



UNITED STATES MARINE CORPS
MARINE CORPS BASE HAWAII
LEGAL ASSISTANCE OFFICE
BOX 63062, KANEOHE BAY, HAWAII 96863-3002

STEPS SHEET FOR PERSONS DESIRING WILLS

Step One: Read the "Wills General Information for Servicemembers" sheet attached. This sheet is meant to help you understand general information about wills prior to filling out the attached will-intake sheet.

Step Two: If you are married and both you and your spouse desire wills, sign the married persons conflicting interest waiver sheet available at the Legal Assistance Office. It will help you understand this office's role and limitations when a married couple requests wills.

Step Three: Fill out the attached will-intake sheet. If you have any questions about this intake-sheet, call to make an appointment with a Legal Assistance Attorney at (808) 257-6738.

Step Four: After you fill out the will intake-sheet, return it to the Legal Assistance Office, Building 215, during regular office hours. Within five (5) working days you will receive a phone call from a Legal Assistance Attorney to set up an appointment to come review your will, answer any questions you have, and execute your will.

WILLS GENERAL INFORMATION FOR SERVICEMEMBERS

- Definition and Purpose of Wills:** A will is a legal document that takes effect when you die. The main purpose of a will is to dispose of property according to the testator's desires, rather than state laws, and make arrangements for family members. It allows the testator, the person who made the will, to make many important decisions including:
 - To whom his property will be distributed;
 - How his estate will be shared among beneficiaries (persons who receive items in the will);
 - Who will serve as the executor of his estate (see "Identification of Executor" below);
 - Who will serve as guardian(s) to any minor children or persons under a disability (see "Identification of Guardian" below);
 - Who will control the property left to any minor children; and
 - How the estate plans for federal and state taxes.
- Every Person has an Estate Plan:** It is just a matter of whether you write it or whether the state writes it. When a person fails to make arrangements for the disposition of property, it is distributed by the laws of descent and distribution (intestate succession) of the state where the testator is a resident at death, his domicile. If the testator has real property located outside his domicile, the intestate law of the property's location will control the distribution of that property. Unless the estate is minimal and all property is owned with survivorship

language or has named beneficiaries on the deed, probate court will be required to pass title and clear creditor claims on such property.

3. Identification of Executor: Through your will, you identify the person who shall carry out your instructions and determine whether, and how much, the executor should be paid from your estate. This is also called a Personal Representative. From your estate, the executor will ensure that creditors are paid and gifts are distributed. Despite the instructions in the will, there will always be decisions for the executor to make: does the ring go to John or Jane? Should the ring be sold and the profits divided between them? Without a will, the court appoints some one, perhaps a stranger, to administer your estate and determines the rules that administrator should follow.
4. Identification of Guardian: Ordinarily, your spouse will take care of your children when you pass away. But what happens if you are a single parent or you or you and your spouse die in a common disaster? The court will have to name a guardian for your children. The choice you make in your will, while not binding, will be very persuasive to the judge who must make this decision.
5. Testamentary Life Insurance Trust for Minors: This section is long but very important for those with children or if you want to name minors as beneficiaries in your SGLI. If you are a married military service member, you probably named your spouse as the primary beneficiary of your life insurance policies, including your policy with Service Members' Group Life Insurance (SGLI). However, there are some recurring situations in which a service member does not wish to name a spouse as the beneficiary and instead desires that a child benefit from the insurance proceeds. Typically, the desire to make a child rather than the spouse the primary beneficiary arises from one of the following causes:
 - The insured parent's marriage is failing; divorce is on the horizon;
 - The insured parent is already divorced from the child's other parent;
 - The insured parent's spouse is deceased.

In all of these situations, the insured member wants a minor child to benefit from the insurance. In the first two situations, the insured member is usually also motivated by a desire to prevent the spouse or former spouse from having any access to the insurance proceeds. In all of these cases the main problem is the same; how can the member make sure that the child benefits from the insurance?

