

**DAVENPORT'S
UTAH 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 here 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 Utah Wills And Estate Planning Legal Forms

Other Titles: Davenport's Wills

Description: Davenport Publishing 2023

Suggested Identifiers: 9798878261715, LCCN 2021909030, 9798748423373

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

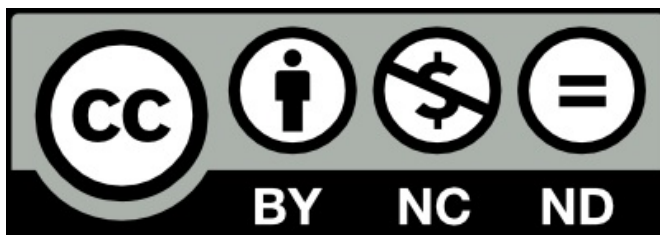
Classification: LFF KF755 .C55 2022 (or as library chooses)
DDC 346.73 Rus--dc23 (or as library chooses)

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

Basically, as the image below says, any copying or use is OK if it still shows it is by the authors, is non-commercial (nc) with no price charged, and has no derivatives (nd) so no big changes.



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

TO GET COPIES OF BOOKS USE WWW.DAVENPORTPUBLISHING.COM OR AMAZON.COM.

EMAIL ANY QUESTIONS TO DAVENPORTPRESS@GMAIL.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, And Child Issues	15
6	Basic Ideas About Controlling Health Care	18
WILL RELATED FORMS		
7	Form 1: Will (Standard)	19
8	Form 2: Will (Guardian)	23
9	Form 3: Self-Proving Affidavit	27
10	Form 4: Tangible Personal Property List	29
11	Form 5: Handwritten Will	31
HEALTH CARE FORMS		
12	Form 6: Advance Health Care Directive	33
13	Form 7: Provider Order For Life-Sustaining Treatment	38
GIVING POWER FORMS		
14	Form 8: Statutory Form Power Of Attorney	41
15	Form 9: Power Of Attorney Over Protected Person Or Minor Child	47
16	Form 10: Appointment Of Agent To Control Disposition Of Remains	50
Appendix: Sample Filled Out Forms		53

CHAPTER 1

BOOK BASICS AND LIST OF FORMS

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

This book helps Utah residents do legal documents to help control their health care, property, money, children, funeral, and more if later they are absent, sick, or dead. Doing documents to control things later like this is called “Estate Planning”. People mostly have a right to control these matters so usually judges, doctors, and other people 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 10 ready to use Utah legal forms (but almost all people use just a few of these 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 later 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. Self-Proving Affidavit – often done with a Will to later help show it was signed correctly.

Form 4. Tangible Personal Property List – lets a person later easily add some small gifts to their Will.

Form 5. Handwritten Will – Will which if all handwritten by person doing it can skip need for 2 witnesses.

HEALTH CARE FORMS

Form 6. 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 a person say that if their health gets bad and they are later incapacitated to stop giving certain medical treatments (many people call these “Living Will” issues).

Form 7. Provider Order For Life-Sustaining Treatment – does serious act of telling paramedics, nurses, doctors, and others that immediately from now on don't try health care listed in the form like C.P.R. or tube feeding (this form has mostly replaced the older Do-Not-Resuscitate form).

GIVING POWER FORMS

Form 8. Statutory Form Power Of Attorney – lets power over money, property, and more be shared with a very trusted person so they can do things, like use accounts, pay bills, get records, and sell items.

Form 9. Power Of Attorney Over Protected Person Or Minor Child – lets a parent or guardian share power over a young child or a protected person with a person including over health care and school issues.

Form 10. Appointment Of Agent To Control Disposition Of Remains – lets a person name someone to control their funeral, burial, cremation, and related matters, and also give instructions about this.

BOOK ALSO HAS FORM TO TELL HELPFUL THINGS TO FAMILY AND FRIENDS

Many lawyers, banks, and financial planners give out an unofficial form to tell family and friends helpful things on property, money, debts, helpful tips, last wishes, and more. This book's Chapter 2 has such a form.

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 a lot of money and energy on. Benefits seem very low for young people since only 4% of people die by age 50, and only about 0.13% of children before age 18 have both parents die. See *Social Security Tables: Felicitie Bell; Parent Mortality Census SIPP Paper #288*. Many people spend more time and money on getting some good life insurance.

UTAH LAW ON ESTATE PLANNING COVERS MOST PEOPLE HERE

This book is only for Utah since Estate Planning law and legal documents do vary greatly 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 has no clear plans to leave. Later plans to move don't matter till people move. People can stay under a previous state's Estate Planning laws after they move if people always plan to leave the new state. For example, people who move to a new state for months or more for travel, school, projects, or military often keep legal ties to their old state. People often do health care forms for the state a health facility is in. Most immigrants of any kind can do Estate Planning here.

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

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

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

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.

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 documents need to be “notarized” which means a person who is a “notary” sees it signed and then uses an ink stamp and signs too. Notaries (also called a “notary public”) are at some banks, brokers, insurance agents, courts, law offices, libraries, and mailing-copying centers. Using a phonebook to find a notary willing to help is recommended. The words “subscribe” and “execute” means a person signed a document, and “acknowledgment” means a person said a signature was theirs. If a person signs a document in a foreign language it is usually binding. When filling in a form it may help to know “respectively” in a form means “in the order just stated”.

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.
- 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.
- Though separate forms exist usually organ donation is handled in drivers license or state ID paperwork.

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 Utah state law does say a person divorcing or murdering a Testator cancels all Will gifts to the person.

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

Usually no or little tax is owed as a result of a death, including estate, inheritance, or death taxes.

The Federal Estate And Gift Tax is the only Federal tax that may be owed due to a death, and it only starts when a tax credit is used up that covers \$13.99 million a person in 2025 and later.

Utah no longer has any estate tax or inheritance tax that may be owed upon the death of a resident. No other county, city, or other tax is imposed upon a death in Utah.

A person’s family or Executor may have to file normal income tax returns to cover the partial year a decedent lived and earned income in before they died. Life insurance payouts are usually tax free.

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” or “issue” usually means a person’s children and grandchildren.

■ A person named in a Will to handle things after someone’s death is called an “Executor”, but if a judge has to pick someone they are called an “Administrator”. The new term “Personal Representative” covers both these terms and this new term is now commonly used in most Wills in Utah.

■ A person doing a Will is called “Testator” or “Will maker”. Before about 1995 a woman Testator was called a “Testatrix” and woman Executor called an “Executrix” but this is no longer often said or written.

■ “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).

■ A person under 18 is usually called a “minor” and often a parent or guardian helps them do things. A minor or other person not reasonably able to make wise decisions lacks “capacity” and is “incapacitated”.

■ A document giving power to someone is often called a “Power of Attorney” where the “Principal” gives power to someone called the “Agent” or “Attorney-in-Fact” (but they needn’t be a real attorney or lawyer).

■ Utah state law is called the “Utah Code”. A Utah law is referred to as a “statute” or “section” shown by a “§” or “s” mark. A Utah law can be cited a few different ways, like: Utah Code § 71-1-101 and U.C. 71-1-101. A legal form written into state law for people to find and use if they want is usually called a “statutory form”.

“ESTATE” MEANS PROPERTY OF DECEDENT AND ENTITY HOLDING THINGS

The “estate” or “probate estate” means all property and money of a dead person left in their name that at death or soon after didn’t automatically go to new owners or start doing this. The word estate is also the name for a temporary entity run by an Executor to do things after a death (it’s like a small corporation).

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

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

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

“HELPFUL INFORMATION” FORM CAN TELL FAMILY AND FRIENDS THINGS

People can do an unofficial “Helpful Information” form banks, lawyers, and planners suggest so family or friends after a death will know things. People can staple records or lists to this. 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, car loans, and accounts payable:

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

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

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

CHAPTER 3

WILL BASICS

WILL LETS A PERSON CONTROL THINGS AFTER THEIR DEATH

A Will is a legal document done by a person to control some things after their death. A person doing a Will is called the “Testator” or “Will maker”. 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).

A WILL USUALLY MUST BE SIGNED WITH 2 WITNESSES

WILL MUST SHOW IT'S A WILL AND BE SIGNED WITH 2 WITNESSES

Under Utah law a document to be a Will usually must show it's a Will by its words, and the person doing it must sign a Will in front of at least 2 persons acting as witnesses who sign too. Witnesses must sign within a reasonable time of Testator signing or acknowledging a signature, and many lawyers say witnesses should sign within 10 minutes. A Will just spoken on a video or audio recording usually has no legal effect. This book later explains how Utah does let a Will that is all handwritten skip the usual need for witnesses.

WITNESSES SHOULD AT LEAST AGE 18 AND OFTEN NOT GETTING WILL GIFTS

A person to witness a Will must be at least age 18. It is better but not required that witnesses not be extremely old, not live far away, and not be named in the Will as Executor, Guardian, or to any similar job. In Utah a Will is still valid if a witness is getting Will gifts and any Will gifts to a witness usually will be carried out later. But many people to avoid the appearance of misconduct pick witnesses so they or their spouse are not named to get things in a Will. Often witnesses are friends, neighbors, strangers, and distant family.

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

The person doing a Will should sign it with at least 2 witnesses who then also sign while all are in 1 room and see others sign. People showing others an I.D. is not required but common. A Testator need not initial Will pages. A Testator or witness should use their full legal name unless they greatly dislike and rarely use it. Witnesses only read the 1 paragraph they sign. Most Wills have people also print their names and put their addresses. Disabled people who can't sign by hand should see a lawyer. Legally a Testator need not say anything but often they say a thing like, “My name is _____ and this is the Will I want and do voluntarily and want witnessed”. Some Testators chat a few minutes with witnesses to help show they are of sound mind.

