

any necessary tax returns. Any adult may serve as your Executor, but many states have a preference for an executor who is a legal resident of the state where probate is conducted. Thus, if possible, you should select family members or responsible friends who are residents of the same state you claim as your legal residence.

Trusts

Instead of giving your estate directly to a beneficiary, you may elect to give your estate to a person designated as a Trustee, to hold, IN TRUST, for the benefit of your beneficiary until that person reaches the age you designate. The Trustee manages the beneficiary's portion of the estate under court supervision. Although the Trustee's primary purpose is to safeguard the inheritance, the money may also be used for the beneficiary's health, education, welfare or maintenance, at the Trustee's discretion. You must use the trust option if you wish to withhold inheritance until a minor reaches an age older than 21. Under the Uniform Gifts to Minors Act and Uniform Transfers to Minors Act, gifts to beneficiaries under the age of 18 (or 21 in some states) are controlled by the Executor or your child's guardian.



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Walk-In for Legal Assistance
Monday & Wednesday: 1530 – 1630
Friday: 0900 – 1000

Powers of Attorney/Notary Services/Claims (Walk-In)
Monday through Friday 0730 – 1630
<https://aflegalassistance.law.af.mil>

WILL PREPARATION



31st FW Legal Office

Steps to Prepare Your Will

1. Review this pamphlet and complete a Will Worksheet. You can find this document on www.aflegalassistance.law.af.mil. Click on “Legal Worksheets,” then click on “Create Will,” and follow the instructions.
2. Visit the Legal Office during walk-in hours to have your will drafted. If the will is complicated or you need some time to consider what you’ve learned while at the Office, the will can be drafted at a later date.
3. Execute the will in the presence of your attorney and two witnesses. This normally occurs immediately after the will is drafted. Only after its execution does the will become effective.

State of Legal Residence

A computer program allows the Legal Office to draft your will in accordance with the laws of the state that you claim as your legal residence. Your legal residence is the state where you have the most legal ties and where you intend to return after you complete your military service. To determine your legal residence, consider: where you vote, where you pay state taxes, your home of record, the state listed on your leave and earnings statement, where you own real estate, where your driver’s license and car registration are issued, etc.

Value of Estate

A rough estimate of the value of your estate is necessary to determine what type of will is appropriate for you. Include the value of the property owned by you and/or your spouse. If any of your property secures a debt (for example, a mortgage on your home), include only your equity in the property. Include the value of your life insurance policies (SGLI, VGLI, etc.).

Although life insurance ordinarily does not pass according to your will (it will go to the beneficiaries you designated on the insurance forms), the value of insurance may be included in determining whether estate taxes will apply in your case.

Specific Bequests

You may specify gifts of cash, real estate, or personal property to people or charities in your will. These bequests will be distributed first and could deplete your estate. Specific gifts may complicate the probate of your estate if the property cannot be located at your death. So, if you intend to make any specific bequests, only give property or amounts of cash that you are reasonably sure you will possess at the time of your death. Only make specific bequests of property that is of significant sentimental or financial value to you. If you make no specific bequests, all of your property will pass to your primary beneficiaries.

Note that you may leave a separate writing with your will, typically called a “letter of instruction” in which you give specific directions to your Executor about notifications to family and friends, upbringing of your children, etc.. This instruction is *not legally binding*, but your Executor should try to comply with your desires. Many states also allow you to make gifts of specific items of tangible personal property to named beneficiaries in a separate writing. While most memorandum gifts are not legally binding, your Executor will give this request as much weight as state law allows.

Primary Beneficiaries

This is the person or persons who will receive all (or the majority) of your estate. The typical will names the spouse as the primary beneficiary and

the children or grandchildren (also known as “issue”) to inherit if the spouse predeceases the testator. You may, however, designate anyone as a primary beneficiary in your will. The share your children or grandchildren will receive depends on the intent expressed in your will. The Will Worksheet describes several options for you to choose from.

Alternate Beneficiaries

This is the person or persons to whom you wish to leave your estate if the primary beneficiaries and all their issue predecease you.

Guardian

If your children are minors at the time of your death and if the other natural parent is not alive, or for any reason cannot act as guardian, the court will normally appoint the person you name to act as legal guardian of the children. This is the person who will have physical control and custody of the children until they reach age 18. If you are divorced, keep in mind that the court will ordinarily appoint your former spouse to be the guardian (as the child’s other natural parent), notwithstanding your preferences. You should still select a guardian, however, in case your former spouse predeceases you or for any reason cannot act as the children’s guardian.

Executor

The Executor (called a “personal representative” in some states) is the person who makes sure that your estate is settled upon your death. This ordinarily involves going through probate, which is a court-administered procedure for settling an estate. Probate involves petitioning a court for letters of appointment, settling creditor claims, finding and distributing assets, and filing