Too often, service members try to resolve the problem by naming the minor child as the life insurance beneficiary on the SGLI beneficiary election form, SGLV Form 8286. Unfortunately, naming a child as the life insurance beneficiary is a strategy that is unlikely to succeed. Neither SGLI nor any other life insurance company is likely to make a check out to a minor. The insurer will want to see court ordered guardianship and will make the check out to the guardian named by the judge.

Merely identifying a person in your will as the guardian is insufficient for that person to receive the insurance check. The insurer will almost certainly want to see a court order

naming a guardian. And just who do you suppose is going to show up in court and ask to be named the guardian to control the SGLI proceeds? Your estranged or former spouse, that's who, precisely the person that you don't want to give your life insurance funds to. What's more, your estranged or former spouse probably will be successful in his / her quest to be named by the court as the guardian.

Even if your ex doesn't show up to ask the court for guardianship, there's no telling who will show up and there's no way to predict for certain who the judge will choose to be guardian. The judge should consider any guardian you have named in your will, and perhaps your choice will be persuasive, but the guardian you have named in the will is not binding on the court.

On the other hand, you can use a testamentary life insurance trust to make sure that you, not the court, pick the agent who will manage the life insurance proceeds for your child.

The testamentary life insurance trust is a provision in your will that says, essentially, that if there are any life insurance policies existing that name the trust as the beneficiary, then the agent that you name in the will manages the funds for your minor child, spending the proceeds as he sees fit for the health, education, and welfare of the child. Such a trust is called "testamentary" because it is created by language in the last will and testament. The agent, or manager, is called the trustee. The trust typically ends when the child reaches a specific age that you choose, generally between the ages of 18 and 21, inclusive. When the trust ends, any remaining funds in the trust are given to the child outright, to do with as s/he wishes.

6. How Testamentary Trusts Work/How to Create Them: The will can not go out and grab insurance proceeds; think of the testamentary trust as a suitcase, a receptacle into which you can pour insurance money. The way to pour funds into the trust is to make the trust the beneficiary of your insurance. Until you do so, the trust is unfunded; it is just an empty suitcase. Make sure you complete the documents in the proper order; **first** the will, **second** the insurance election form. If you do not execute the will first, you are attempting with your election form to pour funds into a trust that does not yet exist, and there can be problems.

In order to pour your SGLI funds into the testamentary trust, you must fill out SGLV Form 8286 a certain way. In the beneficiary line, you should print the following words:

"To the trustee of my testamentary trust in my last will and testament for the benefit on my child, Joseph A. Smith [or whatever the child's name is OR for the benefit of any children born unto me]."

A fillable form is available on line [simply conduct a search for "SGLV"] and the beneficiary blank expands as needed to accommodate the greater number of characters in the aforementioned election. The form can be filled out on line, printed, and then brought to the unit administration office for signature.

If you have more than one child, you can have a will with a single trust for both children, with the trust ending when the younger child reaches the designated age. Having a single trust has the benefit of allowing the trustee to spend unequally on the children, according to their needs, which may be vastly different. This single trust option gives the trustee greater latitude and is easier for your trustee to administer than having separate trusts for each of the children. The trick, of course, is identifying a trustee or co-trustees in whom you have a great deal of confidence.

If the will contains a single trust for multiple children, your SGLV election language will be slightly different than the language provided above; example:

“To the trustee of the testamentary trust in my last will and testament for the benefit of my son Joseph A. Smith and my daughter Sally B. Smith.”

You can elect to pour all or just a portion of the SGLI proceeds into the trust. You may even make the trust a contingent beneficiary. For example, you can name your living spouse your primary beneficiary and the trust for minors the contingent beneficiary; that is, the trust is unfunded unless your spouse dies before you do and is therefore not living at the time of your death.