USUALLY AT START OF WILL A PERSON NAMES ANY SPOUSE AND CHILDREN

Very importantly, many Wills including this book's Will forms start with a place for a Testator to name any current living spouse and living children of theirs. Natural or adopted child should be written here, including usually any such children born outside marriage. A person without these people can skip this or put “none”. Under state law not doing this may invalidate the Will by indicating a person lacks sufficient mental ability or memory, or may let a spouse or child not listed ask a judge give them a share or all of the estate by claiming a Testator forgot them. After listing a person in a Will a Testator may be legally free to give them nothing.

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. Or people can 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. Revoking a Will usually 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 person. A bond is insurance from a company to insure against misconduct. A Testator usually doesn’t want a bond since the persons Testator names are trusted and them later needing a bond will cost the estate money.

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

A Will should be kept so it is found within days of a death, like in a desk, drawer, safe, with a person, or less often a safe deposit box. It may help to tell people how to get a Will. A Will can’t be filed at court before a death.

EXECUTOR NAMED IN WILL DOES THINGS AFTER A DEATH

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

Most Wills name someone as “Executor” to after a death do things like collect and give decedent’s money and property to new owners, handle decedent’s debts, and do probate. The law gives an Executor legal powers to do many things. If a Will fails to name an Executor a judge picks someone, but family may fight over who to suggest. Will gifts can go to an Executor. The same 1 person can be named to be Executor, Guardian, and other positions. Importantly, the term “Personal Representative” and not Executor is now mostly used in Wills in Utah for the person doing this work, but these terms mostly mean the same thing.

EXECUTOR CAN BE PAID AND ESTATE PAYS ALL OF EXECUTOR’S COSTS

An Executor can ask to be paid for their work from estate funds. Pay is whatever a judge later thinks is reasonable and Utah law unlike some states does not pay an Executor a percentage of the entire estate. For example, a judge may find an Executor showed they spent 5 hours a week for 40 weeks managing an estate and that \$30 an hour is fair, so pay is \$6,000. But some Testators don’t want pay for the Executor so they add a Will line saying to not pay them. In reality most Executors later skip asking for pay to not owe income tax on pay and leave more to carry out Will gifts. Expenses an Executor has like insurance, repairs, mortgages, utilities, funeral, attorneys, and probate costs are usually paid for with estate money or property. Any lawyer an Executor hires usually is paid an hourly or fixed sum the lawyer and Executor agree upon.

EXECUTOR IS PERSON AT LEAST 21 AND SECOND PERSON RARELY NEEDED

A person to be Executor must be at least age 21 and usually have no bad criminal or other record so they seem unsuitable to a judge later. Executors needn’t live in the state but it makes work much easier. Naming 2 people to both be Executor is rare due to the risk of delay or arguments and since any 1 person named should be trusted. People can name a 2nd person to be Executor if the 1st person isn’t available but most skip this because it’s rarely needed and a judge can name a person. To add a fallback Executor a person can add a line to a Will, like: “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 written 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 some rights which this book later covers.

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

Most Wills have “specific gifts” to gift particular things. Specific gifts can be any property, like “I give boat to Ed Blom” and “I give UBank account #84553873 to Sue Wu”. If a gift is not clear the law assumes all of a kind of thing is given, like “I give jewelry to Ann Po” means all jewelry. But gifting specific property can have surprises like value of items can change, or a Will gift may later fail to occur if property is not owned at death.

IN WILL CAN DO “GENERAL GIFTS” LIKE OF MONEY

Wills can do “general gifts” where what is gifted is not particular property but can be flexibly chosen, like “I give 1 of my 3 cars to Ed Po” which lets an Executor pick which car. The usual general gift is money, like “I give \$5 to Ed Hu”. Money gifts are easy to write, let equal gifts be made, and are legally safer for many reasons. To carry out money gifts an Executor usually uses accounts or sells some property in the estate.

“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 already gifted in a Will or used other ways, often called a “catch-all” or “left-over” clause. This is covered later in this Chapter.

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 attorney’s fees. Due to all this conditions are rarely put on Will gifts.

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 Baxter and Mary Ann Swanson” means each person owns part of every item. People later can split things by agreement or an Executor can decide how to divide items. If a person in a joint gift has died their part usually is left to transfer under a Residue Clause.

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

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

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

SOME PEOPLE ADD "ALTERNATE BENEFICIARY" MAYBE FOR SPECIAL ITEMS

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

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

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

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

HELPFUL LAWS OFTEN REQUIRE PERSON SURVIVE 120 HOURS TO GET GIFT

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

GIFT BENEFICIARIES CAN GET PERCENTAGE RATHER THAN EQUAL SHARE

If a Will gift goes to multiple people the law assumes equal shares, but if wanted percentages can be used to make unequal gifts, like "I give boat 90% to John Smith and 10% to Mary Baker".

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

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

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.

AFTER A DEATH FAMILIES OFTEN LET PEOPLE TAKE ITEMS UNOFFICIALLY

Many families unofficially let people take items in ways a dead person said, showed with stickers, or put on a note, and this is often fine. If people object a judge often has a Will and law be followed fully but later people can voluntarily retransfer items. Later this book covers gifts done with a Tangible Personal Property List.

MOST WILLS LET PEOPLE LATER DO “INFORMAL PROBATE” AND SKIP BOND

Most Wills say after a death the family and friends may do “informal probate” to avoid costs and delays.

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

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

Most Wills by their end have a Residue Clause to gift any property or money not gifted earlier in a Will or used in other ways. Things transferred this way is called the “Residue”. Many people gift most their money and property this way by intentionally not mentioning in a Will most things so the Residue Clause handles it. This avoids need to describe things and has less legal risk. After applying a Residue Clause if anything is somehow left then by law a decedent’s closest heirs-at-law get things (this is their 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.

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

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

SOME PEOPLE CHANGE A RESIDUE CLAUSE TO HAVE 1 PART

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

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

MUST SUFFICIENTLY DESCRIBE NAMES AND PROPERTY IN A WILL

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

Putting names in 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 Weber County Library, Utah", and "I give \$5 to Wix Church, Rex, TX". 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 Hill". 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 legally safer way to gift real property (real estate) at death is: 1) do nothing specific so it is handled by a Will Residue Clause, or 2) have a land broker or lawyer put names in a deed or similar document so the named persons will get the real property at someone else's death.

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 at a particular address with very plain words, like a house, fixtures, and land can be fully given by something like: "I give 81 Maxwell Street, Salt Lake City, Utah, to Mary Ann Brown".

People can do a blanket gift giving all of a kind of property, like, "I give all real property and fixtures in Tooele County, Utah to Ann Ivy Hill" or "I give all furniture and all bank accounts 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" on a map which is recorded in land records of a county, or it may refer to a path around the land borders with various angles, distances, and iron stakes.

CAN LEAVE SOME WILL GIFT LINES BLANK OR WRITE THING 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.

INTESTATE LAW CONTROLS THINGS NOT COVERED BY A WILL

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

State “intestate law” starting at Utah Code § 75-3-401 says if a person dies with no valid Will or also if anything is left after Will and other transfers are done then certain surviving (living) family get decedent’s money and property. “Descendants” means a person’s children and grandchildren, and if someone has died who would get an intestate share often their descendants gets that share. The law roughly says, in order:

- 1) if decedent left a spouse but no surviving descendants (like a child or grandchild), the spouse gets all;
- 2) if decedent left descendants but no surviving spouse, the closest descendants get all;
- 3) if decedent left a surviving spouse and also surviving descendants who are all related to the spouse, then the spouse gets all;
- 4) if decedent left a surviving spouse and some surviving descendants and some are not related to the spouse, the spouse gets at least \$75,000 from decedent’s estate and 1/2 the remainder of the estate, and the rest goes to the closest descendants;
- 5) If decedent left no spouse or descendants, the decedent’s closest surviving family get things starting with decedent’s parents, then brothers and sisters, then cousins, and then other close family;
- 6) if none of the above persons survive then decedent’s things go to the state of Utah.

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 children 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 the children.

CHAPTER 5

DEBT, MARRIAGE, AND CHILD ISSUES

THIS CHAPTER COVERS CERTAIN ISSUES THAT SOME PEOPLE CAN SKIP

This Chapter covers some debt, marriage, and child issues, and some people can skip parts of this.

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 money and property so may affect (in order) the Will Residue, Will general gifts, Will specific gifts, and non-probate transfers. Probate costs, health care, and funeral debts by law have some priority to be paid first. For certain reasons often not all debts are 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 for decedent's debts unless they actually guaranteed or co-signed.

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

Most states have "Family Rights" a decedent's surviving spouse or young children can claim, and this helpfully may let them get something even before most debts of decedent are paid and even before Will gifts.

First, in the U.S. usually a surviving spouse or young children can use the "Exempt Property" right to get some of a decedent's clothing, vehicles, furnishings, and appliances for family to use to live. Under Utah law the Exempt Property amount is set of \$15,000 of these things. Plus often family can keep more of decedent's household items by claiming a decedent gave them to the family or by just not disclosing them to an Executor.

Second, in the U.S. a surviving spouse or young children usually can use a "Family Allowance" right to get some of a decedent's money and property to live on for 1 year or so. In Utah if requested usually \$2,250 a month is given from decedent's money and property, or a lump sum of \$27,000 is given all at once.

Third, in the U.S. many states give a surviving spouse or young children some right to get (or at least stay in for years) a home owned by a decedent under what is called a "Homestead Law". Utah law is different and instead of an entire home it says family can use the "Utah Homestead Allowance" to get \$22,500 (by getting an interest equal to this in a home of decedent or usually by getting this from decedent's money and property).

