



# LEGAL BRIEF

## PRACTICAL TIPS CONCERNING WILLS

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### PREPARED BY

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### PRACTICAL TIPS CONCERNING WILLS

1. Do not mark, write on, unstaple, staple documents to, tear, or do anything that can be looked upon as tampering with your new will. Such actions can act to void your will and be grounds for denial of admission to probate. When making photocopies of your will, carefully and neatly fold back each page, copy the page and continue on through completion.
2. Upon receipt of your newly-executed will, keep it in a safe place. It should be in a place where it will be found and accessed readily in the event of your death. Be aware that a bank safe deposit box may be sealed upon your death and would require a court order to access it.
3. Never sign copies of your will. They are reference documents only. The one will you executed (completed) is your only true will. Only a will with original signatures can be probated.
4. If you have executed a will in the past, your execution of a new will automatically revokes the prior will. You should tear up or otherwise destroy the old, revoked will.
5. Never try to change or amend your will by crossing out or adding words. If there is a change in circumstances that necessitates a change in any will provision, contact an attorney, either at a legal assistance office or otherwise, to review your current will. It is important to realize and remember that certain events may affect the legal validity of certain portions or all of your will, e.g., divorce, marriage or remarriage; change of legal residence to another state (merely moving from one state to another does not invalidate a will); adoption or birth of a child; or a change of residence of the personal representative, executor/executrix, or guardian. Your will should be admitted to probate in your state of legal residence upon your death or in the state of primary probate. Ancillary probate can be started in states not your home once the personal representative has been issued letters testamentary by the probate court.
6. In many states, an executor must be a resident of the state where probate is to be completed.
7. Letter of Instruction.
  - a. Notice to Fiduciaries. If you have not done so prior to execution of your will, a letter of instruction (LOI), currently dated and signed, can serve to notify the appropriate individuals or institutions of the fact that you have named them as your personal representatives or Guardians,

or substitutes therefor. Whether you include a copy of your will with the LOI is a matter of personal taste, and is often required by corporate fiduciaries. Although the LOI is not legally binding upon the personal representative, most Testators trust their personal representative to follow the Testator/Testatrix's desires. You should have considered this issue of trust upon naming a representative. The attached letter of instruction sheet would fulfill most of these suggestions.

b. Funeral Arrangements. Generally, as soon as your personal representative is notified of your death, he will be asked what funeral arrangements have been made. Because time is of the essence, leaving instructions in his hands for ready reference makes this task much easier by reducing guesswork, delay, and needless anxiety at this emotion-laden time. So, you can send a copy of the LOI to each named representative stating clearly and simply any preferred mode of funeral arrangement, for example:

- (1) burial vs. cremation;
- (2) place or manner of burial or disposal of remains;
- (3) use of a certain funeral director or home;
- (4) type of funeral ceremony and monument; and
- (5) enclose copy of cemetery plot Deed, if any, and location of original.

## **DEATH OF MILITARY MEMBER OR RETIREE**

When an Air Force Retiree dies, the survivors should immediately notify the Office of Casualty Assistance at any local Air Force base. Casualty affairs personnel are trained to take care of all official matters and are prepared to help the family through difficult times. At Nellis AFB, you may reach the Office of Casualty Assistance at 702-652-5972 or 702-652-9428.

When an Air Force Retiree dies, the survivors should also notify the Total Force Service Center, Randolph AFB, Texas, at 1-800-525-0102.

Upon notification of death, retired pay is stopped. This is done to keep the family from owing the Air Force money.

For deceased retirees who participated in the Survivor Benefit Plan (SBP), the appropriate office will automatically forward to their survivors the forms necessary to commence action to begin the survivor's annuity payments. Survivors receive a portion of the member's retired pay. Certain documents must be completed before potential death benefits can be paid and annuity of the SBP started. Casualty Assistance specialists have details.

Several telephone numbers should be kept along with a military member's or retiree's will. These include the number given above for Total Force Service Center, and the number for the Defense Finance and Accounting Services (Pay) for Retired Pay 1-800-321-1080.

