

OFFICE USE ONLY ASSIGNED ATTY:
APPT DATE / TIME:

FORT IRWIN

LEGAL ASSISTANCE OFFICE



WILLS, MEDICAL DIRECTIVES, AND POWERS OF ATTORNEY

CLIENT INFORMATION		
NAME:	MILITARY STATUS: I am:	
HOME PHONE:	<input type="checkbox"/> Active duty military. Rank _____	
WORK PHONE:	<input type="checkbox"/> Retired from the military.	
SPOUSE'S PHONE:	<input type="checkbox"/> Married to someone on active duty.	
STATE OF LEGAL RESIDENCE:	<input type="checkbox"/> Married to a military retiree.	
DUTY STATION:	<input type="checkbox"/> A dependent of someone on active duty	
CURRENT ADDRESS:	<input type="checkbox"/> A dependent of a military retiree	
SSN:	<input type="checkbox"/> A widow of a service member / retiree	
ARE YOU A U.S. CITIZEN? (CHECK ONE)	<table border="1"> <tr> <td> SPECIAL PROCESSING: PLEASE MARK <input type="checkbox"/> DEPLOYING WITHIN 2 WEEKS <input type="checkbox"/> TRAVELED MORE THAN 50 MILES <input type="checkbox"/> MEDICAL NECESSITY WITHIN 1 WEEK </td> </tr> </table>	SPECIAL PROCESSING: PLEASE MARK <input type="checkbox"/> DEPLOYING WITHIN 2 WEEKS <input type="checkbox"/> TRAVELED MORE THAN 50 MILES <input type="checkbox"/> MEDICAL NECESSITY WITHIN 1 WEEK
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<input type="checkbox"/> Yes <input type="checkbox"/> No		

For information about preparing your will, see the ESTATE PLANNING FOR MILITARY & FAMILY MEMBERS TOOL KIT on our Legal Services Web site: <http://www.jagcnet.army.mil/legal>.

PRIVACY ACT STATEMENT

AUTHORITY: United States Code, Title 10, Section 8072.
PRINCIPAL PURPOSE: To assist a judge advocate in the preparation of a client's will.
ROUTINE USES: To provide a judge advocate with sufficient information to draft a client's will. The Office of the Staff Judge Advocate maintains no file copy.
MANDATORY OR VOLUNTARY DISCLOSURE AND EFFECT ON INDIVIDUAL BY NOT PROVIDING INFORMATION: Disclosure is voluntary, but non-disclosure prohibits preparation of will.

MARITAL STATUS:

- Married once and my spouse is alive
- Presently married and had a prior marriage (previous spouse is deceased or divorced)
- Widow / Widower
- Divorced, not presently married
- Single, never married
- Domestic partnership, civil union, same sex marriage

1. If married, what is your spouse's full name? _____
2. Is your spouse a U.S. citizen? Yes No
3. Is your spouse's address the same as yours? Yes No
4. If no, what is your spouse's current address? _____

CHILDREN

1. How many children do you have (including adopted & stepchildren)? _____
2. If you have adopted children or stepchildren, would you rather:

Adopted/Step

- / Expressly include them in your will (treat them the same as natural children).
- / Expressly exclude them from your will.
- / Have the will remain silent

CHILD'S NAME	AGE	RELATIONSHIP (Son, Daughter)	Biological/ Adopted/Step	DISINHERIT? (YES/NO)	SPECIAL NEEDS?
1.					
2.					
3.					
4.					
5.					
6.					

VALUE OF ESTATE: To determine what type of will is appropriate for you, we need an estimate of the value of your estate. For this purpose, include the value of all of the property you own in your name, and if married, the value of your spouse's property. If any of your property secures a debt (for example, a mortgage on your home), include your equity in the property. Also include the value of your life insurance policies (SGLI, VGLI, etc.). Note that life insurance ordinarily does not pass according to your will; it will go to the beneficiaries you designated in the policy. The policy's face value is usually included in determining whether estate taxes will apply in your case.

Approximate value of your estate (not including life insurance): \$ _____
 Approximate value of your spouse's estate (not including life insurance): \$ _____
 Value of life insurance (self and spouse): \$ _____
 Total value of both your and your spouse's estate including life insurance: \$ _____*

*Note: If you think the value of your estate exceeds \$1 million, it may be subject to estate taxes. Proper planning can help you minimize estate tax. Depending on your estate, its complexity may exceed the expertise of the local DoD Legal Assistance Attorney. If so, we will assist you in finding an estate planning expert.

