Self-Proving Affidavit is then usually stapled or paper-clipped to a Will.

SELF-PROVING AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF _____

AFFIDAVIT OF SUBSCRIBING WITNESSES

THIS DAY personally came and appeared before me, the undersigned authority in and for said jurisdiction, _____ and _____, who are the subscribing witnesses to a certain instrument of writing, which this document is attached hereto, which purports to be the Will of _____, and said affiants who having both been first duly sworn make oath that the person who made this Will as Testator did in the presence of both affiants voluntarily sign, publish, and declare the original of this writing as the Will of the Testator on the _____ day of _____, 20____, the day and date of said instrument; that said Testator was then of sound and disposing mind and memory and at least 18 years of age; and both said affiants each subscribed and attested said instrument as witnesses to the signature and publication thereof at the special instance and request and in the presence of said Testator and in the presence of each other when both affiants were at least 18 years of age and competent witnesses.

Witness (signature)

Name and Residence (printed)

Witness (signature)

Name and Residence (printed)

Notary: Personally appeared before me, the undersigned authority in and for said county and state, on this _____ day of _____, 20____, within my jurisdiction, the within named _____ and _____ who acknowledged that they executed the above and foregoing instrument.

(Seal)

Signature: _____

My commission expires: _____

CHAPTER 11

FORM 5: ADVANCE HEALTH-CARE DIRECTIVE

FORM CAN NAME HEALTH CARE AGENT AND GIVE INSTRUCTIONS

In case it is later needed this form lets a person name someone as Agent to control health care and give instructions for health care. This is a statutory form found at Mississippi Code § 41-41-209 for people to use. This 1 form is often the only form to control health care people do, and this 1 form does several things.

FORM CAN NAME AGENT FOR HEALTH CARE AND GIVE INSTRUCTIONS

In Part 1 of the form a person can be named as Agent to control health care if later the person doing the form is incapacitated. This person sometimes is called the “attorney-in-fact” but they needn’t be an attorney. Often named as Agent is a spouse, adult child, relative, or a friend. A person naming an Agent for health care can avoid family or friends having to rush to a judge for power if the person is ever later incapacitated. An Agent usually shouldn’t be a worker or owner at a place giving health care. A 2nd person can be named to be Agent if later needed but this rarely matters and most people skip this. The form also has an area to give health care instructions to Agent and family but many people skip this since they trust the wisdom of the Agent and family and, also, if instructions aren’t legally or medically clear this can cause legal problems.

In Part 2 a person can give instructions on stopping health care if more care likely won’t help (many people call this “end-of-life” issues or “Living Will” issues). A doctor can help explain the treatment options. But many people skip this Living Will part and trust the Agent or family to make good decisions if needed.

In Part 3 people can say who’d they prefer as primary physician but this rarely matters and most skip it.

In Part 4 instructions on organ donation can be put, but many people skip this as unwanted or because they already covered this in other forms like when they did their state drivers license or state ID forms.

INSTRUCTIONS FOR FUNERAL, BURIAL, AND CREMATION CAN BE WRITTEN

Some people in the form write instructions for their funeral, burial, or cremation and also maybe name someone to be in charge of all this. For example a person could write: “I want the Agent I name in this form to control my dead body, funeral, burial, and related issues, I want a plain funeral with food in church hall afterward, I want burial at Lee Cemetery with no ceremony, and I want a fun celebration dinner in 4 months”. By law if no one else is put in charge the funeral, burial, and related issues are handled by nearest family like a spouse or adult child which often is fine. Legally people should do what a person wrote or clearly showed was wanted if an estate can afford it. If people choose “Direct Burial” or “Direct Cremation” this saves money since it handles the body fast without family watching, and family later get the ashes or can visit the grave.

PERSON SIGNS FORM IN FRONT OF 2 WITNESSES OR A NOTARY

The form should be signed by a person (in area 12 of the form) with 2 witnesses who also sign (in area 13), or instead of witnesses a notary can be used. Witnesses should be at least age 18 and can’t be a worker or owner of a place providing health care. At least 1 witness can’t be related to the person by blood, marriage, or adoption, or getting things by Will or by law. Once the form is done it is usually shown to places that may give care to put in a person’s medical file to be followed. To cancel the form a person usually tells their doctor and also maybe tells any places that saw the form it is canceled.

MISSISSIPPI

ADVANCE HEALTH-CARE DIRECTIVE

(Mississippi Code § 41-41-209)

EXPLANATION

You have the right to give instructions about your own health care. You also have the right to name someone else to make health care decisions for you. This form lets you do either or both of these things. It also lets you express your wishes regarding the designation of your primary physician. If you use this form, you may complete or modify all or any part of it. You are free to use a different form.

Part 1 of this form is a power of attorney for health care. Part 1 lets you name another individual as agent to make health care decisions for you if you become incapable of making your own decisions or if you want someone else to make those decisions for you now even though you are still capable. You may name an alternate agent to act for you if your first choice is not willing, able or reasonably available to make decisions for you. Unless related to you, your agent may not be an owner, operator, or employee of a residential long-term health care institution at which you are receiving care from. Unless the form you sign limits the authority of your agent, your agent may make all health care decisions for you. This form has a place for you to limit the authority of your agent. You need not limit the authority of your agent if you wish to rely on your agent for all health care decisions that may have to be made.

If you choose not to limit the authority of your agent, your agent will have the right to:

- Consent or refuse consent to any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect a physical or mental condition;
- Select or discharge health care providers and institutions;
- Approve or disapprove diagnostic tests, surgical procedures, programs of medication, and orders not to resuscitate; and
- Direct the provision, withholding, or withdrawal of artificial nutrition and hydration and all other forms of health care.

Part 2 of this form lets you give specific instructions about any aspect of your health care. Choices are provided for you to express your wishes regarding the provision, withholding, or withdrawal of treatment to keep you alive, including the provision of

artificial nutrition and hydration, as well as the provision of pain relief. Space is provided for you to add to the choices you have made or for you to write out any additional wishes.

Part 3 of this form lets you designate a physician to have primary responsibility for your health care.

Part 4 of this form lets you authorize the donation of your organs at your death, and declares that this decision will supersede any decision by a member of your family.

After completing this form, sign and date the form at the end and have the form witnessed by one of the two alternative methods listed below. Give a copy of the signed and completed form to your physician, to any other health care providers you may have, to any health care institution at which you are receiving care, and to any health care agents you have named. You should talk to the person you have named as agent to make sure that he or she understands your wishes and is willing to take the responsibility.

