

WILL WORKSHEET

FORT JACKSON LEGAL ASSISTANCE OFFICE

(803) 751-4287

Please ensure that this worksheet is filled out completely and accurately prior to returning to the Legal Assistance Office. Throughout this worksheet, you are the “*Testator*.”

READ FULLY BEFORE STARTING:

This worksheet is intended for the preparation of your will, a healthcare power of attorney, a living will, and a durable or springing power of attorney. Please bring a completed worksheet with you when you consult with an attorney. Please note that this is a “simple will” worksheet; it does not cover complex estate and tax planning. If you believe that your estate exceeds \$5,000,000 in value, including life insurance, personal and real property, and investments, inform your attorney as it may be subject to estate taxes. Also be aware that some individuals present complex issues that may require assistance beyond what is available in this office. If so, your legal assistance attorney may be able to help you find a civilian estate planning expert in your area.

→A will is a legal document in which you give instructions to be carried out after your death. For example, you may direct the distribution of your assets (money and property), and give your choice of guardians for your children. You can also name your beneficiaries and executor/personal representative for your estate. You can express your desires regarding funeral arrangements. A will becomes irrevocable when you die, but revocable by you prior to death. Note that if you have a previous will and nothing has changed in your life, the old will is still valid (so long as you know where it is located!) even if written years before. A will does not expire.

→A healthcare power of attorney is a document that sets out your wishes for health care if you are ever too ill or injured/incapacitated to speak for yourself (e.g. if you are unconscious after an accident). This document allows you to choose someone (an “agent”) to oversee your medical care and to make health care decisions for you while you are unable to do so. Your agent will work with doctors and other health care providers to make sure that you get the kind of medical care you wish to receive. When arranging your care your agent is legally bound to follow your treatment preferences to the extent that he or she knows about them.

→A living will (also called a “healthcare directive”, “declaration of a desire for a natural death” or “advance medical directive”) is a document that lets you state your wishes for end-of-life medical care. In South Carolina (and similarly in other states), The Death with Dignity Act authorizes competent adults to express their wishes regarding the use or withholding of life-sustaining procedures, including artificial nutrition and hydration, in the event they are diagnosed with a terminal condition or are in a state of permanent unconsciousness and in the further event that they are incapacitated or otherwise unable to express their desires. This document has no power after your death.

→A power of attorney (POA) is a legal document that allows someone else to speak and act on your behalf, as if they were you. Giving someone power of attorney is *a big deal* because they will have control over all of your financial assets, can sell your property, etc., so make sure that you select someone you trust. For incapacity planning purposes, we prepare either a durable or a springing POA. The durable POA we prepare is *durable*, which means that it becomes effective *immediately* upon your creating the document and survives and stays in effect if you were to become incapacitated (and even if you later regain capacity). A springing POA, on the other hand, does not become effective when you create the document. Rather, it “springs to life” only upon a certain event that is designated in the POA, which is most often your incapacitation. Talk to your legal assistance attorney if you are unsure which type of POA you should have, but we strongly recommend the springing variety.

NOTE: If your spouse wishes to create a will, he/she must fill out a separate will worksheet.
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1) Deployment/PCS Date (if deploying/PCSing): _____

If you otherwise need your will completed by a certain date, please give us the date and explain why:

2) Name: _____ Male Female
Last Name, First Name, Middle Name

Date of Birth: _____

Rank: _____ Branch of Service: _____ Military Status: _____

Current Address: _____

Unit: _____ E-mail Address: _____

Telephone (Cell/Home) Number: _____

State of Legal Residence/Domicile: _____

NOTE: The state of legal residence/domicile is not necessarily the same as your home of record. If you are not sure, discuss with an attorney. Factors of state of legal residence/domicile include vehicle registration, voter registration, driver's license, location of real estate, where you pay taxes, and your intent to return.