REAL ESTATE: Frequently, a husband and wife own real estate jointly with right of survivorship. If you and your spouse own your home or other property that way, your will does not affect how your ownership interest passes when you die.

1. Do you own real estate jointly with your spouse? Yes No

2. Do you own real estate other than jointly with your spouse? Yes No

If yes, how do you wish to give your real estate? (PLEASE CHECK ONLY ONE)

All to my spouse.

All to my spouse if he/she survives me, if not then to my children and issue.

To pass with the rest of my estate.

My home to my spouse and the rest of my real estate to pass with the rest of my estate.

My home to my spouse for as long as my spouse lives there and then my home and the rest of my real estate to pass with the rest of my estate.

Different properties / Different beneficiaries (list below):

NAME	RELATIONSHIP	PROPERTY/STATE*

*If you have property located in different states, it may be necessary for your beneficiaries to go through a court proceeding in the state in which the property is located in order to title the property in their name upon your death.

PERSONAL EFFECTS & TANGIBLE PERSONAL PROPERTY / SPECIFIC BEQUESTS: You may make specific gifts of cash, real estate, or personal property to specific people or charities in your will. However, these bequests will be distributed first and may deplete your estate. Also, specific bequests may complicate probate if the property given cannot be found at your death. Therefore, if you make specific bequests, only give property or amounts of cash that you are reasonably sure you will have when you die.

If you make no specific bequests, all of your property will pass to your primary beneficiaries.

Additionally, many states allow you to make a personal property memorandum in which you can give specific items of tangible personal property to named beneficiaries in a writing separate from your will. While in some states memorandum gifts are not legally binding, your executor will give these gifts as much weight as state law allows.

1. How do you wish to dispense with your personal effects and tangible personal property?

All to my spouse.

Specific items are to go to specific individuals, with all items not listed passing to my spouse. (Please attach detailed list of items, beneficiaries, and relationship to you)

Specific items are to go to specific individuals, with all items not listed passing with the rest of my estate. (Please attach detailed list of items, beneficiaries, and relationship to you)

To pass with the rest of my estate.

2. If you make a specific bequest, do you wish to use a personal property memorandum? Yes No

3. Do you wish to make a specific cash bequest(s)?

NAME	RELATIONSHIP	Amount

RESIDUARY ESTATE: Your residuary estate is whatever property remains after paying debts and expenses of administration, and any specific bequests. Because many people do not make specific bequests, the "residuary" usually describes all the property left to your beneficiaries.

1. To whom do you want to leave your residuary estate?

All to my spouse if he/she survives me, and if not, then to my children and issue

A minimum bequest to my spouse, disinheriting him/her to the fullest extent of the law, with the remainder going to some other person(s)

All to one specific beneficiary other than my spouse or to more than one beneficiary (list below):

One specific beneficiary

Specific people who are to share equally

A group of people or class (e.g. "my brothers and sisters") who are to share equally

Some other unequal division between the beneficiaries

NAME	RELATIONSHIP	SHARE (e.g. 1/3, 1/2, 25%)

2. If any of the above beneficiaries die before you and leave descendants (children/issue), do you want the share of the deceased beneficiary to pass to their children, or to pass only to the beneficiaries you named in question 1?

To the children of any deceased beneficiary if they survive me, if not, to their share to their children (per stirpes)

Equally to the children of any deceased beneficiary if they survive me, if not, to their children (per capita)

Only to the named beneficiaries listed above

SECONDARY / ALTERNATE BENEFICIARIES:

1. If all of the primary beneficiaries you designated predecease you or die within 30 days of you, do you wish to designate secondary or alternate beneficiaries? Yes No

2. If yes, to whom do you wish to leave your estate?

NAME	RELATIONSHIP	SHARE (e.g. 1/3, 1/2, 25%)

PERSONAL REPRESENTATIVE/EXECUTOR: Your personal representative ensures your estate is settled upon your death. This ordinarily involves going through "probate," a court-administered procedure for settling an estate as provided in your will or under state law. Probate involves petitioning a court for letters of appointment, settling creditor claims, finding and distributing assets, and filing any necessary tax returns. Any adult may serve as your executor, although many states prefer or require an executor who is a legal resident of the state where probate is conducted. Therefore, if possible, you should select family members or responsible friends who are residents of the same state as your legal residence or the state where you own real estate.

1. Whom do you wish to have as your executor?

- My spouse.
- My spouse and a co-executor. (This option is not usually recommended because conflicts can arise between the executors that may complicate the administration of your estate.)
- My spouse and a successor executor. (The successor will act only if your first choice is unable or unwilling to be your executor.)
- One executor other than my spouse.
- Two co-executors, neither of whom are my spouse.
- One executor and a successor executor, neither of whom are my spouse.