You have the right to revoke this advance health care directive or replace it at any time.

PART 1: POWER OF ATTORNEY FOR HEALTH CARE

(1) DESIGNATION OF AGENT: I designate the following individual as my agent to make health care decisions for me:

(name of individual you choose as agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

OPTIONAL: If I revoke my agent's authority or if my agent is unwilling, unable, or unavailable to make a health care decision for me, I designate as my first alternate agent:

(name of individual you choose as first alternative agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

PART 2: INSTRUCTIONS FOR HEALTH CARE

If you are satisfied to allow your agent to determine what is best for you in making end-of-life decisions, you need not fill out this part of the form. If you do fill out this part of the form, you may strike any wording you do not want.

(6) END-OF-LIFE DECISIONS: I direct that my health care providers and others involved in my care provide, withhold or withdraw treatment in accordance with the choice I have marked below:

[] (a) Choice Not To Prolong Life. I do **not want** my life to be prolonged if (i) I have an incurable and irreversible condition that will result in my death within a relatively short time, (ii) I become unconscious and, to a reasonable degree of medical certainty, I will not regain consciousness, or (iii) the likely risks and burdens of treatment would outweigh the expected benefits, or

[] (b) Choice To Prolong Life. I **want** my life to be prolonged as long as possible within the limits of generally accepted health care standards.

(7) ARTIFICIAL NUTRITION AND HYDRATION: Artificial nutrition and hydration must be provided, withheld or withdrawn in accordance with the choice I have made in paragraph (6) unless I mark the following box. If I mark this box [], artificial nutrition and hydration **must be provided** regardless of my condition and regardless of the choice I have made in paragraph (6).

(8) RELIEF FROM PAIN: Except as I may state in the following space, I direct that treatment for alleviation of pain or discomfort **be provided at all times**, even if it hastens my death:

(9) OTHER WISHES: (If you do not agree with any of the optional choices above and wish to write your own, or if you wish to add to the instructions you have given above, you may do so here.) I direct that:

(Add additional sheets if needed.)

PART 3: PRIMARY PHYSICIAN

(OPTIONAL)

(10) PHYSICIAN: I designate the following physician as my primary physician:

(name of physician)

(address)

(city)

(state)

(zip code)

(home phone)

(work phone)

(11) EFFECT OF COPY: A copy of this form has the same effect as the original.

(12) SIGNATURES: Sign and date the form here:

SIGNATURES

(date)

(sign your name)

(address)

(city)

(state)

(zip code)

PART 4: CERTIFICATE OF AUTHORIZATION FOR ORGAN DONATION

(OPTIONAL)

I, the undersigned, this _____ day of _____, 20____, desire that my _____ (select all or some body parts) organ(s) be made available after my demise for (cross out any options not wanted):

(a) Any licensed hospital, surgeon or physician, for medical education, research, advancement of medical science, therapy or transplantation to individuals;

(b) Any accredited medical school, college or university engaged in medical education or research, for therapy, educational research or medical science purposes or any accredited school or mortuary science;

(c) Any person operating a bank or storage facility for blood, arteries, eyes, pituitaries, or other human parts, for use in medical education, research, therapy or transplantation to individuals;

(d) The donee specified below, for therapy or transplantation needed by him or her, do donate my _____ (describe organs) for that purpose to _____ (name of organization) at _____ (organization address).

I authorize a licensed physician or surgeon to remove and preserve for use my _____ (select all or some body parts) for that purpose.

I specifically provide that this declaration shall supersede and take precedence over any decision by my family to the contrary.

Witnessed this _____ day of _____, 20____.

(donor signature)

(donor phone)

(address)

(city)

(state)

(zip code)

Signature of Witness #1

Signature of Witness #2

(13) WITNESSES OR NOTARY: This power of attorney will not be valid for making health care decisions unless it is either (a) signed by two (2) qualified adult witnesses who are personally known to you and who are present when you sign or acknowledge your signature; or (b) acknowledged before a notary public in the state.

Witness

I declare under penalty of perjury pursuant to Section 97-9-61, Mississippi Code of 1972, that the principal is personally known to me, that the principal signed or acknowledged this power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document, and that I am not a health care provider, nor an employee of a health care provider or facility. I am not related to the principal by blood, marriage or adoption, and to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

(date)

(signature of witness)

(printed name of witness)

(address)

(city)

(state)

(zip code)

Witness

I declare under penalty of perjury pursuant to Section 97-9-61, Mississippi Code of 1972, that the principal is personally known to me, that the principal signed or acknowledged this power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document, and that I am not a health care provider, nor an employee of a health care provider or facility.

(date)

(signature of witness)

(printed name of witness)

(address)

(city)

(state)

(zip code)

OR

Notary

State of Mississippi

County of _____

On this _____ day of _____, in the year _____, before me,

_____ (insert name of notary public) appeared
_____ (name of principal), 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. I declare under the penalty of perjury that the person whose name is subscribed to this
instrument appears to be of sound mind and under no duress, fraud or undue influence.

Notary Seal

(Signature of Notary Public)

CHAPTER 12

FORM 6: PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

FORM SAYS STARTING IMMEDIATELY DO NOT TRY SOME HEALTH CARE

The Physician Orders For Scope Of Treatment form, often called the “POST” form, lets a person say starting immediately do not try any of the health care listed in the form such as C.P.R. or artificial feeding. This form is rarely used and usually only by the sickest or oldest people. The form is short and can be read fast (like by paramedics) and is often used outside a hospital or other facility, but it can be used inside these places too. Note, this POST form has mostly replaced the older “Do-Not-Resuscitate form” which is very similar but only covers resuscitation.

FORM SAYS TO IMMEDIATELY NO LONGER TRY CERTAIN HEALTH CARE

In the form a person can say starting immediately certain medical care shouldn't be tried at all if they are incapacitated and health personnel are deciding what care to give. This form is rarely used by people. A doctor or similar person must co-sign the form and think it is proper (like a person likely will die from a terminal condition within a year or may soon be permanently unconscious). The main thing the form does is say from now on don't try to “resuscitate” to restart or help the heart or breathing, and this will include not trying cardio-pulmonary resuscitation (C.P.R.) which is pushing chest and blowing air in lungs, electric shock to restart heart or get a stable heartbeat, and machines to help or force breathing if a person needs this. There are also other treatment options a person can say in the form should not be tried, like artificial feeding or antibiotics, and a doctor can explain the options. A person with capacity still thinking OK can override the form by verbally requesting care or by just not showing paramedics or doctors the form. Note, if a person falls ill even if they have done this form they are still usually taken to get pain relief and other comfort care.