3) Are you a U.S. citizen? → Yes No

4) Marital Status: Married, and never married previously
 Married, but was previously married to another person
 Civil Union
 Widow(er)
 Divorced
 Single

5) Name of spouse: _____ Phone Number: _____

Name of ex-spouse(s): _____

6) Is your spouse a U.S. citizen? → Yes No

7) Enter the name(s) of your child(ren) and any anticipated child(ren):

Full Name (<i>Last, First, Middle</i>)	Age	Sex	Natural	Step	Adopted
1. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5. DO YOU ANTICIPATE ANY/OR ADDITIONAL CHILDREN? Yes No

6. Do any of these children have Special Needs? Yes No

8) Are there step children or adopted children? (your attorney will ask further questions) → Yes No

9) Do you own an interest in a family-owned business or farm that you intend to dispose of in your will?
 Yes No

10) Do you own any real property (land or house) that you intend to dispose of in your will? → Yes No

If you answered **NO**, please skip to question #13. If **YES**, please provide:

Location of Property(ies): _____

Description of Property(ies): _____ Value: \$

11) Do other persons own an interest in this land/real property? (your attorney will ask additional questions)
 Yes No

12) How do you intend to leave the real property?
 All to my spouse, then to my children equally if my spouse does not survive me
 All to my children equally
 To one or more different beneficiaries (*please list below*)

Real Estate Beneficiary

Relationship

1. _____

2. _____

Alternate Real Estate Beneficiary

Relationship

1. _____

2. _____

13) **Personal Property, Specific Gifts and Personal Property Memorandums:** How do you intend to devise your personal effects or other tangible property? "Personal property" is all other property that is not real property.

- All to my spouse
- As per a list of specific gifts (with all items *not* listed passing to my spouse)
- As per a Personal Property Memorandum (with all items *not* listed passing to my spouse)
- Other _____

You may elect to make specific gifts of cash or personal property to specific people or charities in your will (e.g., wedding ring to daughter, 1957 Chevy to friend, etc.). If you make any specific gifts, you should only give property that you are reasonably sure that you will still have when you pass away. If you make no specific gifts, all of your property will pass as part of your residuary estate, which is the catch-all provision of your will that gives away all other remaining property.

If you wish to give a specific item to a family member or other individual, indicate below the name of the beneficiary (person receiving the gift) and the type/description of the gift. Alternatively, most states allow you to create a *personal property memorandum*, which is a document mentioned in the will but is separate from the will, in which you list specific items of property and to whom you want them to be given.

WRITE OUT what you want to give away and to whom you want to give it: _____

14) Residuary Estate: Your “residuary estate” is whatever property remains in your estate after your lawful debts, taxes, expenses of administration, and any specific gifts, etc., have been paid or distributed. How do you intend to leave your residuary estate?

- All to my spouse, then to my child(ren), if any, if my spouse dies before me
- Other (list below)

Indicate below to whom you wish to give your residuary estate and what percentage each beneficiary will receive. The percentages must add up to 100 percent. NOTE: if a residuary beneficiary predeceases, then our default construction is to give that person’s portion to the other residuary beneficiaries.

Residuary Estate Beneficiary	Relationship	% of Estate
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

15) Alternate/Contingent Beneficiaries: If *all* the beneficiaries you named above do not survive you, do you wish to name alternative beneficiaries(s) to take your property? If you do not, the default laws of the state always apply as a last resort. Yes No → If yes, indicate below to whom and their relation to you.

Name of Alternative Beneficiary	Relationship	% of Estate
1. _____	_____	_____
2. _____	_____	_____

16) Grandchildren: if you have/were to have grandchildren, would you want them to receive your child’s share if your child did not survive you? [by policy we default to this, called *per stirpes*] → Yes No

17) Executor / Personal Representative: An “Executor” (or personal representative) is the individual (or individuals) who will administer your estate upon your death. The Executor will be responsible for gathering all your belongings and assets, paying your debts and any taxes that you owe, and ensuring that the remainder of your estate is properly distributed to your intended beneficiaries. Any adult (18 or older) may serve as your Executor, although some States have a preference for or require an Executor to be a legal resident of the State where the will is probated. Therefore, you should select family members (usually your spouse) or responsible friends who are residents of the same State that you claim is your legal residence or the State where you own real property. Make sure they are responsible persons that you trust. A “successor” is a person who will serve in the event that the first named individual is unable or unwilling to serve; we recommend having at least one successor executor.

