

## LAST WILL AND TESTAMENT

(Contains trust for children of Testator/Testatrix)

This sample will (Form No. 406) is designed for use by a husband and wife with children, when the estate of the Testator/Testatrix is not of sufficient size to require the use of a marital deduction. The word "Testator" refers to the husband and the word "Testatrix" refers to the wife. This form names the spouse as the beneficiary to whom all property passes, after the payment of legally enforceable debts, funeral expenses and expenses of the Testator's/Testatrix's last illness and administration expenses, providing the spouse is still living.

This will is designed for use when there are minor children and/or children whose property should be held and managed by a trustee, in the event that your spouse is not living at your death, until they reach an age which is designated in the will by the Testator/Testatrix. It also designates your wish as to a guardian of the person of any minor children in the event that the other parent is no longer living. It also includes a provision granting a power in trust over any property passing to any person who is under an age which is designated by the Testator/Testatrix, as in the case of

property passing to a young grandchild of the Testator/Testatrix, because of the prior death of one of the children of the Testator/Testatrix.

This will is not intended as an all-inclusive document for use by everyone and will not be appropriate in many instances. It will avoid the inconvenience of intestacy, designate the Personal Representative and relieve the estate of the expense of a fiduciary bond.

The following step-by-step instructions should be followed closely.

1. Insert your full given name and surname on the blank line  
at the top of the first page after "LAST WILL AND  
TESTAMENT OF. . .".
2. Insert your full name again in the first line of the first  
paragraph. On the second line of the first paragraph, insert the name of the  
county and the state in which you reside.
3. In Item I insert the full name of your spouse, the number

of natural born children and the names and birthdates of those children, for example: Julia Ann Smith, born 2/2/47.

4. In Item III insert the name of your spouse. In paragraph (A)(2) of Item III and in both blanks in paragraph (B) insert the age at which you desire the trustee to turn over the trust property to your children. It is common to choose either age twenty-one (21) or age twenty-five (25) for this purpose.
5. In Item IV insert in all three blanks the age at which you desire the trustee to turn over the trust property to any person who might have become a beneficiary under your will, such as a grandchild. Again, it is common to choose age twenty-one (21) or age twenty-five (25) for this purpose.
6. In Item VI insert the name of your spouse on line one and the name of the person whom you would like to be appointed guardian of the person of any minor children, should your spouse not be alive at your death.
7. In Item VII insert the name of your spouse on line one. On line five insert the name of the person whom you appoint as personal representative and as trustee of any trusts created by your will in case your spouse is not alive.
8. The will must be signed by the Testator/Testatrix in the presence of two witnesses and a notary public who should affix his or her notarial seal to the document. The witnesses and the notary should not be relatives or in any way interested in your estate. The Testator/Testatrix must first read the document carefully to be sure that it does reflect the maker's wishes accurately.
9. The notary public before whom you are executing the will will ask the maker and the witnesses, under oath, to declare that the maker signed the will as his/her last will and testament and that it was signed voluntarily and that each witness, in the presence of the maker and at the maker's request, and in the presence of each other, signed the will as a witness and that to the best of the knowledge of each witness, the maker was at that time, eighteen or more years of age, of sound mind and under no constraint or undue influence. The maker should write his or her initials in the left-hand margin of each page of the will on which his or her signature does not appear. This will prevent a later substitution of any page of your will.

10. In the last paragraph of the will which begins "IN WITNESS WHEREOF, . . ." insert the city and state in which you are signing the will and insert the date.
11. In the next paragraph which begins "This instrument  
was..." insert your name on the second line.
12. Following the witness lines, fill in the state and county in which the will is being executed. On the first line of the following paragraph insert the name of the Testator/Testatrix first and then insert the names of the witnesses in the next two blanks.
13. The maker should now sign the will and the witnesses  
should also sign and insert their current address on the line provided. Note that the Testator/Testatrix and the witnesses must each sign the will in two places.
14. The notary public will again fill in your name and the names of the witnesses in the paragraph which begins "Subscribed and acknowledged before me by. . ." The notary will then fill in the date of execution of the will, entering the date his or her commission expires and affixing his or her seal to the document.
15. The original signed will should be placed by the Testator/Testatrix in a safe place where a designated member of the family, attorney, CPA, or other person will have access to it upon your death. A safety deposit box to which no one would have immediate access after your death would not be a wise choice. Many Probate Courts will allow a Testator/Testatrix to place an original will on file with their office for safekeeping.