FORM IS SIGNED BY A DOCTOR AND PERSON DOING THE FORM

The form must be signed by a doctor or similar health professional, and also by the person doing the form or someone with authority for them. Doctors have copies of the form on nice colored paper to use. Once done a form usually is shown to places that may give health care so they can follow it. Some people keeps copies handy for themselves or family to show to paramedics and others who want to give care. A copy of the form might be kept on bedside table, on a home fridge, pinned to a shirt or in a pocket, or some people wear a special bracelet that doctors can help order. To cancel the form usually a person just tells all places shown the form that it is canceled.

MISSISSIPPI PHYSICIAN ORDERS FOR SUSTAINING TREATMENT (POST)

- This document is based on this person's current medical condition and wishes and is to be reviewed for potential replacement in the case of a substantial change in either - HIPAA permits disclosure of POST to other health professionals as necessary - Any section not completed indicates preference for full treatment for that section	Patient Last Name	Patient First Name/Middle
	Patient Date of Birth	Effective Date (Form must be reviewed at least annually)
A Check one	CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse AND is not breathing. ☐ Attempt Resuscitation (CPR) ☐ Do Not Attempt Resuscitation (DNR) <i>When not in cardiopulmonary arrest, follow orders in B, C, and D.</i>	
B Check One	MEDICAL INTERVENTIONS: If the patient has pulse AND breathing OR has pulse and is NOT breathing. ☐ Full Sustaining Treatment: Transfer to a hospital if indicated. Includes intensive care. Treatment Plan: Full treatment including life support measures. Provide treatment including the use of intubation, advanced airway interventions, mechanical ventilation, defibrillation or cardioversion as indicated, medical treatment, intravenous fluids, and comfort measures. ☐ Limited Interventions: Transfer to a hospital if indicated. Avoid intensive care. Treatment Plan: Provide basic medical treatments. In addition to care described in Comfort Measures below, provide the use of medical treatment; oral and intravenous medications; intravenous fluids; cardiac monitoring as indicated; noninvasive bi-level positive airway pressure; a bag valve mask. This option excludes the use of intubation or mechanical ventilation. ADDITIONAL ORDERS: (e.g., vasopressors, dialysis, etc.) _____ ☐ Comfort Measures Only: Treatment Goal: Maximize comfort through use of medication by any route; keeping the patient clean, warm, and dry; positioning, wound care, and other measures to relieve pain and suffering; and the use of oxygen, suction, and manual treatment of airway obstruction as needed for comfort. Do not transfer to a hospital unless comfort needs cannot be met in the patient's current location (e.g., hip fracture). Other instructions: _____	
C Check One	ANTIBIOTICS: ☐ Use antibiotics if life can be sustained ☐ Determine use or limitation of antibiotics when infection occurs ☐ Use antibiotics only to relieve pain and discomfort Other Instructions _____	
D Check One in Each of the 3 Categories	MEDICALLY ADMINISTERED FLUIDS AND NUTRITION: Administer oral fluids and nutrition if physically possible. Directing the administration of nutrition into blood vessels if physically feasible as determined in accordance with reasonable medical judgment by selecting one (1) of the following: ☐ Total parenteral nutrition, long-term if indicated. ☐ Total parenteral nutrition for a defined trial period. Goal: _____ ☐ No parenteral nutrition.	
	Directing the administration of nutrition by feeding tube if physically feasible as determined in accordance with reasonable medical judgment by selecting one (1) of the following: ☐ Long-term feeding tube if indicated ☐ Feeding tube for a defined trial period. Goal: _____ ☐ No feeding tube OTHER INSTRUCTIONS _____	
	Directing the administration of hydration if physically feasible as determined in accordance with reasonable medical judgment by selecting one (1) of the following: ☐ Long-term intravenous fluids if indicated ☐ Intravenous fluids for a defined trial period. Goal: _____ ☐ Intravenous fluids only to relieve pain and discomfort	
E Check All That Apply	PATIENT PREFERENCES AS A BASIS FOR THIS POST FORM (THIS SECTION TO BE FILLED OUT WITH PATIENT DIRECTION) ☐ Patient has an advance healthcare directive (per statute § 41-41-203): ☐ YES, Date of Execution: _____ <i>I certify that the Physician Order for Sustaining Treatment is in accordance with the advance directive.</i> Signature: _____ Print Name: _____ Relationship: _____ ☐ Patient is an unemancipated minor, direction was provided by the following in accordance with §41-41-3, Mississippi Code of 1972: ☐ Minor's guardian or custodian ☐ Minor's parent ☐ Adult brother or sister of the minor ☐ Minor's grandparent, or ☐ Adult who has exhibited special care and concern for minor ☐ Patient is an adult or an emancipated minor, direction was provided by the following in accordance with §41-41-205, 41-41-211 or 41-41-213, Mississippi Code of 1972: ☐ Patient	