Clearly if a spouse or children use these rights (which can add to a lot) this leaves less property and money of a decedent to do Will gifts or other transfers so may interfere with these. So family don't bother to use Family Rights often a person gives mostly to any spouse or young children (like over 50% and any family house). Some people may want to do legal research into these Family Rights in Utah.

SECURED DEBTS LIKE MORTGAGE OR VEHICLE LIEN ARE NOT PAID OFF

Laws in most states say do not pay off secured debts on property of a decedent like a house mortgage or vehicle lien even if other debts are paid by Executor or in probate. This avoids using up estate resources on paying these usually big debts and leaves more estate resources to carry out Will gifts and other transfers.

Due to this, all this book's Will forms say do not usually pay off any secured debts. But if a Testator wants they can 1) put in a Will an order to pay (like, "Executor pay off the house mortgage"), or 2) gift enough money to pay off a secured debt to the person getting the property. Most banks let new owners keep paying monthly a secured debt like a mortgage or lien on property that people got upon someone's death.

MARRIAGE ISSUES

UTAH LIKE MOST STATES USES "SEPARATE PROPERTY LAW" FOR SPOUSES

Utah like most states uses the "Separate Property Law" system that says a married person mostly owns their money and property separately and not jointly with a spouse. Due to this a married person in Utah is usually free to sell during life or gift by Will most of their money or property and not have to involve a spouse. But joint ownership by 2 spouses and not separate ownership can arise in other ways, like by agreement, both spouses paying part of the purchase price, if a gift was to both spouses, or if paperwork calls it joint.

"COMMUNITY PROPERTY" LAW APPLIES IN OTHER STATES FOR SPOUSES

There are 9 states that use "Community Property" law for spouses (Arizona, California, Louisiana, Idaho, Nevada, New Mexico, Texas, Washington, and Wisconsin). This law roughly says property or money is owned 50/50 by spouses as Community Property if it comes from mental or physical work while married in these states (like wages or salary, managing a business, or active trading of something) or if items were bought or partly improved with any Community Property. People moving from these states may face issues. Importantly, Utah law says if a married Utah citizen works in a Community Property state even briefly there is a rebuttable presumption their income and gains from there are Community Property (so owned 50/50).

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. To avoid this usually both spouses have to sign a pre-nuptial or a post-nuptial agreement carefully written by a lawyer which can be costly and hard to do. Most states have this law 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. Utah law sets the Elective Share at 1/3 of decedent's money and property with certain adjustments, and for small estates the spouse can claim all of the first \$75,000 of value. To help the surviving spouse the Elective Share can even cover things decedent gave away recently or also things they controlled but didn't actually legally own. Clearly a spouse using the Elective Share to get 1/3 or so of decedent's things may take so much property and money of a decedent that it may interfere with other transfers. To avoid a spouse wanting to use the Elective Share most people give over 1/2 their things to any spouse of theirs (including any family house). Some people may want to do legal research into the rights of a spouse in Utah.

CHILD ISSUES

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

If a parent dies with a child under 18 then 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 the other parent will be unavailable a long time or is proven unfit in court which is rare. But just in case it is later needed (like later both parents die) a Will often names a healthy willing relative or friend as “Guardian of the Person” to give this care for a young child.

WILL CAN NAME “CONSERVATOR” TO MANAGE A YOUNG CHILD'S PROPERTY

Since a child till age 18 can't legally control property and money a Will often names a person to have the job of managing a young child's property and money. Most Utah people call this a “Conservator” or less often a “Guardian of the Estate” or “Guardian of Property”. This person decides each year how to use up property and money on a child's costs (like school, living, and health care) till often age 18 when all left goes to a child. A judge often holds a yearly hearing to review spending. A person paying stuff for a child (including a Conservator) can ask to be paid back from a child's property or money. As a nice 2nd option most Wills at the end say Executor may later name a person as “Custodian” (including themselves) to instead of Conservator manage a child's property or money under the “Uniform Transfers To Minors Act” law to avoid costs or work.

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

This book's Will forms and most people name the same 1 person to be Guardian of the Person caring for a child and Conservator caring for a child's property and money. People can change a Will to name different people for the 2 positions, but this is rarely worth it since parents dying is rare, rarely do children get much, a person smart enough to handle a child often can handle money, and naming different people can lead to arguments and lawsuits between Guardians. Will gifts can go to someone named Guardian or Conservator.

PERSON TO HELP A CHILD MUST BE AT LEAST 18 AND NOT BE UNSUITABLE

A person to be a Guardian or a Conservator must be age 18 or older. They must not be seem unsuitable later like due to a bad criminal record unless a judge later agrees they can serve. They need not reside in the state but being local can make work easier. The choice for a Guardian or Conservator by the last living parent is almost always later followed. If no Will names a person for a position or they're unavailable a judge can pick someone, but family may argue about who to suggest. Naming 2 people for 1 position to act at the same time is rare since 2 persons may argue and any 1 person named should be smart enough to act alone. It is more common for 2 people in a married couple to be named for the same position, but there can still be problems if they disagree or divorce. Some Wills add a 2nd person to serve if the 1st person is unavailable, like: “or if they are later reasonably unable to serve I name _____ to serve”). But most people skip naming a fallback person since it's rarely needed, if a problem is seen a Will can be redone, and a judge can pick someone.

NAMING GUARDIANS RARELY MATTERS

A child under age 18 having parents die is rare so parents shouldn't worry that much about Guardians for children. A good U.S. study found of people under age 18 just 2.78% had lost 1 parent and just 0.13% had lost 2 parents (so 99.87% will not lose both parents by age 18). *Parent Mortality Census SIPP Paper #288.*

CHAPTER 6

BASIC IDEAS ABOUT CONTROLLING HEALTH CARE

BASIC IDEAS HELP PEOPLE UNDERSTAND CONTROLLING HEALTH CARE

Some ideas help people understand health care forms.

■ By law people control their own health care by telling doctors and others what they want unless they're "incapacitated" by insufficient ability to a) communicate verbally or by notes, b) be rational, or c) be conscious. 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 they want to do 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". Forms about control of health care if people are later incapacitated are often called "Advanced Directives".

■ 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 child under the age of 18. Wills for traditional reasons use the word “Testament” and call the person doing them the “Testator”.

THIS FORM IS A WILL WITH SEVERAL PARTS

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

Paragraph 1, “List Of Spouse And Children”, lets a person write the names of any living spouse and children they have, or if none maybe write “none”. This helps show a Testator has enough mental ability and memory to do a Will. Not listing a living spouse or child here can let an omitted person ask a judge to give them a share or all of a Testator’s property and money by claiming they were accidentally forgotten.

Paragraph 2, “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.

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

Paragraph 4, “Residue”, has a Residue Clause to say 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.

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

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

Last is paragraphs for Testator and witnesses to date, sign, print their name, and write their addresses.

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

In a Will “Residue Clause” anything left over after other Will parts is transferred as the clause directs. Many people use a Residue Clause to gift most their things. In this Will form’s Residue Clause there is:

- 1) a 1st space to name 1 or more persons to get the Residue, and if any named here have died before the Will maker then other persons named here in this 1st space take the dead person’s share, and
- 2) a 2nd space to name people to get things if all people named in the 1st space have died, and if any people named in the 2nd space have died their shares go to “lineal descendants” like their children.

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

TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

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

LAST WILL AND TESTAMENT

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

1. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

_____.

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

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

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

4. RESIDUE. 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.

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

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

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

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

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.

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, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or 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 recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

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 in the time and manner they in their sole discretion choose.

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

No lawyer hired should be paid based on a percentage of estate property or similar fee.

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

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

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

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

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

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 Utah Uniform Transfers to Minors Act or a similar law anywhere, and may pick the person to be Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, _____, the Testator, have signed this document as my Will on the _____ day of _____, 20_____.

Testator Signature

WITNESSES

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

Witness Signature

Printed Name and Residence of Witness

Witness Signature

Printed Name and Residence of Witness

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. Wills for traditional reasons use the word “Testament” and call the person doing them the “Testator”.

FORM IS A WILL WITH SEVERAL PARTS INCLUDING A GUARDIAN PART

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

Paragraph 1, “List Of Spouse And Children”, lets a person write the names of any living spouse and children they have, or if none maybe write “none”. This helps show a Testator has enough mental ability and memory to do a Will. Not listing a living spouse or child here can let an omitted person ask a judge to give them a share or all of a Testator’s property and money by claiming they were accidentally forgotten.

Paragraph 2, “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.

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

Paragraph 4, “Residue”, has a Residue Clause to say 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.

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

Paragraph 6, “Guardian”, names a person to if needed be Guardian to care for any minor child under age 18, and also be Conservator to if needed manage a minor child’s property and money.

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

Last is paragraphs for Testator and witnesses to date, sign, print their name, and write their addresses.

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

In a Will “Residue Clause” anything left over after other Will parts is transferred as the clause directs. Many people use a Residue Clause to gift most their things. In this Will form’s Residue Clause there is:

- 1) a 1st space to name 1 or more persons to get the Residue, and if any named here have died before the Will maker then other persons named here in this 1st space take the dead person’s share, and
- 2) a 2nd space to name people to get things if all people named in the 1st space have died, and if any people named in the 2nd space have died their shares go to “lineal descendants” like their children.

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

TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

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

LAST WILL AND TESTAMENT

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

1. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

_____.

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

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

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

4. RESIDUE. 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.

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

6. GUARDIAN. I name, nominate, and appoint _____
to be the Guardian of any minor child under age 18 of mine and to have care, authority, custody, and other control of them. I also name, nominate, and appoint this same person to be Conservator and to have care, control, and power over the property, money, and estate of any minor child of mine or other minors (including as Guardian of the Estate).