For Reservists that pass before the age of 60

Air Force: 1-800-525-0102

Army Reserve: 1-888-276-9472

Army Guard: 1-888-276-9472

Navy: 1-866-827-5672

The personal representative of your will should also be advised of the importance of immediate notification.

Books and pamphlets on the SBP and personal affairs are available through personnel offices and online at <http://www.dfas.mil/retiredmilitary/provide/sbp.html> .

**THE INFORMATION CONTAINED IN THIS PAMPHLET IS OF A GENERAL NATURE AND IS PROVIDED FOR YOUR ASSISTANCE AND CONVENIENCE. IT IS NOT INTENDED AS LEGAL ADVICE AND IS NOT A SUBSTITUTE FOR LEGAL COUNSEL. IF YOU HAVE ANY QUESTIONS AS TO HOW THE LAW IN THIS AREA AFFECTS YOU OR YOUR LEGAL RIGHTS, CONTACT YOUR CIVILIAN ATTORNEY OR THE NELLIS AIR BASE LEGAL OFFICE FOR AN APPOINTMENT WITH A LICENSED ATTORNEY.**

LETTER OF INSTRUCTIONS

TO THE NEXT OF KIN OF: \_\_\_\_\_

I have named \_\_\_\_\_ as personal representative. This Letter of Instruction (LOI) is an expression of my preferences and desires regarding the disposition of my remains and other arrangements at the time of my death. Please recognize that this LOI was accomplished primarily to make things easier for you and to make my thoughts known. Asterisk items apply only to active duty or retired members.

At the time of death, I prefer:

\_\_\_\_\_ Conventional burial    \_\_\_\_\_ Cremation    \_\_\_\_\_ No Preference    \_\_\_\_\_ Other (specify)

I would like to be in \_\_\_\_\_ (Branch of Service) uniform: Yes/No

I would like preparation, casketing and transportation handled by:

- \_\_\_\_\_ You, working with the local funeral home of your choice.
- \_\_\_\_\_ My Branch of Service, through their contract with a funeral home (only if active duty)
- \_\_\_\_\_ You, working with: \_\_\_\_\_  
(Name and address of funeral home)

My preference for a burial place or disposition of ashes is:

- \_\_\_\_\_ Private Cemetery \_\_\_\_\_  
(Show name and location)
- \_\_\_\_\_ National or other Government Cemetery, on availability \_\_\_\_\_  
(Show name and address)
- \_\_\_\_\_ Wherever you decide it would be easiest for you.
- \_\_\_\_\_ Other: \_\_\_\_\_

In the event that my body should have to be shipped to another location, I prefer that the following funeral home be selected as "receiving" funeral home:

\_\_\_\_\_  
\_\_\_\_\_

I desire the following religious services be conducted:

- \_\_\_\_\_ Church services. \_\_\_\_\_  
(Name and location of Church)
- \_\_\_\_\_ Funeral home services.
- \_\_\_\_\_ Memorial services.
- \_\_\_\_\_ Graveside committal services.

Other, **please** explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*Military honors desired if available from \_\_\_\_\_.  
(Branch of Service)

\_\_\_\_\_ Chaplain      Please indicate religious preference: \_\_\_\_\_  
\_\_\_\_\_ Pallbearers      \_\_\_\_\_ Bugler  
\_\_\_\_\_ Firing Party      \_\_\_\_\_ Color Guard  
\_\_\_\_\_ Other, please, explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

My preference concerning:

\*Government furnished headstone or marker: Yes/No.

If preferred, type: \_\_\_\_\_

Clergy: \_\_\_\_\_

Flowers, memorials, agencies, contributions should be made to, favorite soloist or organist, psalms or other special requests: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Friends to notify: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

NOTES:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**KEEP THIS DOCUMENT IN THE HOME READILY AVAILABLE TO NEXT-OF-KIN AND  
OTHER CLOSE RELATIVES**