	☐ Agent authorized by patient's power of attorney for health care ☐ Guardian of the patient ☐ Surrogate designated by patient ☐ Spouse of patient (if not legally separated) ☐ Adult child of the patient ☐ Parent of the patient ☐ Adult brother or sister of the patient, or ☐ Adult who has exhibited special care and concern for the patient and is familiar with the patient's values				
F	SIGNATURE OF PATIENT OR REPRESENTATIVE				
	Signature		Print Name	Date	
	SIGNATURE OF PRIMARY PHYSICIAN (POST MUST BE REVIEWED AND SIGNED BY A PHYSICIAN TO BE VALID)				
	Signature (Required)		Print Name	Date (Required)	
	HEALTH CARE PROFESSIONAL PREPARING FORM (IF OTHER THAN PATIENT'S PRIMARY PHYSICIAN)				
	Signature	Print Name	Contact Information	Date	
G	INFORMATION FOR PATIENT OR REPRESENTATIVE OF PATIENT NAMED ON THIS FORM The POST form is always voluntary and is usually for persons with advanced illness. POST records your wishes for medical treatment in your current state of health. Once initial medical treatment is begun and the risks and benefits of further therapy are clear, your treatment wishes may change. Your medical care and this form can be changed to reflect your new wishes at any time. However, no form can address all the medical treatment decisions that may need to be made. An advance health-care directive is recommended for all capable adults and emancipated minors, regardless of their health status. An advance directive allows you to document in detail your future health care instructions and/or name a health-care agent to speak for you if you are unable to speak for yourself. If this form is for a minor for whom you are authorized to make health-care decisions, you may not direct denial of medical treatment in a manner that would make the minor a "neglected child" under Section 43-21-105, Mississippi Code of 1972, or otherwise violate the child abuse and neglect laws of Mississippi. In particular, you may not direct the withholding of medically indicated treatment from a disabled infant with life-threatening conditions, as those terms are defined in 42 USCS Section 5106g or regulations implementing it and 42 USCS Section 5106a.				
H	DIRECTIONS FOR COMPLETING AND IMPLEMENTING FORM				
	I. COMPLETING POST POST must be reviewed and prepared in consultation with the patient or the patient's representative. POST must be reviewed and signed by a physician to be valid. Be sure to document the basis for concluding the patient had or lacked capacity at the time of execution on the form in the patient's medical record. The signature of the patient or the patient's representative is required; however, if the patient's representative is not reasonably available to sign the original form, a copy of the completed form with the signature of the patient's representative must be placed in the medical record as soon as practicable and "on file" must be written on the appropriate signature on this form. Use of original form is required. Be sure to send the original form with the patient. There is no requirement that a patient have a POST. II. IMPLEMENTING POST If a health care provider or facility is unwilling to comply with the orders due to policy or personal objections, the provider or facility must not impede transfer of the patient to another provider or facility willing to implement the orders and must provide at least requested care in the meantime unless, in reasonable medical judgment, denial of requested care would not result in or hasten the patient's death. If a minor protests a directive to deny the minor life-preserving medical treatment, the denial of treatment may not be implemented pending issuance of a judicial order resolving the conflict. III. REVIEWING POST This POST must be reviewed at least annually or earlier if; a. The patient is admitted or discharged from a health care facility; b. There is a substantial change in the patient's health status; or c. The patient's treatment preferences change If POST is revised or becomes invalid, draw a line through Sections A-E and write "VOID" in large letters. IV. REVOCATION OF POST This POST may be revoked by the patient or the patient's representative.				
I	REVIEW OF POST				
	Review Date	Reviewer and Location of Review	MD/DO Signature (Required)	Signature of Patient or Representative (Required)	Outcome of Review (Choose one)
					☐ No Change ☐ FORM VOIDED, new form completed ☐ FORM VOIDED, no new form
				☐ No Change ☐ FORM VOIDED, new form completed ☐ FORM VOIDED, no new form	

CHAPTER 13

FORM 7: GENERAL DURABLE POWER OF ATTORNEY

FORM LETS POWER GO TO A PERSON OVER PROPERTY, MONEY, AND MORE

This form lets a person share power with someone to do things with the person's property, money, and other things. Many people call this form a "Financial Power Of Attorney".

FORM GIVES POWER TO LET SOMEONE DO THINGS

This form lets a person share power to do things with their money, property, records, and other things with someone trusted like a spouse, adult child, or friend. The person giving power is called the "Principal" and person getting power called the "Attorney-in-Fact" (but this person need not be an actual attorney). This form can let someone help use accounts, pay bills, buy or sell items, sign contracts, hire workers, take out debt, deal with agencies, see records, and more. The form may help if a person is sick or busy so needs help, and may avoid serious legal options like a guardianship done at court. A person who isn't incapacitated can always overrule or fire an Attorney-in-Fact. Instructions for the Attorney-in-Fact can be given but most skip this since if things are unclear a bank or others may delay or not obey the Attorney-in-Fact.

FORM HAS POWER IMMEDIATELY AND IS NOT AFFECTED BY INCAPACITY

This form is effective once signed which is now common and skips the old option of a "springing power of attorney" that only has power once an event occurs. The form is called "durable" since it says it still has power if the person who did the form is later incapacitated, but the form has no power after a person's death.

DUE TO RISKS MANY SKIP THIS FORM OR CONSULT A LAWYER

Many people skip this form or first see a lawyer. Using this form is risky and can lead to harm since the Attorney-in-Fact can be wasteful with money, commit fraud or theft, or by carelessness allow other harms. The Attorney-in-Fact has a duty to be loyal and act reasonably and can be sued for any harm, but they may later be out of money to pay. Usually banks and others can't be blamed for obeying the Attorney-in-Fact. The law is complex and basic acts may be fine for the Attorney-in-Fact like paying bills but some acts may be improper like making gifts, risky investments, or doing anything unusual.

PERSON SIGNS FORM IN FRONT OF A NOTARY

A person usually signs the form in front of a notary who notarizes it, and banks usually will not follow the form if a notary wasn't used. Once done often the form is given to the person getting power to use if needed. To cancel the form a person should tell the Attorney-in-Fact and maybe also tell all places shown the form. When an Attorney-in-Fact signs a contract or serious document it should be like, for example: "John Paul Hill signing as Attorney-in-Fact under a Power of Attorney for Susan Beverly Jones".

MISSISSIPPI

GENERAL DURABLE POWER OF ATTORNEY

STATE OF MISSISSIPPI

COUNTY OF _____

DESIGNATION OF ATTORNEY-IN-FACT

I, _____, as Principal in this document, who lives at _____,
name the following person as my attorney-in-fact:

Name: _____ Phone: _____

Address: _____

DESIGNATION OF SUCCESSOR ATTORNEY(S)-IN-FACT (OPTIONAL)

If my attorney-in-fact is unable or unwilling to act, I name as my successor attorney-in-fact:

Name: _____ Phone: _____

Address: _____

ATTORNEY-IN-FACT COMPENSATION

My attorney-in-fact shall be entitled to reasonable compensation for services rendered as my attorney-in-fact and to reimbursement of any actual expenses incurred in serving as my attorney-in-fact.