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

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

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

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.

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, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or 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 recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

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 in the time and manner they in their sole discretion choose.

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

No lawyer hired should be paid based on a percentage of estate property or similar.

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

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

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

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

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

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 Utah Uniform Transfers to Minors Act or a similar law anywhere, and may pick the person to be Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, _____, the Testator, have signed this document as my Will on the _____ day of _____, 20____.

Testator Signature

WITNESSES

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

Witness Signature

Printed Name and Residence of Witness

Witness Signature

Printed Name and Residence of Witness

CHAPTER 9

FORM 3: SELF-PROVING AFFIDAVIT

FORM IS SOMETIMES DONE WITH WILL TO REDUCE LATER LEGAL WORK

This form can be done after a Will is done to help with the work of using a Will after the Testator dies. This form must be done with a notary. This form is not required to have a valid Will and is often skipped. This book's form is 1 of 2 similar statutory forms found at Utah Code § 75-2-504 for people to use if wanted.

FORM HELPS TO LATER SHOW A WILL WAS PROPERLY SIGNED

This form can help when trying to use a Will after a death prove it was properly signed. If a Self-Proving Affidavit form isn't done more work may be needed later, like later witnesses to the Will signing must testify in probate court or submit a writing (or if these people aren't available usually other proof can be used). Also, if this form is not done there is slightly more risk a Will won't be followed later by a judge or others. 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 work of people who are probably happy to do work to get things using a Will. Some states have no Self-Proving Affidavit for Wills and manage fine.

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

To complete the form a person who is notary (also called "notary public") must see the Self-Proving Affidavit form signed by the Testator and the 2 witnesses to the Will signing, and then the notary signs and notarizes it. This form is done usually within a few minutes of when a Will is signed, but this form also can be done later even years later when Testator and 2 witnesses can meet with a person who is a notary. This form may not be done before the Will it supports is done. When filling in the form it may help to know "respectively" means "in the order just stated". Once it is done the Self-Proving Affidavit is then usually stapled or just paper-clipped to the Will it supports.

SELF-PROVING AFFIDAVIT

State of Utah

County of _____

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

Signature of Testator

Signature of Witness

Signature of Witness

Notary or Officer

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

Signed

Official capacity of officer: _____

CHAPTER 10

FORM 4: TANGIBLE PERSONAL PROPERTY LIST

LETS GIFTS OF SOME PROPERTY BE EASILY MADE OUTSIDE A WILL

This form lets people easily add to a Will some gifts of property they want to occur at their death. This form is often called by people a Memorandum, Gift List, or just a List.

FORM GIVES EASY QUICK WAY TO WRITE MORE GIFTS

This List form lets a person easily write more gifts of certain property to occur at their death without having to re-do a Will. To use this form Utah law just requires a valid Will says that Lists can be used, and all this book's Will forms say this. If a List and a Will gift the same item then by law the Will is followed. If multiple Lists gift the same item the more recently done page controls. People can modify an existing List page if they write a new date and signature on the page. Note, to help avoid later delay this book's form says a List not found within 90 days of a death will be ignored.

FORM CAN ONLY GIFT "TANGIBLE PERSONAL PROPERTY"

By law the form can only gift tangible (touchable) things, so usually not accounts or investments where ownership is tied to papers, accounts, or entities like a company. The form can only gift personal property so not real property (land or buildings). The form can't give money, whether coin or paper currency, even if it is antique. Most lawyers recommend the form not be used to gift property used in any trade or business. Improper property written in a List is later just ignored. Lists often are used to give clothes, furniture, vehicles, tools, antiques, jewelry, electronics, appliances, art, and similar.

It may help understanding to show the Utah law allowing Lists, which in its main part says:

75-2-513. Separate writing identifying devise of certain types of tangible personal property.

[A] will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money.

To be admissible under this section as evidence of the intended disposition, the writing shall be signed by the testator and shall describe the items and the devisees with reasonable certainty.

The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation; and it may be a writing that has no significance apart from its effect on the dispositions made by the will.

TO COMPLETE A LIST A PERSON JUST SIGNS AND DATES IT

The form must be signed and usually dated by person doing the form. Often List forms are kept with a Will. To cancel a List form it can be destroyed, crossed out, or just thrown away so it isn't found later.

TANGIBLE PERSONAL PROPERTY LIST

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

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

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

PROPERTY ITEMS

NAMES OF RECIPIENTS

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

DATE: _____

SIGNED: _____

CHAPTER 11

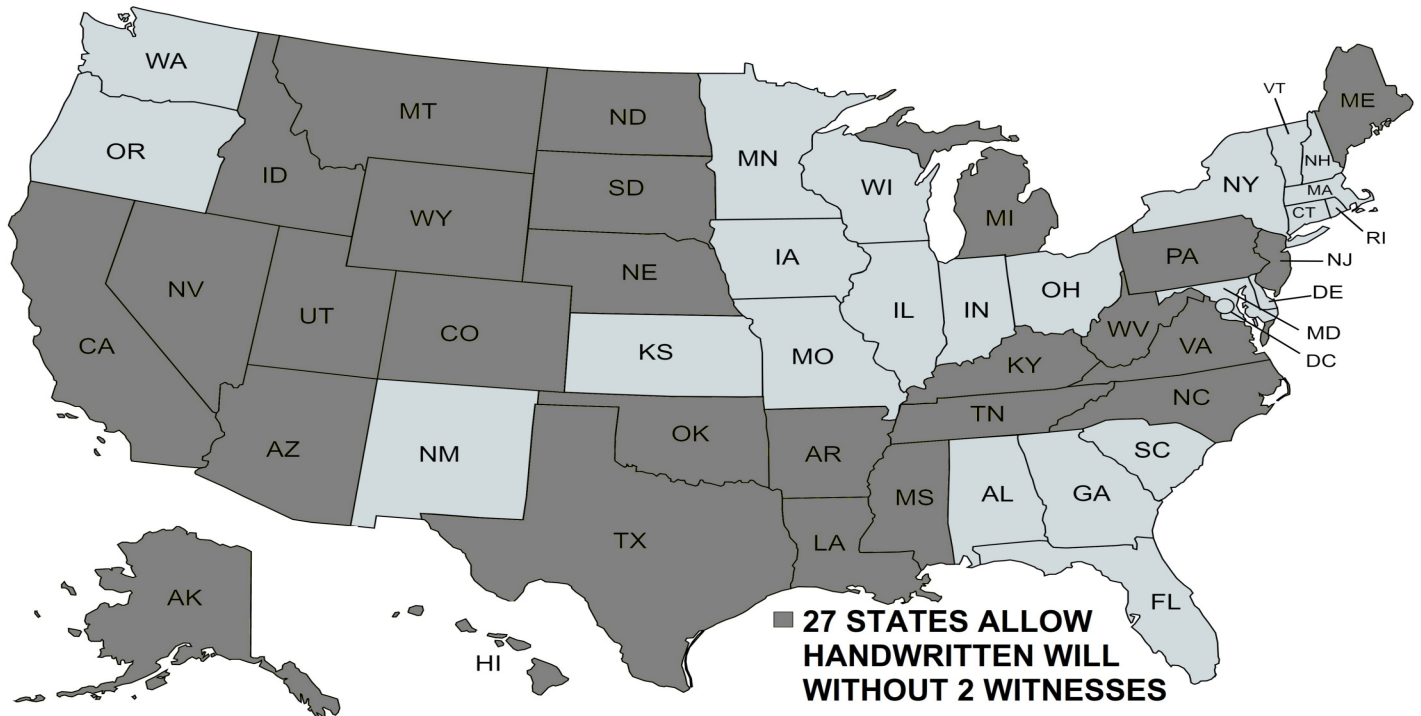
FORM 5: HANDWRITTEN WILL

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

In 27 states including Utah 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 it a “Handwritten Will”, and lawyers call it a “Holographic Will” (Holo means Whole and Graph means Image in the Greek language). State lawmakers allow this since handwriting is harder 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. The U.S. 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 easy 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. To use a Handwritten Will later after a death some people must in writing or in testimony say the handwriting looks like the Testator's, which can be a hassle. 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 BELOW ON THIS PAGE CAN BE USED FOR A HANDWRITTEN WILL

People can do a Handwritten Will in a sentence that is legal but may leave out helpful parts, for example:

"As my Will I give my estate and all else to Ann Baker who shall be Executor. - Dan Baker"

But it is recommended people use more complex words for a Handwritten Will shown on this page below.

To do this people should change the names and words below on this page to match what they want done.

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 a Guardian and Conservator 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 Paul Smith and at this time I live in Davis County, Utah.
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 Hill.
My not giving to some other family of mine is intentional.*

3. *I name Jane Eve Smith as Personal Representative for me, my Will,
and my estate. I request informal probate.*

4. *No bond or similar is needed of any Personal Representative, Guardian
of any type, or Conservator.*

5. *For any minor child of mine I name Amy Sue Hill as Guardian to have
care, custody, and control of them, and I also name this same person as
Conservator for property, money, and estate of any minor child.*

May 8, 2023 John Paul Smith

CHAPTER 12

FORM 6: ADVANCE HEALTH CARE DIRECTIVE

FORM CAN NAME HEALTH CARE AGENT AND GIVE INSTRUCTIONS

This form lets a person name someone to control health care and give instructions in case later needed. This form is the statutory form found at Utah Code § 75-2a-117 for people to use, and this book copies how the form looks at the Utah Commission On Aging webpage at <https://ucoa.utah.edu/coreissues/directives/>. People can go to this website and fill in the form online, or people can use a pen or pencil to fill in the form.