Who do you want to appoint as your Executor?

Name of Executor(s) (in order of succession)	Relationship
1. _____	_____
2. _____	_____

18) Guardian of the Minor Children: If you and the other natural parent/guardian of your child(ren) die while your child(ren) are still minors, you should appoint a Guardian who will have physical care and custody of your child. We recommend that you list a successor/alternative Guardian as well.

Who do you want to appoint as Guardian of the minor children? Explain in your own words , with address and phone number: _____

19) Leaving Property to Minors: Minors can be beneficiaries of your will, but they cannot directly receive property. There must be an adult who will hold the property until the minor reaches a particular age. There are three means of providing property to minors: guardianship/conservatorship, custodianship, or trust.

a) Guardianship/Conservatorship: You can appoint a Guardian of the *Property* (sometimes called a Conservator), who will care for the property of a minor child. This person should usually be the Guardian of the Minor listed above. Because of possible delays, court oversight, and lack of flexibility, this method is not generally recommended.

b) Custodianship: A custodianship is a form of statutory trust under your State’s Uniform Transfers to Minors Act (UTMA) or Uniform Gifts to Minors Act (UGMA). This is generally preferred because it is faster and there is less court oversight. The custodian must give all the property to the minor by a certain age (which varies by state, but is usually age 21). This method is often preferable to a testamentary trust because it is less complicated and less expensive. However, you must also have trust in the person you select, because there is less court oversight, and the custodian should usually be the same person you named as the Guardian of the minor child above. For most people, this is the best option. The age is 21 in South Carolina.

c) Testamentary Trust: You may elect to give property to a minor through a trust. The property is given to a person you designate as the Trustee, who will hold the estate in trust for the benefit of your beneficiary(ies) until such beneficiary(ies) reach the age you designate. The Trustee will manage the trust under minimal court supervision. Your Trustee should be responsible, well organized, trustworthy, and experienced in maintaining books and records. This method provides the greatest degree of flexibility, but is more complicated and expensive. Note that the trust is created in your will, so it only comes into existence during probate.

- How do you want property that you leave to a minor to be held:
- Guardianship of the Property/Conservatorship
 - UTMA/UGMA Custodianship
 - Testamentary Trust

Please list the person you wish to hold the property for the minor. (**NOTE:** This person should generally be the same as the person you named to be Guardian of the Minor Child.)

Name of Guardian/Custodian/Trustee (in order of succession)	Relationship	Co/Successor
1. _____	_____	<input type="checkbox"/> Co <input type="checkbox"/> Successor
2. _____	_____	<input type="checkbox"/> Co <input type="checkbox"/> Successor
3. _____	_____	<input type="checkbox"/> Co <input type="checkbox"/> Successor

- 20) A beneficiary must have attained what age to be entitled to receive a gift outright?
- 18 years old.
 - 21 years old.
 - Some other age or distribution → specify: _____.

NOTE: Depending on your State's laws, any age greater than 21 may not be possible without a trust. Speak to your attorney about this during your appointment. If you choose UTMA/UGMA, then the statutory age of your state controls.

21) A single testamentary trust (see description on previous page) forces the oldest child to wait until all the other children reach the specified age before the oldest child may receive his/her share of the trust's principal. This may pose a problem if there is a large age disparity between the oldest child and youngest child. On the other hand, a separate trust for each child may be more cumbersome and likely more expensive. We recommend a single trust for most people, with the power to dissolve the trust if it becomes uneconomical (without specifying a specific amount). If you would like a different arrangement, please speak with your legal assistance attorney.

If you wish to establish a trust, do you want the gifts to all of your minor children to be held in a single trust, rather than have a separate trust for each child?