GRANT OF AUTHORITY

I give and grant my attorney-in-fact and any successor attorney-in-fact the power to generally transact any and every kind of business; to make, sign, endorse, and execute any contracts, deeds, checks, stock powers, and other writings; to act for me with respect to any property, real or personal, tangible or intangible, owned by me at any time; to act for me in regard to any rights or obligations that I now have or may later acquire; and to do anything that I could personally do, including:

(1) Generally do, sign or perform in my name, place and stead any act, deed, matter or thing whatsoever, that ought to be done, signed or performed, or that, in the opinion of the attorney-in-fact, ought to be done, signed or performed in and about the premises, of every nature and kind whatsoever, to all intents and purposes whatsoever, as fully and effectually as I could do if personally present and acting. The enumeration of specific powers hereunder shall not in any way limit the general powers conferred here;

(2) Buy, sell, lease, alter, maintain, pledge or in any way deal with real and personal property, and sign each instrument necessary or advisable to complete any real or personal property transaction, including, but not limited to, deeds, deeds of trust, closing statements, options, notes and bills of sale;

(3) Make, sign, and file each income, gift, property, or any other tax return or declaration required by the United States or any state, county, municipality or other legally constituted authority;

(4) Acquire, maintain, cancel, or in any manner deal with any policy of life, accident, disability, hospitalization, medical or casualty insurance, and prosecute each claim for benefits due under any policy;

(5) Provide for my support and protection, or of my spouse, or of any minor child of mine or of my spouse dependent upon me, including, without limitation, provision for food, lodging, housing, medical services, recreation, and travel;

(6) Have free and private access to any safe deposit box in my individual name, alone or with others, in any bank, including authority to have it drilled, with full right to deposit and withdraw from the safe deposit box or to give full discharge for the safe deposit box;

(7) Receive and give receipt for any money or other obligation due or to become due to me from the United States, or any agency or subdivision of the United States, and to act as representative payee for any payment to which I may be entitled, and effect redemption of any bond or other security in which the United States, or any agency or subdivision of the United States, is the obligor or payor, and give full discharge therefor;

(8) Contract for or employ agents, accountants, advisors, attorneys, and others for services in connection with the performance by my attorney-in-fact of any powers in this section;

(9) Buy United States government bonds redeemable at par in payment of any United States estate taxes imposed at principal's death;

(10) Borrow money for any of the purposes described in this section, and secure the borrowings in the manner my attorney-in-fact deems appropriate, and use any credit card held in my name for any of the purposes described in this section;

(11) Establish, utilize, and terminate checking and savings accounts, money market accounts, and agency accounts with financial institutions of all kinds, including securities brokers and corporate fiduciaries;

(12) Invest or reinvest each item of money or other property and lend money or property upon the terms and conditions and with the security my attorney-in-fact may deem appropriate, or renew, extend, or modify loans;

(13) Engage in and transact any and all lawful business of whatever nature or kind for me and in my name, whether as partner, joint adventurer, stockholder, or in any other manner or form, and vote any stock or enter voting trusts;

(14) Pay dues to any club or organization to which I belong, and make charitable contributions in fulfillment of any charitable pledge made by me;

(15) Transfer any property owned by me to any revocable trust created by me with

provisions for my care and support;

(16) Sue, defend, or compromise suits and legal actions, and employ counsel in connection with the suits and legal actions, including the power to seek a declaratory judgment interpreting this power of attorney, or a mandatory injunction requiring compliance with the instructions of my attorney-in-fact, or actual and punitive damages against any person failing or refusing to follow the instructions of my attorney-in-fact;

(17) Reimburse the attorney-in-fact or others for all reasonable costs and expenses actually incurred and paid by that person on my behalf;

(18) Create, contribute to, borrow from, and otherwise deal with an employee benefit plan or individual retirement account for my benefit, select any payment option under any employee benefit plan or individual retirement account in which I am a participant or change options I have selected, make "roll-overs" of plan benefits into other retirement plans, and apply for and receive payments and benefits;

(19) Execute other power of attorney forms on my behalf that may be required by the internal revenue service, financial or brokerage institutions, or others, naming the attorney-in-fact under this section as attorney-in-fact for me on such additional forms;

(20) Request, receive, and review any information, verbal or written, regarding my personal affairs or my physical or mental health, including legal, medical and hospital records, execute any releases or other documents that may be required in order to obtain that information, and disclose that information to persons, organizations, firms or corporations my attorney-in-fact deems appropriate;

(21) Make advance arrangements for my funeral and burial, including the purchase of a burial plot and marker, if I have not already done so;

(22) Access any catalogue of electronic communications sent or received by me, and any other digital asset in which I have a right or interest, pursuant to the Revised Uniform Fiduciary Access to Digital Assets Act (Miss. Code Ann. §§ 91-23-1 through 91-23-35), "catalogue of electronic communications" and "digital asset" have the same meaning as defined in said Revised Uniform Fiduciary Access to Digital Assets Act;

(23) Make gifts, grants, or other transfers without consideration, including in fulfillment of charitable pledges made by me while competent;

(24) Exercise any powers of revocation, amendment, or appointment that I may have over the income or principal of any trust;

(25) Act on my behalf in connection with any fiduciary position held by me, including to renounce or resign the position;

(26) Exercise any incidents of ownership on any life insurance policies owned by me on the life of the attorney in fact;

(27) Change beneficiary designations on any death benefits payable on account of my death from any life insurance policy, employee benefit plan, or individual retirement account;

(28) Change, add or delete any right of survivorship designation on any property, real or personal, to which I hold title, alone or with others;

(29) Receive from or disburse to any source whatever moneys through checking or savings or other accounts or otherwise, endorse, sign and issue checks, withdrawal receipts or any other instrument, and open or close any accounts in my name alone or jointly with any other person;

(30) Renounce or disclaim any property or interest in property or powers to which I may become entitled, whether by gift or testate or intestate succession; and

(31) Serve as my personal representative for any and all purposes of the Health Insurance Portability and Accountability Act of 1996, as amended, from time to time, and its regulations ("HIPAA"), with the power, authority, and ability to access my medical records, physicians, other medical personnel, and to discuss my health situation.

I give and grant unto my attorney full power and authority to do, execute and perform all and every other act and thing whatsoever, without any limitation whatever and without being confined to the specific acts hereinabove set out, requisite or necessary to be done in and about the premises as fully and to all intents and purposes as I might or could do and I hereby ratify and confirm all that my attorney shall lawfully do or cause to be done by virtue of these presents, and for me and in my name and on my behalf.

My attorney-in-fact, as a fiduciary, shall exercise the powers granted under this Power of Attorney only for my use and benefit and/or the benefit of my dependents, including my spouse and/or any minor child.

OTHER TERMS

THIS POWER OF ATTORNEY shall not be affected by my subsequent disability or incapacity or by lapse of time and is to be construed and interpreted as a durable power of attorney.