FORM CAN NAME AGENT FOR HEALTH CARE

In the “Part 1: My Agent (Health Care Power of Attorney)” area of the form a person can name someone as Agent to control health care if they are later incapacitated (like by inability to communicate, be conscious, or think rationally enough). This person getting power is called the Agent or less often the Attorney-In-Fact, and often named is a spouse, adult child, relative, or friend. A person naming an Agent can help avoid a spouse, other family, or friends having to rush to a judge for more power over health care if the person is later incapacitated. In the form a 2nd person can be named to act if the 1st person doesn’t but this is rarely needed and often skipped. The Agent for health care usually should not be a health care worker unless they are a family relative. Options can be selected from, like if Agent can see medical records, if Agent should be a person’s Guardian if a judge finds it needed, if Agent should have power to put a person in a nursing home or similar, if Agent can set up organ donation, and if Agent can let a person be involved in medical research.

FORM CAN SAY IN SOME BAD SITUATIONS DON’T GIVE CERTAIN TREATMENTS

In the “Part 2: Health Care Wishes (Living Will)” area of the form a person can say what health care to not give in some bad health situations. Some other states call doing this a “Living Will” and use a separate form. In the form a person can pick 1) let Agent have full freedom to decide when to stop care, 2) give all normal care to prolong life no matter what, 3) do not prolong life and instead stop certain particular care, and say which circumstances trigger this and what care to stop, and 4) choose to not address this issue in the form. Many people either give all power in this area to their Agent or they skip deciding anything, and they do this because they find this decision too hard to make or they trust the Agent or family to wisely stop care if proper. Most doctors are glad to help explain the form and explain which options seem best for a person to pick. Instructions can be written down but most people skip this since they trust their Agent or family, and because if instructions are unclear then doctors and others may refuse to follow the form or even follow the Agent.

PERSON SIGNS FORM IN FRONT OF 1 WITNESS

The form must be signed by a person in front of 1 person acting as a witness who then also signs too. As the form explains certain related persons can’t act as witness, and most often used as witness is a friend, neighbor, worker at a business, or stranger. The very last paragraph deals with an “oral directive” which is done when a very sick person can’t help fill out the form directly but does say in a general their treatment wishes for people to write in the form. Once the form is done it usually is quickly shown to places that may give care so it can be put in a person’s medical file to be followed by all places. To cancel the form a person usually tells their doctor and places that saw the form that it’s cancelled and it should be removed from files.

Utah Advance Health Care Directive

(Pursuant to Utah Code Section 75-2a-117, effective 2009)*

Part I: *Allows you to name another person to make health care decisions for you when you cannot make decisions or speak for yourself.*

Part II: *Allows you to record your wishes about health care in writing.*

Part III: *Tells you how to revoke or change this directive.*

Part IV: *Makes your directive legal.*

My Personal Information

Name: _____

Street Address: _____

City, State, Zip Code: _____

Telephone: (_____) _____ Cell Phone: (_____) _____

Birth Date: _____

Part I: My Agent (Health Care Power of Attorney)

A. No Agent

If you do not want to name an agent, initial the box below, then go to Part II; do not name an agent in B or C below. No one can force you to name an agent.

☐

I do not want to choose an agent.

B. My Agent

Agent's Name: _____

Street Address: _____

City, State, Zip Code: _____

Home Phone: (_____) _____ Cell Phone: (_____) _____

Work Phone: (_____) _____

C. My Alternate Agent

This person will serve as your agent if your agent, named above, is unable or unwilling to serve.

Alternate Agent's Name: _____

Street Address: _____

City, State, Zip Code: _____

Home Phone: (_____) _____ Cell Phone: (_____) _____

Work Phone: (_____) _____

Part I: My Agent (*continued*)

D. Agent's Authority

If I cannot make decisions or speak for myself (in other words, after my physician or another authorized provider finds that I lack health care decision making capacity under Section 75-2a-104 of the Advance Health Care Directive Act), my agent has the power to make any health care decision I could have made such as, but not limited to:

- Consent to, refuse, or withdraw any health care. This may include care to prolong my life such as food and fluids by tube, use of antibiotics, CPR (cardiopulmonary resuscitation), and dialysis, and mental health care, such as convulsive therapy and psychoactive medications. This authority is subject to any limits in paragraph F of Part I or in Part II of this directive.
- Hire and fire health care providers.
- Ask questions and get answers from health care providers.
- Consent to admission or transfer to a health care provider or health care facility, including a mental health facility, subject to any limits in paragraphs E or F of Part I.
- Get copies of my medical records.
- Ask for consultations or second opinions.

My agent cannot force health care against my will, even if a physician has found that I lack health care decision making capacity.

E. Other Authority

My agent has the powers below only if I initial the "yes" option that precedes the statement. I authorize my agent to:

___ YES ___ NO Get copies of my medical records at any time, even when I can speak for myself.

___ YES ___ NO Admit me to a licensed health care facility, such as a hospital, nursing home, assisted living, or other facility for long-term placement other than convalescent or recuperative care.

F. Limits/Expansion of Authority

I wish to limit or expand the powers of my health care agent as follows:

G. Nomination of Guardian

Even though appointing an agent should help you avoid a guardianship, a guardianship may still be necessary. Initial the "YES" option if you want the court to appoint your agent or, if your agent is unable or unwilling to serve, your alternate agent, to serve as your guardian, if a guardianship is ever necessary.

___ YES ___ NO I, being of sound mind and not acting under duress, fraud, or other undue influence, do hereby nominate my agent, or if my agent is unable or unwilling to serve, I hereby nominate my alternate agent, to serve as my guardian in the event that, after the date of this instrument, I become incapacitated.

H. Consent to Participate in Medical Research

___ YES ___ NO I authorize my agent to consent to my participation in medical research or clinical trials, even if I may not benefit from the results.

I. Organ Donation

___ YES ___ NO If I have not otherwise agreed to organ donation, my agent may consent to the donation of my organs for the purpose of organ transplantation.

Part II: My Health Care Wishes (*Living Will*)

I want my health care providers to follow the instructions I give them when I am being treated, even if my instructions conflict with these or other advance directives. My health care providers should always provide health care to keep me as comfortable and functional as possible.

Choose only one of the following options, numbered Option 1 through Option 4, by placing your initials before the numbered statement. Do not initial more than one option. If you do not wish to document end-of-life wishes, initial Option 4. You may choose to draw a line through the options that you are not choosing.

Option 1	
_____ Initial	I choose to let my agent decide. I have chosen my agent carefully. I have talked with my agent about my health care wishes. I trust my agent to make the health care decisions for me that I would make under the circumstances.
Additional comments:	

Option 2	
_____ Initial	I choose to prolong life. Regardless of my condition or prognosis, I want my health care team to try to prolong my life as long as possible within the limits of generally accepted health care standards.
Additional comments:	

Option 3	
_____ Initial	I choose not to receive care for the purpose of prolonging life, including food and fluids by tube, antibiotics, CPR, or dialysis being used to prolong my life. I always want comfort care and routine medical care that will keep me as comfortable and functional as possible, even if that care may prolong my life.
<i>If you choose this option, you must also choose either (a) or (b), below</i>	
_____ Initial	(a) I put no limit on the ability of my health care provider or agent to withhold or withdraw life-sustaining care.
_____ Initial	(b) My health care provider should withhold or withdraw life-sustaining care if at least one of the initialed conditions is met:
<i>If you selected (a), above, do not choose any options under (b).</i>	☐ I have a progressive illness that will cause death
	☐ I am close to death and am unlikely to recover
	☐ I cannot communicate and it is unlikely that my condition will improve
	☐ I do not recognize my friends or family and it is unlikely that my condition will improve
	☐ I am in a persistent vegetative state
Additional comments:	

Option 4	
_____ Initial	I do not wish to express preferences about health care wishes in this directive.
Additional comments	

Name: _____

Part II: My Health Care Wishes (*continued*)

Additional instructions about your health care wishes:

If you do not want emergency medical service providers to provide CPR or other life sustaining measures, you must work with a physician or APRN to complete an order that reflects your wishes on a form approved by the Utah Department of Health.

Part III: Revoking or Changing a Directive

I may revoke or change this directive by:

- ♦ Writing “void” across the form, burning, tearing, or otherwise destroying or defacing this document or directing another person to do the same on my behalf;
- ♦ Signing a written revocation of the directive, or directing another person to sign a revocation on my behalf;
- ♦ Stating that I wish to revoke the directive in the presence of a witness who: is 18 years of age or older; will not be appointed as my agent in a substitute directive; will not become a default surrogate if the directive is revoked; and signs and dates a written document confirming my statement; or
- ♦ Signing a new directive. (*If you sign more than one Advance Health Care Directive, the most recent one applies.*)

Part IV: Making My Directive Legal

I sign this directive voluntarily. I understand the choices I have made and declare that I am emotionally and mentally competent to make this directive. My signature on this form revokes any living will or power of attorney form naming a health care agent that I have completed in the past.

Date

Signature

City, County, and State of Residence

I have witnessed the signing of this directive, I am 18 years of age or older, and I am not:

1. Related to the declarant by blood or marriage;
2. Entitled to any portion of the declarant's estate according to the laws of intestate succession of any state or jurisdiction or under any will or codicil of the declarant;
3. A beneficiary of a life insurance policy, trust, qualified plan, pay on death account, or transfer on death deed that is held, owned, made, or established by, or on behalf of, the declarant;
4. Entitled to benefit financially upon the death of the declarant;
5. Entitled to a right to, or interest in, real or personal property upon the death of the declarant;
6. Directly financially responsible for the declarant's medical care;
7. A health care provider who is providing care to the declarant or an administrator at a health care facility in which the declarant is receiving care; or
8. The appointed agent or alternate agent.