- Yes
- No

22) **Disinheritance:** Is there anyone who you specifically do not want to receive anything? Yes No

Name of Person to be Disinherited	Relation to You
1. _____	_____
2. _____	_____

- 23) **Military Status:** Is the will to recite that the Testator is:
- In the military service
 - Retired from military service
 - Married to one in the military service
 - Married to one retired from military service
 - Dependent of one in the military service
 - Dependent of one retired from military service
 - I do not wish to have my military status reflected in the will

ADDITIONAL COMMENTS OR CONCERNS:

LIVING WILL & POWER OF ATTORNEY FOR HEALTH CARE QUESTIONNAIRE

A Living Will, a document that lets you state your wishes for end-of-life medical care, is often accompanied by a Healthcare Power of Attorney (or Advance Medical Directive), which permits you to appoint another person (or persons) to make health care decisions on your behalf as your agent when you can no longer make such decisions yourself. The scope of the health care agent's powers may be very broad (e.g., changing doctors or hospitals, authorizing certain medical treatment, or terminating all medical treatment). You should note that a Living Will, although oftentimes prepared in conjunction with a will, is a separate document and is NOT part of your will.

1) Do you want:

- Both a living will and a power of attorney for health care (*recommended option*)
- Just a living will
- Just a power of attorney for health care

2) Who do you want to designate as your health care agent under the Healthcare POA?

- My spouse, whose information is provided below
- Someone who is not my spouse, whose information is provided below

Name: _____

Address: _____

Phone: _____

Relation of agent to you: _____

3) With regard to the appointment of a SECOND agent to make health care decisions:

- A second agent is to be designated, and the second agent is to act as a successor only in the event the first is incapacitated (recommended)
- A second agent is NOT to be designated
- A second agent is to be designated, and either agent can act separately
- A second agent is to be designated, and the agents must act jointly unless one is incapacitated

If you wish to designate a secondary agent, indicate below the name of your second agent.

Name: _____

Address: _____

Phone: _____

Relation of agent to you: _____

4) Is your agent(s) authorized to donate your organs for transplant? → Yes No

6) Is the authority to donate organs to **include** not just transplants but also the donation of organs and tissue for other medical, educational, or scientific purposes? → Yes No

7) Is the authority to donate organs to expressly exclude certain organs or other restrictions?

- Yes, please list: _____
- No

8) Is the authority to donate organs only be authorized if there is no cost to your estate? → Yes No

9) Do you want to die at home (less expensive) rather than in a hospital (very expensive)? → Yes No

10) Would you want treatment to extend your life if you were pregnant? → Yes No

11) If you have a terminal medical condition or persistent and irreversible unconsciousness, do you want to be kept alive with breathing machines, CPR, etc.? Yes No

12) If you can no longer chew or swallow on your own (but are not necessarily in a terminal condition), do you want treatment such as food and water through a tube in order to be kept alive? Yes No

FUNERAL ARRANGEMENTS

1) Do you wish to express your desires regarding funeral arrangements? Yes No

2) Upon my death, I wish:

To be cremated

To have my body given for medical or scientific purposes

To be buried at a specific grave site or location. Please specify location:

_____ To be buried at sea

OTHER. Please specify: _____

3) Do you wish to be buried with full military honors? → Yes No

4) Do you have any other wishes regarding your burial or memorial service?

Yes: _____

No

5) Have you already paid for your funeral expenses/arrangements?

Yes (if yes, with whom?) _____

No

6) A separate (limited) power of attorney can be created to appoint a person to determine where and how your body is buried, cremated, etc. If you are currently separated or anticipating divorce this document is recommended. If you named a person as your healthcare agent on the previous page, do you want to name that same person as agent to handle the disposition of your remains? → Yes No

Some Other Person: _____

POWER OF ATTORNEY (POA, Normal Financial Variety)

We can create an ordinary general power of attorney for you at the same time. We strongly recommend a "springing" POA over a "durable" POA, and that you only give it to someone you trust (usually your spouse, if married). See the first page of the worksheet for more information. If you have special requirements for the POA, such as the ability to transact business relations, sell real estate, etc., let your attorney know.

1. Do you want a Power of Attorney? Yes No

2. If yes, I want a _____ Durable POA or a _____ Springing POA.

3. If yes, I want the following person to hold the power of attorney:

NAME _____

RELATION _____

PHONE _____

ADDRESS _____