All questions pertaining to the validity, interpretation, and administration of this Power of Attorney shall be determined in accordance with the laws of the State of Mississippi.

All acts done by my attorney-in-fact pursuant to this Durable Power of Attorney during any period of my disability or incapacity shall have the same effect and inure to the benefit of and bind me and my successor(s) in interest as if I were competent and not disabled.

If a guardian or conservator must ever be appointed for my person and/or estate, I designate the attorney-in-fact who is then authorized to act under this instrument to serve in that capacity, to serve with the necessity of bond.

EFFECTIVE DATE

This Durable Power of Attorney shall be effective as of the date signed and executed. By execution of this instrument, I hereby revoke each and every general power of attorney which I have heretofore executed, but I expressly do not revoke any advance health-care directive which I have heretofore executed that is now in effect.

SIGNATURE AND ACKNOWLEDGMENT

Dated: _____

Signature of Principal: _____

Address of Principal: _____

Phone of Principal: _____

Notary:

STATE OF MISSISSIPPI)
)ss.
COUNTY OF _____)

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 20____, within my jurisdiction, the within named _____, the Principal, who acknowledged that they executed the above and foregoing instrument.

(SEAL)

NOTARY PUBLIC SIGNATURE

My Commission Expires: _____

CHAPTER 14

FORM 8: POWER OF ATTORNEY TO DELEGATE PARENTAL OR LEGAL CUSTODIAN POWERS

FORM LETS PARENT SHARE POWER WITH SOMEONE OVER CHILD UNDER 18

This form lets a parent or legal custodian of a child under age 18 share power over them with someone who is named in the form. This is a statutory form found in law at Mississippi Code § 93-31-5 for people to use if wanted. Most but not all states now allow this kind of form.

FORM CAN GIVE POWER TO SOMEONE OVER CHILD UNDER 18

In the form a parent or legal custodian can give some power over a child under 18 to a person they name who is called the “Attorney-in-Fact” (though this person need not be a real attorney). The person who did the form can usually fire an Attorney-in-Fact or overrule a decision. Often given power is a relative, friend, or teacher who may watch a child for a parent. This form is sometimes used if a parent and child are separated for work, school, training, drug rehab, sports, prison, military, immigration, or long visits. The form is mostly not done for brief or normal situations like daycare, babysitter, short visits, or anytime a parent can come quickly. This form can avoid need for more serious legal actions like state foster care. Most parents write in the form they give all possible power to the Attorney-in-Fact instead of writing that limited powers are given. Power over adoption, marriage, abortion, and termination of parental rights can’t be given by this form. This form is only effective for 1 year except a parent serving in the armed forces can say the form’s power will last for their full time of deployment. People can re-do the form many times.

FORM IS SIGNED BY PARENT OR CUSTODIAN WITH A NOTARY

Many people use this form informally and just fill out the form partly and sign it without a notary so a person caring for a child has something on paper to show in case there is a problem with authorities or any suspicious persons. Once signed usually a parent gives the form to the person getting power to use if needed. To cancel the form a person should tell the Attorney-in-Fact and maybe places that saw the form.

Note, legally under Mississippi law technically there are more steps to use this form. The 1 or 2 parents or legal custodians technically should sign and the person getting power also should sign, with everyone doing this before a notary who then notarizes the form. If only 1 parent is signing they technically must sign the “affidavit page” before a notary to explain how the other parent is missing or unknown so can’t sign. And a charity or other organization by law is supposed to help use the form and sign their own affidavit, and they also should do a criminal background check if the person getting power is not a close relative. Many charities and organizations involved with children are very glad to help people use this form if it seems a child will be helped. Once it is completed and signed the form is supposed to be filed at the local youth court, and if the form is ever revoked the revocation is also supposed to be filed.

POWER OF ATTORNEY TO DELEGATE PARENTAL OR LEGAL AUTHORITY

(Mississippi Code § 93-31-5)

1. "I certify that **I am the parent or legal custodian of:**

(Full name of minor child)

(Date of birth)

(Full name of minor child)

(Date of birth)

(Full name of minor child)

(Date of birth)

who is/are minor children.

2. I designate **as the attorney-in-fact** for each minor child named above:

(Full name of attorney-in-fact)

(Phone numbers of attorney-in-fact)

(Street address, city, state and zip code of attorney-in-fact)

as the attorney-in-fact of each minor child named above.

3. [Complete either Section 3(a) or 3(b)].

(a) I delegate to the attorney-in-fact **all of my power and authority** regarding the care, custody and property of each minor child named above, including, but not limited to, the right to enroll the child in school, inspect and obtain copies of education records and other records concerning the child, the right to attend school activities and other functions concerning the child, and the right to give or withhold any consent or waiver with respect to school activities, medical and dental treatment, and any other activity, function or treatment that may concern the child. This delegation shall not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child.

OR

(b) I delegate to the attorney-in-fact the **following specific powers and responsibilities** (write in): _____

[If Section 3(b) is completed, Section 3(a) does not apply.]

This delegation shall not include the power or authority to consent to: marriage or adoption of the child, performing or inducing an abortion on or for the child, or the termination of parental rights to the child.

(c) The reason or reasons for this transfer of custody is as follows:

4. [Complete either 4(a) or 4(b)]

(a) This power of attorney is **effective for a period not to exceed 1 year**, beginning _____, 20____, and ending _____, 20____.
I reserve the right to revoke this authority at any time.

OR

(b) **I am a serving parent** as defined in Section 93-31-3, Mississippi Code of 1972.
My active-duty service is scheduled to begin on _____, 20____,
and is estimated to end on _____, 20____. I reserve the right to revoke
this authority at any time. I acknowledge that in no event may this delegation of power
last more than 1 year or the term of my active duty plus 30 days, whichever is longer.

(Parent/Legal Custodian signature)

(Parent/Legal Custodian signature)

5. I hereby accept my designation as attorney-in-fact for the minor child/children
specified in this power of attorney.

(Attorney-in-fact signature)

AFFIDAVIT OF FACILITATING AGENCY OR CHARITY

(Under section 93-31-3(1)(d), Mississippi Code of 1972)

I, _____ of _____ (Agency),
do hereby certify that I have properly vetted the proposed designated attorney-in-fact as
required under Section 93-31-3(1)(d), Mississippi Code of 1972, and find no criminal or
child abuse or neglect history.