Signature of Witness

Printed Name of Witness

Street Address

City

State

Zip

If the witness is signing to confirm an oral directive, describe below the circumstances under which the directive was made.

Name: _____

CHAPTER 13

FORM 7: PROVIDER ORDER FOR LIFE-SUSTAINING TREATMENT

FORM SAYS STARTING IMMEDIATELY DO NOT TRY SOME HEALTH CARE

This form (often called the “POLST” form) lets a person do serious step of saying starting immediately don’t try certain treatments as the form shows (such as cardio-pulmonary resuscitation (CPR) or antibiotics). The form is short and can be read fast (like by paramedics) and is often used by a person outside a facility, but it can be used inside places too. This book’s form is a standard form state form from a Utah agency. Some other states call this form the “Physician Orders” form. The POLST form has mostly replaced the separate “Do-Not-Resuscitate” form which can still be used but just 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 if they are later incapacitated and health personnel are deciding what care to give. A doctor or similar person must co-sign the form and think it proper. Health personnel can help explain the form and options to a person. The main thing the form does is says don’t try “resuscitation” to restart or help the heart or breathing, which includes cardio-pulmonary resuscitation (CPR) and also electric shocks (defibrillation) to help the heart. There are other treatment options the form can say to not try, like tube feeding and mechanical ventilation. A doctor usually helps explain the form. Of course a person with capacity still thinking OK can override the form by verbally requesting care or just not showing the form to paramedics or others. If a person falls ill even if they have done this form they are still usually taken to get pain relief and comfort care. But this form is rarely done since these kinds of health situations often don’t occur, it can be stressful to decide this issue, and many people trust their family or Agent for health care to consider all factors and wisely say when to stop care.

FORM IS SIGNED BY A DOCTOR AND THE 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 often have copies of the form to use on colored paper. Once done a form usually is shown to doctors and places that may give health care so they can follow it. Some people keep copies handy for themselves or family to show to paramedics and others who may want to try to give care. The form is sometimes kept on bedside table, on a home fridge, pinned to a shirt or in a pocket, or some people wear a special bracelet or necklace that doctors can help order. To cancel the form usually a person just tells all places that saw the form that it is canceled.

Provider Order for Life-Sustaining Treatment (POLST)

Utah Life with Dignity Order

Bureau of Licensing and Certification, Utah Department of Health
State of Utah Rule R432-31 v3.1 February 2019 (<http://health.utah.gov/hflcra/forms.php>)

Patient's Last Name		First Name/Middle Initial		Effective Date of this Order	
Date of Birth		Last 4 of SS#		Address (street/city/state/zip)	
Medical Provider's Name (MD/DO/PA/APRN)				Medical Provider's Phone	
Brief description of patient's medical condition					
Patient's stated goals for medical care					
A. CARDIOPULMONARY RESUSCITATION (CPR) Treatment options when the patient does not have a pulse and is not breathing (CHECK ONE)					
☐ Attempt to resuscitate (selecting attempt to resuscitate requires selecting full treatment in Section B) ☐ Do not attempt or continue any resuscitation (DNR) (Allow Natural Death) ☐ I do not wish to express a preference (selecting this may lead to attempt to resuscitate)					
B. MEDICAL INTERVENTIONS Treatment options when the patient has a pulse and is breathing (CHECK ONE)					
☐ FULL TREATMENT: <i>Prolonging life by all medically effective means.</i> Medical care may include endotracheal intubation, mechanical ventilation, defibrillation/ cardioversion, vasopressors, and any other life-sustaining care that is required. Also includes medical care described below.					
☐ LIMITED ADDITIONAL INTERVENTIONS: <i>Treating medical conditions while avoiding burdensome measures.</i> Medical care may include treatment of airway obstruction, bag/valve/mask ventilation, monitoring of cardiac rhythm, IV fluids, IV antibiotics and other medications as indicated. Also includes medical care described below. No endotracheal intubation or mechanical ventilation. Generally avoid the Intensive Care Unit.					
☐ COMFORT MEASURES: <i>MAXIMIZING comfort and dignity.</i> Medical care may include oral and body hygiene, reasonable efforts to offer food and fluids orally, medication, oxygen, positioning, warmth and other measures to relieve pain and suffering. Transfer to the hospital only if comfort measures can no longer be managed at the current setting.					
☐ NO PREFERENCE: I do not wish to express a preference (selecting this may lead to full treatment).					
Other Instructions or clarification; Describe goals and/or time period if a trial intervention is desired:					
C. ARTIFICIAL NUTRITION					
☐ Long term artificial nutrition with feeding tube ☐ Trial period of artificial nutrition with feeding tube ☐ No artificial nutrition ☐ I do not wish to express a preference					
Describe goals and/or time period if a trial is desired:					
D. ADVANCE DIRECTIVE AND PATIENT PREFERENCES					
☐ Advance Directive available, reviewed and confirmed without conflicts ☐ No Advance Directive available					
Health care agent named in Advance Directive				Phone Number	
☐ I, the patient, want this order to serve as a general guide. I understand in some situations, the person making decisions for me may decide something different if they think it is consistent with my preferences.					☐ I, the patient, want this order to be followed strictly.
Discussed with:					
REQUIRED SIGNATURES					
Print Name		Relationship: (write self if patient)		Signature	
Signature of Medical Provider (MD/DO/PA/APRN) Two signatures required for minors		Print Name		License Number	
Signature of licensed professional preparing form		Print Name		Title	

UTAH
POLST
UTAH
POLST
UTAH
POLST
UTAH
POLST
UTAH
POLST

Provider Order for Life-Sustaining Treatment (POLST)

Utah Life with Dignity Order

Bureau of Licensing and Certification, Utah Department of Health
State of Utah Rule R432-31 v3.1 February 2019 (<http://health.utah.gov/hflcra/forms.php>)

DIRECTIONS FOR HEALTHCARE PROVIDERS

COMPLETING POLST

- This form is intended for both adult and pediatric patients.
- The POLST is not an Advance Directive and does not replace it. The POLST is a Medical Order.
- When available, review the Advance Directive and POLST form to ensure consistency.
- The POLST must be completed by a medical provider (MD/DO/PA/APRN) based on patient preferences and medical indications.
- The entire form should be completed. A patient may indicate that they "do not wish to express a preference" rather than leaving a section of the form blank.
- Section D, which indicates the degree of leeway the patient would like to grant their surrogate, must be completed by the individual patient and only if the patient has medical decision-making capacity.
- The POLST must be signed by the patient or surrogate decision maker AND by a medical provider (MD/DO/PA/APRN) to be valid. In the case of pediatric patients, signatures from two different medical providers are required.
- Use of the original form is strongly encouraged. Photocopies and FAXs of signed POLST forms are legal and valid.

USING POLST

Section A:

- If a patient has selected "Do Not Attempt Resuscitation" and is **found pulse less and not breathing**, no defibrillator (including automated external defibrillators) or chest compressions should be used.

Section B:

- A person may chose "DNR" in Section A and "Full Treatment" in Section B, recognizing in Section A the setting refers to where there are no signs of life (palpable pulse) and Section B refers to the setting where there are signs of life.
- Choosing "Attempt to resuscitate" in Section A requires "Full treatment" in Section B as an attempt at resuscitation may include endotracheal intubation, mechanical ventilation, defibrillation/ cardioversion, and/or vasopressors.
- When comfort cannot be achieved in the current setting, the patient, including someone with "Comfort Measures," may be transferred to the hospital to provide comfort (e.g., treatment of hip fracture).
- If a patient has indicated that he/she would not want to return to the hospital, this should be written in the "other instructions and clarifications" section of the form.
- IV antibiotics and fluids are generally not considered "Comfort Measures" and may prolong life. A person who desires IV fluids or IV antibiotics should indicate "Limited Additional Interventions" or "Full Treatment."
- Some IV medications (e.g. medication for pain, nausea, delirium, etc.) may be appropriate for a patient who has chosen "Comfort Measures."

REVIEWING POLST

This form should be reviewed periodically (consider at least annually). Review is also recommended when:

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

MODIFYING AND VOIDING POLST

- The POLST form can be modified at any time if a patient changes his/her mind about his/her treatment preferences by completing a new POLST form.
- If a patient has given sufficient leeway to his/her surrogate to modify the POLST form, any modifications made should be consistent with patient preferences and in collaboration with the medical provider.
- It is recommended that revocation of the form be documented by drawing a line through sections A through D, writing "VOID" in large letters, and signing/dating the form.
- The most recently dated POLST is considered the valid POLST. The most recently dated POLST orders supersede all prior POLST directives.

Place this form in a prominently visible part of the patient's record or home. A copy of this form must accompany the patient when transferred or discharged (including transfers to hospital emergency departments).

U
T
A
H

P
O
L
S
T

U
T
A
H

P
O
L
S
T

U
T
A
H

P
O
L
S
T

CHAPTER 14

FORM 8: STATUTORY FORM 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". This book's form is a statutory form from at Utah Code § 75-9-301 with a few bits added. This form is available at the Utah State Courts webpage at <https://www.utcourts.gov/en/self-help/categories/probate/power-of-attorney-general.html>. The form is called "Durable" since it still has power if the person who did the form is later incapacitated.

FORM LETS POWER BE SHARED WITH SOMEONE TO LET THEM DO THINGS

This form lets a person share power to do things with their money, property, records, and other things to someone trusted like a spouse, other family, or a friend. The form can avoid need for more serious legal options like a Guardianship over an adult from a judge. The person giving power is called the "Principal" and the person getting power is called "Agent" or sometimes "Attorney in Fact". A second person can be named to later act as Agent if needed but this is rarely needed and often skipped. This form can help in situations like if a person is sick or busy, and it can let someone else pay bills, use accounts, buy or sell items, hire people, borrow, sign contracts, and get records. Most people let the form be effective immediately to avoid some legal issues. A person who isn't incapacitated can overrule or fire their Agent. The form lets a person say who'd they prefer as Guardian and also Conservator to help the person if a judge ever finds it needed.