2. If you named someone other than your spouse, indicate name(s), relationship(s) and role:

NAME	RELATIONSHIP	EXECUTOR / CO-EXECUTOR / SUCCESSOR

GUARDIAN: If your children are minors when you die, and if the other natural parent is not alive or for any reason cannot act as guardian, the court will normally appoint the person(s) you name to act as legal guardian(s) of your minor children. The individual(s) named will have physical control and custody of the children until they reach 18. If you are divorced, the court will usually appoint the child's natural parent (your former spouse) as guardian even if you provide otherwise in your will. You should still name a guardian, however, in case your former spouse dies before you, or for any reason cannot act as the guardian. This is a guardian of the person. You can also appoint a separate person to deal with the finances for the minor child. This person is called a conservator.

1. Whom do you wish to have as your guardian? (specify below)

- One guardian for any child when I die.
- One guardian and a successor guardian.
- Two co-guardians. (Complications may arise in designating co-guardians).
- No guardian.
- A separate conservator of the property.

NAME	RELATIONSHIP	CITY / STATE OF RESIDENCE	GUARDIAN / CO-GUARDIAN / SUCCESSOR

DISTRIBUTION OF ESTATE TO CHILDREN / TRUSTS:

Instead of giving your estate directly to a beneficiary, you may give it to a Trustee, IN TRUST, for the benefit of your beneficiary(ies) until he/she/they reach(es) the age you designate (18, 21, 25, 30). The trustee will manage the trust following the directions you included in the trust document under court supervision. Although the trustee's primary purpose is to safeguard the inheritance, the money can also be used for any beneficiary's health, education, welfare, or maintenance, at the trustee's discretion. A trust is also useful where you desire to protect the assets from third parties who may have claims against one of your beneficiaries or if you want the trustee or guardian to spend more money on one child than another (e.g. a disabled child).

For many people, a trust is unnecessary because; under the Uniform Gifts/Transfers to Minors Act (UGMA/UTMA), gifts to beneficiaries usually under 18 or 21 (in some states up to 25) will be controlled by your personal representative and/or guardian/custodian, without establishing a trust. The money can still be used for the benefit of the child while they are still a minor, and this is ordinarily less complicated and less expensive than a trust.

1. For any beneficiaries that are minors, at what age do you want them to receive their gift?

- 18
- 21
- Some other age (please indicate the age): _____ (may require a trust)

2. Do you want their gifts to be:

- Paid at the election of the executor/guardian under the Uniform Gifts to Minors Act (UGMA) (the executor may pay the child some or all of the gift, at various times, as the executor sees fit, even though the child is a minor)
- Held in trust until the child is no longer a minor (or has reached the distribution age you specified).

DISINHERITING SOMEONE:

Generally, the people you wish to disinherit specifically in your will are a spouse or close blood relative (mom/dad, brother/sister, child). Many states provide a spouse a "right of election" or the choice to apply state law instead of your will's provision for your spouse. For example, if you left your spouse only a small amount of property, the state where your will was probated might have a law allowing your spouse to choose one-third of the estate's value as the spousal gift instead of what you provided in your will. If you are wanting to disinherit your spouse, you may wish to talk to an attorney about separation agreements and/or divorce.

- 1. Do you wish to disinherit your spouse? No Yes**
- 2. Do you wish to attempt to disinherit anyone who contests your will? Yes No**
- 3. Do you wish to disinherit someone other than your spouse? No Yes (specify below)**

NAME	RELATIONSHIP

ADVANCE MEDICAL DIRECTIVE/"LIVING WILL": An advance medical directive states that in the event you have a incurable medical condition and your life is only being prolonged by means of artificially provided life support, and if you cannot communicate your desires (e.g. you are a persistent vegetative state), the living will "speaks for you" so your doctors know and can act upon your desires about medical life support. The conditions that trigger your living will and the extent of the medical care to be withdrawn vary under State law. Therefore, you should carefully review the language of the living will for the state you have chosen and decide if it truly reflects your choice for continuing life support. Once executed, the document is effective until you revoked it, which you may do at any time by physically destroying it, or in an emergency, by telling someone who can

testify that you did in fact revoke it. If you would like Physician Orders for Life-Sustaining Treatment Paradigm (POLST), please visit www.polst.org.

1. Would you like a living will? ___ Yes ___ No

If you currently live in a state other than the one in which you are a legal resident, you may want your living will to be drafted in accordance with the laws of the state where you actually live and not your state of residence. This is because it is more likely to be used where you currently live.