(Agency representative signature)

Name of facilitating agency

State of Mississippi)
)ss.
County of _____)

Before me, the undersigned, a Notary Public, in and for said county and state on this
_____ day of _____, 20____, personally appeared
_____ (Name of facilitating agency and person
signing as facilitator), _____ (Name of
Parent/Legal Custodian) and _____ (Name
of Attorney-in-fact), known to me to be the persons who executed this instrument and
who acknowledged to me that each executed the same as his or her free and voluntary act
and deed for the uses and purposes set forth in the instrument.

Witness my hand and official seal the day and year above written.

(Seal, if any)

(Signature of notarial officer)

My commission expires: _____

AFFIDAVIT OF CUSTODIAL PARENT IF BOTH PARENTS AREN'T SIGNING

(If the custodial parent alleges that the noncustodial parent is absent, unknown, or that the exact location of the noncustodial parent is unknown, an affidavit must be completed and attached to the power of attorney.)

STATE OF MISSISSIPPI

COUNTY OF _____

I hereby certify that I am the custodial parent of the child(ren) who are the subject of the power of attorney to which this affidavit is attached.

I further certify the location of the noncustodial parent, _____, is unknown to me or that the identity of the father is unknown to me (insert here if the father is unknown) _____ or that the noncustodial parent is unavailable (state here the reason unavailable): _____

_____.

SO SWORN, this the _____ day of _____, 20____.

Custodial Parent

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority in and for the aforementioned jurisdiction, the within named person who first presented proof of identity.

THIS, the _____ day of _____, 20____.

(Seal, if any)

(Signature of notarial officer)

My commission expires: _____

REVOCATION OF POWER OF ATTORNEY

1. "I certify that I am the parent or legal custodian of the children covered by a certain Power of Attorney to Delegate Parental or Legal Custodial Powers with a date of _____ a copy of which is attached to this page.

I hereby certify that **I am revoking** said Power of Attorney to Delegate Parental or Legal Custodial Powers and am requesting that my child or children named above be immediately returned to my legal and physical care, custody and control and that I resume all legal rights and responsibilities associated with my child or children.

(Parent/Legal Custodian signature)

(Parent/Legal Custodian signature)

Before me, the undersigned, a Notary Public, in and for said county and state on this _____ day of _____, 20____, personally appeared

(Name of Parent/Legal Custodian), known to me to be the person who executed this instrument and who acknowledged to me that he or she executed this instrument as his or her free and voluntary act and deed for the uses and purposes set forth in the instrument.

Witness my hand and official seal the day and year above written.

(Seal, if any)

(Signature of notarial officer)

My commission expires: _____

APPENDIX: SAMPLE FILLED OUT FORMS

TO GET FORMS TO USE PEOPLE CAN:

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

EMAIL ANY COMMENTS TO DAVENPORTPRESS@GMAIL.COM.

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

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

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

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

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

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

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

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

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

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

LAST WILL AND TESTAMENT

I, Paul Samuel Maxwell, of Jackson County, Mississippi, 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 acting voluntarily.

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

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

SKIPPED

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

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

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

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

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

My main residence is in the state of Mississippi and its laws should apply to this Will.

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

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

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

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

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

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

I am intentionally not providing by Will or other ways for some family and this is not a mistake or omission to remedy. I declare it is my specific intent not to make other provisions or gifts to people, including to my children or their issue.

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

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

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

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and 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, and c) authority to settle or pay claims or debts as they in their sole discretion choose. Any Personal Representative is given all powers that may be given or held by them under Mississippi law.

Any Personal Representative paying things for my estate should be paid this back.

A lawyer should be paid as Personal Representative agreed to pay and no percentage.

Any Personal Representative has sole discretion how to balance feelings of people and pick property or divide a gift to do a general gift or a gift to multiple persons.

Any Guardian of the Estate or a Custodian managing a minor’s property or money may use or invade the principal, sell the property, and do any other action without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Guardian of the Estate and Guardian of Property and Conservator and Custodian are interchangeable, and residue and residuary are interchangeable.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances

owed, and property I have or had a power of appointment or testamentary disposition over.

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

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

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

TESTATOR

IN WITNESS WHEREOF, I, the Testator, publish, declare, seal, and sign this instrument as my Will willingly in the presence of each of the undersigned witnesses, and that I execute it as my free and voluntary act for the purposes herein expressed, on the 22nd day of June, 2022.

Paul Samuel Maxwell

Testator (signature)

Paul Samuel Maxwell, 83 Main Street, Biloxi, MS 39106

Residence of Testator (printed)

WITNESSES

We whose names are hereby subscribed do hereby certify and declare that Paul Samuel Maxwell, the Testator and maker and publisher of the foregoing Will, executed the same in our presence and in the presence of each of us, and at the same time declared to each of us that the same was the Will of the Testator, and we, thereupon, at Testator's request, in the presence of the Testator and each other, sign our names as witnesses this 22nd day of June, 2022.

Eve Mable Rogers

Witness (signature)

Eve Mable Rogers, 14 2nd St., Biloxi, MS 39105

Name and Residence of Witness (printed)

Mary Ann Moon

Witness (signature)

Mary Ann Moon, 35 Buffalo Road, Broken Arrow, OK 74101

Name and Residence of Witness (printed)

Sample Filled Out Form: Last Will and Testament (Guardian)
with Many Specific Gifts and with Residue Clause Given By Percentages

LAST WILL AND TESTAMENT

I, Paul Brian Kent, of Harrison County, Mississippi, 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 acting voluntarily.

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

I give big oak table to Anne J. Smith.

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

I give 63 Ivy Road, Hattiesburg, Mississippi to Kenneth Alan Ford.

I give all real property and fixtures I own in Rankin County, Mississippi to Amy Marie Fox and Pamela Sue Fox.

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

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

I give wedding ring and 1998 Ford Truck to Ruth Jones.

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

I give \$781.35 to Mary Natalie Swanson.

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.

I give \$1000 to each of my grandchildren so this will be about \$5,000 in total.

2. RESIDUE. I give the rest and residue and remainder of my estate, my property, and money of any kind and nature, and all I have (all of which is called the "residue"), as follows:

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

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

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

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

My main residence is in the state of Mississippi and its laws should apply to this Will.

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

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

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

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

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

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

I am intentionally not providing by Will or other ways for some family and this is not a mistake or omission to remedy. I declare it is my specific intent not to make other provisions or gifts to people, including to my children or their issue.