IN FORM CAN SELECT NORMAL POWERS AND MORE RISKY POWERS TO GIVE

A person can initial some boxes to say which of more normal powers are given in the "General Authority" part of the form. Most people give all these powers. Then later in the form is the "Specific Authority" part of the form, and in this part some more risky and less often needed powers can be given, and most people skip all these powers. Instructions can be written to follow but most people after naming an Agent skip giving instructions since if these are unclear a bank or others may delay or refuse to obey an Agent.

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 Agent can be wasteful with money, commit fraud or theft, by carelessness allow other harms, or do worse. A person acting as Agent 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 an Agent's orders. The law is complex and basic acts may be fine for Agent like paying bills but some acts may be improper like making gifts, risky investments, or unusual acts. It is best if a person not their Agent does anything unusual.

PERSON SIGNS FORM IN FRONT OF A NOTARY

A person must sign the form in front of a notary who then notarizes it. When completed often the form goes to the Agent to hold and use if needed. To cancel the form a person usually tells the Agent and takes back copies and maybe tells places that saw the form. Later a bank or other parties may ask an Agent sign the Agent's Certification which is found at Utah Code § 75-9-302. If ever an Agent signs a contract using the form they should sign like, for example: "Ray Alan Moe signing as Agent under a Power of Attorney for Ann Eve Hill".

UTAH STATUTORY FORM POWER OF ATTORNEY

Utah Code Sections 75-9-101 et seq.

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in Title 75, Chapter 9, Uniform Power of Attorney Act.

This power of attorney does not authorize the agent to make health care decisions for you.

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

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

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

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent.

You may also name a second successor agent. This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

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

DESIGNATION OF AGENT

I _____ (Name of Principal)

name the following person as my agent:

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

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

Name of Successor Agent: _____

Successor Agent's Address: _____

Successor Agent's Telephone Number: _____

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

Name of Second Successor Agent: _____

Second Successor Agent's Address: _____

Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in Title 75, Chapter 9, Uniform Power of Attorney Act:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

- ☐ Real Property
- ☐ Tangible Personal Property
- ☐ Stocks and Bonds
- ☐ Commodities and Options
- ☐ Banks and Other Financial Institutions
- ☐ Operation of Entity or Business
- ☐ Insurance and Annuities
- ☐ Estates, Trusts, and Other Beneficial Interests
- ☐ Claims and Litigation
- ☐ Personal and Family Maintenance
- ☐ Benefits from Governmental Programs or Civil or Military Service
- ☐ Retirement Plans
- ☐ Taxes
- ☐ All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

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

CAUTION:

Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death.

INITIAL ONLY the specific authority you WANT to give your agent.

- ☐ Create, amend, revoke, or terminate an inter vivos trust
- ☐ Make a gift, subject to the limitations of Section 75-9-217, and any special instructions in this power of attorney
- ☐ Create or change rights of survivorship
- ☐ Create or change a beneficiary designation
- ☐ Authorize another person to exercise the authority granted under this power of attorney

- [] Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- [] Exercise fiduciary powers that the principal has authority to delegate
- [] Disclaim or refuse an interest in property, including a power of appointment

LIMITATION ON AGENT'S AUTHORITY

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

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)

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

Name of Nominee for conservator of my estate: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

Name of Nominee for guardian of my person: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

OTHER PROVISIONS

This instrument is to be construed and is to be interpreted as a power of attorney. Enumeration of specific powers herein is not intended to, nor does it, limit or restrict the general powers herein granted to my agent. This power of attorney is effective immediately unless stated otherwise in the Special Instructions. This power of attorney shall be governed by and construed in accordance with the laws of the State of Utah. If part of this power of attorney is invalid or unenforceable then all other provisions remain in effect. **This power of attorney is not affected by subsequent disability or incapacity of the principal unless stated otherwise in the Special Instructions.**

RELIANCE ON THIS POWER OF ATTORNEY

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

SIGNATURE AND ACKNOWLEDGMENT

Your Signature: _____ Date: _____

Your Name Printed: _____

Your Address: _____

Your Telephone Number: _____

(NOTARY OR OFFICER)

On this date, I certify that _____ (name)
who is known to me or who presented satisfactory identification, in the form of
_____ (form of identification), has,
while in my presence and while under oath or affirmation, voluntarily signed this
document and declared that it is true.

_____ Sign here ► _____

Date

Typed or printed name (Notary Public) _____

Notary Seal

[This document prepared by: _____]

IMPORTANT INFORMATION FOR AGENT

AGENT'S DUTIES

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

- (1) do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;
- (2) act in good faith;
- (3) do nothing beyond the authority granted in this power of attorney; and
- (4) disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner: (Principal's Name) by (Your Signature) as Agent

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

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

TERMINATION OF AGENT'S AUTHORITY

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

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

LIABILITY OF AGENT

The meaning of the authority granted to you is defined in Title 75, Chapter 9, Uniform Power of Attorney Act. If you violate Title 75, Chapter 9, Uniform Power of Attorney Act, or act outside the authority granted, you may be liable for any damages caused by your violation.

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

CHAPTER 15

FORM 9: POWER OF ATTORNEY OVER PROTECTED PERSON OR MINOR CHILD

FORM LETS PARENT SHARE POWER WITH SOMEONE OVER CHILD UNDER 18

This form lets a parent (or guardian) share power with someone else over a child under age 18 or some other protected person like a mentally disabled adult. This book's form is copied with small changes from the Utah Supreme Court website where the Supreme Court made this available for people to use if wanted. Using this form can avoid the need to do more serious things at court like a Guardianship over a person.

FORM CAN GIVE POWER TO SOMEONE OVER CHILD UNDER AGE 18

This form lets a parent say they are sharing power over a child under 18 with someone they then name. The person getting power is called the "Attorney-In-Fact" but the term "Agent" is also used for this person. Most parents give the Attorney-in-Fact power to do all things they can to reduce risk of legal issues or delay, and they do this by checking the 3rd item and skipping the 4th item in the form. Often receiving power in this form is a relative, friend, or teacher now helping watch a child or who is willing to do this if later needed. This form can be used if parent and child are apart for work, school, training, rehab, sports, prison, military, immigration, or long visits. The form is mostly not done for brief situations like a babysitter, daycare, short family visits, or times a parent can come quickly. People with more than 2 children can do multiple forms. Power over health care and school is normally given by this form, but no power to agree to adoption or marriage or any permanent change can be given. The person who did the form can overrule any particular decision or just totally fire the person they named. Power of the form can usually only last for 6 months but then people can re-do another copy of the form.

PERSON SIGNS FORM IN FRONT OF A NOTARY

The person doing the form must sign it in front of a notary who then notarizes it (some officials at court can also complete this form). Some people modify the form so the 2nd parent also signs this form, and this tends to make doctors, schools, and others more likely to follow the form. Once completed usually the form is given to the Attorney-in-Fact to use if needed. This form is not usually filed at any court. To cancel the form a person usually tells the Attorney-in-Fact and takes back copies, and maybe also tells all places that were shown the form that it is now cancelled.

POWER OF ATTORNEY OVER PROTECTED PERSON OR MINOR CHILD

I swear that the following is true:

(1) I am the [] parent [] court-appointed guardian of _____ (name),
who was born on _____ (date).

(2) I appoint the following person as my attorney-in-fact for the person named in Paragraph (1).

Name _____
Street Address _____
City, State, Zip _____
Phone _____
E-mail _____

(Check (3) OR (4), not both. If you check (4), describe the authority being delegated.)

(3) [] I delegate to my attorney-in-fact **all power and authority that I have as a parent or guardian**, except the power to consent to marriage or adoption.

(4) [] I delegate to my attorney-in-fact **only the specific authority** to:

(5) This power of attorney lasts until _____ (date). (This date must be within the next 6 months.)

(6) [] This power of attorney lasts even in the event of my disability. (Check if wanted.)

Date _____ Sign here ► _____

Typed or printed name _____

Street Address _____

City, State, Zip _____

Phone _____

E-mail _____

NOTARY OR OTHER OFFICER:

On this date, I certify that _____ (name)

who is known to me or who presented satisfactory identification, in the form of

_____ (form of identification), has, while in my

presence and while under oath or affirmation, voluntarily signed this document and declared that it is true.

Date: _____ Sign here ► _____

Typed or printed name _____

Notary Seal

CHAPTER 16

FORM 10: APPOINTMENT OF AGENT TO CONTROL DISPOSITION OF REMAINS

LETS PERSON BE NAMED AND INSTRUCTIONS GIVEN TO HANDLE DEAD BODY

This form lets someone be named by a person to control their body after death (their “remains”) and related things like funeral, burial, cremation, ceremonies, and buying things for all this, and also if wanted lets instructions be given on all this. This book’s form is based on a form many Utah funeral homes use.

FORM CAN NAME PERSON TO CONTROL DEAD BODY AND RELATED ISSUES

A person doing the form (called “Designator”) can name someone (called “Agent”) to control things with their dead body and related issues like funeral, burial, cremation, food, tombstone, and ceremonies. If this form isn’t done then under state law control of all this is by the closest family member (in order this means a spouse, adult children, parents, then siblings). Instructions can be written down on these things, but many people skip this and just trust the Agent or family to do what a person mentioned they wanted. People do this form very rarely, like if it seems family would do a bad job, like they may be too upset while mourning, be bad with money, or do unwanted things. Payment for burial, cremation, ceremonies, and related things will come from pre-paid funeral accounts, insurance, and dead person’s money and property. A person’s Executor and family are legally required to help arrange payment for these things, including whatever the Agent later decides to do, if a dead person’s estate can afford it.