2. For which state do you wish your living will to be written? _____

SPECIAL POWER OF ATTORNEY FOR HEALTH CARE: A special power of attorney for health care allows you to name someone to make medical care decisions for you if you cannot make your own medical decisions. It also gives your agent access to your medical information and authority to fully participate with your treating physicians in deciding the care you receive. Obviously, the person you designate to be your agent should be someone you trust with life and death decisions. Like your living will, the power of attorney is usually drafted in accordance with the laws of the state where you reside.

3. Do you want a Health Care Power of Attorney? ___ Yes ___ No

4. Do you want your spouse to act as your agent? ___ Yes ___ No (if no, please specify person below)

NAME	ADDRESS	PHONE	RELATIONSHIP

5. If you have a second choice, do you want: (please specify person below)

_____ the second agent to be as a successor, acting only if the first choice is incapacitated.

_____ both agents to have the authority to act separately.

_____ to require both agents to act jointly unless one is incapacitated. (This may cause delays in care).

NAME	ADDRESS	PHONE	RELATIONSHIP

7. Do you wish to donate your body organs for transplant upon death? ___ Yes ___ No

If yes, are you also willing to donate organs and tissue for medical, educational, or scientific purposes?

___ Yes ___ No

Do you wish to list any restrictions (e.g. only wish to donate my heart), please specify:

Do you wish to condition your donation on there being no charge for the donation? ___ Yes ___ No

8. Do you wish to specify that, if possible and if it does not place an undue burden upon your family, that you prefer to die at home rather than in a hospital? ___ Yes ___ No

9. (Females) Do you wish to have an exception to your living will if you are pregnant? ___ Yes ___ No

10. Do you wish to appoint your health care agent as the agent to deal with the disposition of your remains?

SPRINGING DURABLE GENERAL POWER OF ATTORNEY: If you become incapacitated, and cannot handle your own affairs, a court order may revoke your right to manage your own money/property and appoint a guardian or conservator. To protect you from this, you may appoint an agent through a power of attorney.

A power of attorney is your written authorization for someone to act on your behalf, for whatever purpose you designate. Ordinarily, a power of attorney expires if you become mentally disabled – the time when you need help the most. A springing durable power of attorney can take effect when you become unable to manage your own personal and financial affairs and will last as long as you are alive or until you revoke it. As long as you are

mentally competent, you can revoke a durable power of attorney whenever you like simply by destroying the document. If you choose to have a springing durable general power of attorney, remember to name someone you trust as your attorney-in-fact. Your agent will have great authority over your affairs. Not only can they keep your affairs in order, but they have the potential to abuse this document at your expense.

1. Would you like a springing durable general power of attorney? Yes No

Do you want it to take effect if you are MIA or a POW? Yes No

Do you want it to take effect if you are deployed (not recommended)? Yes No

2. Do you want your spouse to act as your agent? Yes No

If you did not select your spouse to act as your agent, please complete the following:

NAME	ADDRESS	PHONE	RELATIONSHIP

3. If you have a second choice, do you want:

the second agent to be as a successor, acting only if the first choice is incapacitated.

both agents to have the authority to act separately.

to require both agents to act jointly unless one is incapacitated. (This may cause complications).

Provide the following information with regard to the second agent, if any:

NAME	ADDRESS	PHONE	RELATIONSHIP

FUNERAL ARRANGEMENTS: You may have a strong desire regarding your funeral (for example, burial or cremation). As a practical matter, your funeral may have been carried out by the time your will is read. Finding out after the fact that the arrangements were contrary to your will may cause some dismay for your survivors. Therefore, we recommend that you tell your desires to your next of kin at your earliest opportunity other than in your will, often in a Letter of Instruction that accompanies your will.

1. At my death, I prefer:

To be cremated.

To have my body given for medical or scientific purposes.

To be buried at a specified gravesite or location (please specify): _____

To be buried at sea.

Other: _____

I do not wish to express my desires concerning my remains in my will and leave this decision to those who survive me.

2. Do you desire full military honors? Yes No

STATE OF RESIDENCE: If you are active duty military, you may wish for your will to be drafted according to the laws of the state in which you hold your legal residence instead of the state in which you are currently stationed. However, if you specifically designate a state in your will, your family will likely need to probate (the court proceeding in which the wishes detailed in your will are carried out) your will in that state. If your family is residing in a different state, that may be a costly process and they may prefer to probate your will in the state in which you die. Thus, your will can be silent as to the state in which you wish your will to be probated.

Do you want your will to list the state in which you reside? Yes No