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

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

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

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and 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, and c) authority to settle or pay claims or debts as they in their sole discretion choose. Any Personal Representative is given all powers that may be given or held by them under Mississippi law.

Any Personal Representative paying things for my estate should be paid this back.

A lawyer should be paid as Personal Representative agreed to pay and no percentage.

Any Personal Representative has sole discretion how to balance feelings of people and pick property or divide a gift to do a general gift or a gift to multiple persons.

Any Guardian of the Estate or a Custodian managing a minor’s property or money may use or invade the principal, sell the property, and do any other action without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Guardian of the Estate and Guardian of Property and Conservator and Custodian are interchangeable, and residue and residuary are interchangeable.

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

TESTATOR

IN WITNESS WHEREOF, I, the Testator, publish, declare, seal, and sign this instrument as my Will willingly in the presence of each of the undersigned witnesses, and that I execute it as my free and voluntary act for the purposes herein expressed, on the 30th day of December, 2019.

Paul Brian Kent

Testator (signature)

Paul Brian Kent, 118 Washington Road, Hazzard, MS 38002

Name and Residence of Testator (printed)

WITNESSES

We whose names are hereby subscribed do hereby certify and declare that Paul Brian Kent, the Testator and maker and publisher of the foregoing Will, executed the same in our presence and in the presence of each of us, and at the same time declared to each of us that the same was the Will of the Testator, and we, thereupon, at Testator's request, in the presence of the Testator and each other, sign our names as witnesses this 30th day of December, 2019.

Olivia Joy Pawlenty

Witness (signature)

Olivia Joy Pawlenty, 87 Forest Road, Hazzard, MS 38001

Name and Residence of Witness (printed)

Roy Felix Pawlenty

Witness (signature)

Roy Felix Pawlenty, 87 Forest Road, Hazzard, MS 38001

Name and Residence of Witness (printed)

**Sample Filled Out Form: Last Will and Testament (Guardian)
with Gifts Section Shortened, Guardian named, and
Will modified to have a 1 Part Residue Clause**

LAST WILL AND TESTAMENT

I, David Eric Smith, of Madison County, Mississippi, 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 acting voluntarily.

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

I give \$500 to each one of my brothers, sisters, and cousins which will be about \$10,000 in total.

I give \$4000 to Baker Food Shelf on Smith Road in Gulfport, Mississippi.

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

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

4. GUARDIAN. I hereby name Stephanie Ann Frankowski to be if needed the Guardian of the Person of any minor child of mine and to have care, authority, control, custody, and other control of them (and they shall be a General Guardian will full power in these things). I also name this same person to be if needed Guardian of the Estate of any minor child of mine or other minor and their property, money, and estate (and they shall be a General Guardian will full power in these things). The Guardian of the Estate shall also serve as Conservator for any such child and their estate and property if this is helpful.

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

My main residence is in the state of Mississippi and its laws should apply to this Will.

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

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

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

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

A gift of property no longer owned by me at death shall lapse and be of no effect

including no payment of money shall be done in its place, and all without ademption.

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

I am intentionally not providing by Will or other ways for some family and this is not a mistake or omission to remedy. I declare it is my specific intent not to make other provisions or gifts to people, including to my children or their issue.

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

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

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

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and 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, and c) authority to settle or pay claims or debts as they in their sole discretion choose. Any Personal Representative is given all powers that may be given or held by them under Mississippi law.

Any Personal Representative paying things for my estate should be paid this back.

A lawyer should be paid as Personal Representative agreed to pay and no percentage.

Any Personal Representative has sole discretion how to balance feelings of people and pick property or divide a gift to do a general gift or a gift to multiple persons.

Any Guardian of the Estate or a Custodian managing a minor’s property or money may use or invade the principal, sell the property, and do any other action without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Guardian of the Estate and Guardian of Property and Conservator and Custodian are interchangeable, and residue and residuary are interchangeable.

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

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

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

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

TESTATOR

IN WITNESS WHEREOF, I, the Testator, publish, declare, seal, and sign this instrument as my Will willingly in the presence of each of the undersigned witnesses, and that I execute it as my free and voluntary act for the purposes herein expressed, on the 21st day of June, 2021.

David Eric Smith

Testator (signature)

28 Booker Road., Lake City, MS 39080

Name and Residence of Testator (printed)

WITNESSES

We whose names are hereby subscribed do hereby certify and declare that David Eric Smith, the Testator and maker and publisher of the foregoing Will, executed the same in our presence and in the presence of each of us, and at the same time declared to each of us that the same was the Will of the Testator, and we, thereupon, at Testator's request, in the presence of the Testator and each other, sign our names as witnesses this 21st day of June, 2021.

John Elliot Potter

Witness (signature)

John Elliot Potter, 2 Spruce St, Sherwood, MS 39050

Name and Residence of Witness (printed)

Ann Paula Blom

Witness (signature)

Ann Paula Blom, 70 Rocky Road, Clarksville, MS 39011

Name and Residence of Witness (printed)

Sample Filled Out Form: Self-Proving Affidavit

SELF-PROVING AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF MADISON

AFFIDAVIT OF SUBSCRIBING WITNESSES

THIS DAY personally came and appeared before me, the undersigned authority in and for said jurisdiction, John Elliot Potter and Ann Paula Blom who are the subscribing witnesses to a certain instrument of writing, which this document is attached hereto, which purports to be the Will of David Eric Smith, and said affiants who having both been first duly sworn makes oath that the person who made this Will as Testator did in the presence of both affiants voluntarily sign, publish, and declare the original of this writing as the Will of the Testator on the 21st day of June, 2021 the day and date of said instrument; that said Testator was then of sound and disposing mind and memory and at least 18 years of age; and both said affiant each subscribed and attested said instrument as witnesses to the signature and publication thereof, at the special instance and request and in the presence of said Testator and in the presence of each other at a time when both affiants were at least 18 years old and competent witnesses.

John Elliot Potter

Witness (signature)

John Elliot Potter, 2 Spruce St, Sherwood, MS 39050

Name and Residence (printed)

Ann Paula Blom

Witness (signature)

Ann Paula Blom, 70 Rocky Road, Clarksville, MS 39011

Name and Residence (printed)

Notary: Personally appeared before me, the undersigned authority in and for said county and state, on this 21st day of June, 2021 within my jurisdiction, the within named John Elliot Potter and Ann Paula Blom who acknowledged that they executed the above and foregoing instrument.

(Seal)

Signature: Jonathan L. Haschel

My commission expires: _____