PERSON SHOULD SIGN THE FORM USING 2 WITNESSES OR A NOTARY

A person must sign the form using 2 persons as witnesses who then sign, or, alternatively, using a person who is a notary who then notarizes and signs. Once done the form can be given to someone to hold and use when needed, or it can be put in a place where it can be gotten quickly within a few days of a death (like in a file cabinet, a safe, or desk drawer). The person named Agent in the form usually at some later day signs at the very end of the form to show they accept their appointment to this job as the form says. Note, instead of this form these funeral and related issues can be handled in a Will.

APPOINTMENT OF AGENT TO CONTROL DISPOSITION OF REMAINS

As allowed by Utah Code 58-9-602 or similar law, I, _____, who am called in this document the Designator, do make known my desire that upon my death the control of disposition of my dead body be controlled by _____, and with respect to that subject only I appoint this person as my Agent in this document who shall have full power to control the disposition of my remains. This Agent has complete authority to act on my behalf and direct all details related to my after-death care, including: obituary, funeral or memorial service, cemetery, monument, memorialization, reception, final disposition, and other related matters.

SPECIAL DIRECTIONS: Set forth below are any special directions limiting the power granted to my Agent as well as any instructions or wishes desired to be followed in the disposition of my remains: _____

I have entered into a pre-paid pre-need contract with a mortuary or cemetery: yes / no

If yes, name of entity: _____

FUNDING: I have provided sufficient funds to pay for my after-death care in this way:

If for any reason those funds become inadequate my Agent is personally responsible to pay only the balance of those costs that the Agent authorized. My Agent has full authority to make any changes to reduce the cost of my after death care.

DURATION: This appointment becomes effective upon my death.

PRIOR APPOINTMENTS REVOKED: I revoke any prior appointment of any person to control the disposition of my remains, including (if a different person) a Personal Representative named in my will (according to Utah Code 75-3-701).

RELIANCE: Any cemetery organization, business operating a crematory or columbarium or both, funeral director, embalmer, dispositioner, funeral committee or mortuary, Vital Records Registrar, or Care Facility who receives a copy of this document may act under such copy. No business or agency shall be liable because of reliance on a copy of this document.

ASSUMPTION: THE AGENT BY ACCEPTING THIS APPOINTMENT, ASSUMES THE OBLIGATIONS PROVIDED HEREIN, AND IS BOUND BY THE PROVISIONS OF UTAH SECTION 58-9-602 which states that a person designated in writing has the first right and duty to control the disposition and funeral arrangements of a deceased person.

SIGNATURES

(complete by Designator signing with either 2 witnesses or a person who is a notary or similar)

Signature: _____ Date: _____

Print Name: _____

WITNESSES:

Witnesses hereby affirm the person named Designator above made the stipulations stated above.

Signature Witness 1: _____ Date: _____

Print Name: _____

Signature Witness 2: _____ Date: _____

Print Name: _____

NOTARY:

In the STATE OF UTAH, COUNTY OF _____

The foregoing instrument was acknowledged by _____, the Designator, before me on the _____ day of _____, 20____.

Signature
Commission Expires: _____

AGENT ACCEPTANCE (OPTIONAL):

The Agent named above may later sign and do this part to accept appointment of this position.

Signature: _____ Date: _____

Print Name: _____

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 Wasatch County, Utah 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. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

none

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

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

SKIPPED

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

4. RESIDUE. 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 my sister 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.

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

6. 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 I want Utah state law to apply to this Will and my estate.

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.

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, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or 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 recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

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 in the time and manner they in their sole discretion choose.

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

No lawyer hired should be paid based on a percentage of estate property or similar.

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

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

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

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

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

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 Utah Uniform Transfers to Minors Act or a similar law anywhere, and may pick the person to be Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, Paul Samuel Maxwell, the Testator, have signed this document as my Will on the 8th day of June, 2022 .

Paul Samuel Maxwell

Testator's Signature

WITNESSES

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

Eve Mable Rogers

Witness Signature

Eve Mable Rogers, 14 2nd St., Lehi, Utah 84043

Printed Name and Residence of Witness

Mary Ann Moon

Witness Signature

Mary Ann Moon, 35 Buffalo Road, Denver, Colorado 80101

Printed Name and Residence of Witness

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

LAST WILL AND TESTAMENT

I, Paul Brian Baker, of Salt Lake County, Utah, 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. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

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

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

I give big oak table to Anne J. Smith.

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

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

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

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

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

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

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

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

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

I give _____ to _____.

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

4. RESIDUE. 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 Ruth May Baker who survive me with persons just named who survive me taking the share of non-survivors, then

b) to 45% to Oscar Elliot Baker, and 45% to Karen Lisa Lundy, 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.

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

6. GUARDIAN. I name, nominate, and appoint Amanda Sue Brubaker my sister to be if needed the Guardian of any minor child under age 18 of mine and to have care, authority, custody, and other control of them. I also name, nominate, and appoint this same person to be Conservator and to have care, control, and power over the property, money, and estate of any minor child of mine or other minors (including as Guardian of the Estate).

7. 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 I want Utah state law to apply to this Will and my estate.

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.

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, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or 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 recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

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 in the time and manner they in their sole discretion choose.

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

No lawyer hired should be paid based on a percentage of estate property or similar.

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

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over. for this Will and my estate they shall be deemed in all ways as having died before me.

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 Utah Uniform Transfers to Minors Act or a similar law anywhere, and may pick the person to be Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, Paul Brian Baker, the Testator, have signed this document as my Will on the 30th day of December, 20 21.

Paul Brian Baker

Testator's Signature

WITNESSES

We, Olivia Anna Paulson and Matthew John Paulson, the Witnesses, sign our names to this instrument, and do hereby declare that the Testator signs and executes this instrument as the Will of the Testator, and that Testator signs it willingly, and that each of us in the presence and hearing of the Testator and of each other hereby signs this Will acting as a witness to the Testator's signing, and that to the best of our knowledge the Testator is at least 18 years of age, of sound mind, and under no constraint or undue influence.

Olivia Anna Paulson

Witness Signature

Olivia Anna Paulson, 82 Forest Road, Orem, UT 84404

Printed Name and Residence of Witness

Matthew John Paulson

Witness Signature

Matthew John Paulson, 82 Forest Road, Orem, UT 84404

Printed Name and Residence of Witness

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

LAST WILL AND TESTAMENT

I, John David Smith, of Davis County, Utah, 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. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

my son Adam Michael Smith
_____.

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

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

I give \$400 to Garner Food Shelf in Cliff, Utah by the interstate.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

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

4. RESIDUE. The rest 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 Judy Paula Ford who survive me and to lineal descendants per stirpes of a person just named who did not survive me.

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

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

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

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

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.

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, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or 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 recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

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 in the time and manner they in their sole discretion choose.

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

No lawyer hired should be paid based on a percentage of estate property or similar.

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

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

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

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

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

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 Utah Uniform Transfers to Minors Act or a similar law anywhere, and may pick the person to be Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, John David Smith, the Testator, have signed this document as my Will on the 21st day of June, 2021.

John David Smith

Testator's Signature

WITNESSES

We, John Elliot Potter and Ann Paula Blom, the Witnesses, sign our names to this instrument, and do hereby declare that the Testator signs and executes this instrument as the Will of the Testator, and that Testator signs it willingly, and that each of us in the presence and hearing of the Testator and of each other hereby signs this Will acting as a witness to the Testator's signing, and that to the best of our knowledge the Testator is at least 18 years of age, of sound mind, and under no constraint or undue influence.

John Elliot Potter

Witness Signature

John Elliot Potter, 2 Spruce St, Sherwood, UT 84031

Printed Name and Residence of Witness

Ann Paula Blom

Witness Signature

Ann Paula Blom, 70 Rocky Road, Clarksville, Utah 84042

Printed Name and Residence of Witness

Sample Filled Out Form: Self-Proving Affidavit
SELF-PROVING AFFIDAVIT

State of Utah

County of Davis

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

John David Smith
Testator

John Elliot Potter
Witness

Ann Paula Blom
Witness

Subscribed, sworn to, and acknowledged before me by John David Smith, the Testator, subscribed and sworn before me by John Elliot Potter, and Ann Paula Blom, Witnesses, this 21st day of June, 2021.

Lori Callin

Signed

Official capacity of officer: _____



Sample Filled Out Form: Tangible Personal Property List

TANGIBLE PERSONAL PROPERTY LIST

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

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

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

PROPERTY ITEMS

NAMES OF RECIPIENTS

1998 Ford Truck	to	Samantha Bell
1.3 carat diamond ring + Irish rings	to	Ann Sue Reed
14 ft power boat + kayak + paddles	to	L. Wheeler
Amish style bench	to	Reba Stewart
glass table, telescope, umbrellas	to	Rebecca Stewart
Irish wood cups, oak platter, red vase	to	Mary and Cindy Lott
painting of sailboat in storm	to	Mary Lott
chainsaw marked with 382937	to	Mary Lott
chainsaw marked with 89930	to	Matt Smith
antique lanterns + repair kits	to	Sue Wu maid at Hart Hotel
oak lamp kept on porch	to	Mary Kay Poppler
sewing machines	to	Mary Kay Poppler
rocking chair bought in Oregon	to	Don Winkler boat mechanic
all fishing poles and fishing nets	to	Joe "Fish" Hoss, fishing pal
hats at cabin	to	Ken Baker
	to	
	to	
	to	
	to	

DATE: 8-15-2022

SIGNED: John David Smith