7. Advanced Medical Directive: This document appoints someone to make health care decisions for you if you become incapacitated. This will be helpful if, for example, you are in the hospital and your whole family is there all wanting to make decisions on your behalf. This document gives medical workers clear direction on exactly who to turn to should they need a decision on a health care issue. The will-intake sheet attached will allow you to appoint such persons.
8. Living Will: A living will addresses the testator's wishes with regard to the withholding or withdrawal of life support treatment. This is important because it will take that difficult decision out of the hands of your family members. Therefore, your family does not become divided and no one person bears the weight of that decision.
9. After the Will is Executed:
 - Don't change it or alter it by yourself; if you need to update your will due to changes in circumstance inform the Legal Assistance Office and we will prepare you a new will.
 - Keep it in a safe place
 - Destroy your old will

For Office Use Only: Unit Name & Co: _____ Date Deploying: ____/____/____

Date Submitted: ____/____/____ to _____ (reviewed by clerk's initials) Prepared by _____ on ____/____/____

Reviewed By: 1. _____ 2. _____ Date Contacted: _____ Notes: _____

Date executed ____/____/____

PRIVACY ACT STATEMENT: Individuals seeking legal assistance are asked to complete this worksheet. The information requested is voluntary. It will be used by the staff of the Legal Assistance Office to assign counsel to you, to answer your questions, to prepare necessary documents for you, to monitor the progress of your case, and to prepare periodic statistical reports on the caseload of this office. The authority for requesting and maintaining this information is found in 5 U.S.C. 301 and 44 U.S.C. 3101. If you choose not to provide this information, the legal staff may not be able to assist you.

Please ensure that the following questionnaire is filled out completely and accurately. All information must be **PRINTED NEATLY**. If information is illegible, the document will not be drafted. Turn around time for wills is dependent upon the needs of the Marine Corps. Please call (760) 830-6111 to check the status of your will. Once drafted, the document(s) can be picked up, reviewed and executed on Friday mornings from 0800-1030. Individual appointments may also be scheduled during the week.

WILL QUESTIONNAIRE

1) Name: _____ Male Female

Address: _____

Telephone Number: cell: (____) _____ - _____ work: (____) _____ - _____

State of Residence*: _____

*We must determine which state law to write the will under. This could be your current state of residence, your home of record, the state where you own real property, etc. If you think you may wish to have your will probated in a state different from your state of residence, speak with an attorney and we can explore your options.

2) Are you a U.S. citizen? Yes No

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

4) Name of spouse: _____

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

- 6) Military Status: Active Duty Member (Rank _____)
 Spouse of Active Duty Member
 Retired
 Spouse of Retiree

7) Is the estimated combined value of your (and your spouse's) estate over \$1,000,000? _____

8) Enter the name(s) of your child(ren):

	Name	Age	Gender	Natural	Step	Adopted
1.	_____	___	M / F	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	_____	___	M / F	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	_____	___	M / F	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	_____	___	M / F	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	_____	___	M / F	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9) Do you own any real property (land or house) that you intend to dispose of in your will? _____

If **yes**, please provide:

*Address of Property: _____

*Description of the Property (eg vacant land, house, etc): _____

10) How is title to the real property held?

- Single Owner
 Joint Tenancy (with _____)
 Tenancy in Common (with _____)
 Other _____

NOTE: In most states land that is titled as Joint Tenancy means the property will automatically pass to the surviving person(s) listed on the title in the event of your death, without regard to any disposition made in your will.

11) If yes to question 9, how do you intend to devise (leave) the real property?

- All to my spouse
 To one or more different beneficiaries
 All real property will pass as part of my residuary estate (*see Question 15*)
 Other _____

12) How do you intend to devise your personal effects or other tangible personal property?

- All to my spouse
 As per a schedule of specific bequests (with items not listed passing to my spouse)
 As per a schedule of specific bequests (with items not listed passing as part of my residuary estate)
 As provided with regard to my residuary estate (*see Question 15*)

13) SPECIFIC BEQUEST(S): You may elect to make specific bequests (gifts) of cash, real estate, or personal property to specific people or charities in your will (e.g., wedding ring to daughter, 1957 Chevy to friend, etc.). These bequests will be distributed first and may deplete your estate. Also, specific bequests may complicate the probate of your estate if the property given cannot be found at your death. Therefore, if you make any specific bequests, you should only give property that you are reasonably sure you will possess at the time of your death. If you make no specific bequests, all of your property will pass to your primary beneficiaries.

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 of gift. If you need more space than is provided below, inform a legal assistance clerk.

Gift Beneficiary & Relationship	Type of Gift (be specific)
1. _____ _____	_____ _____ _____
2. _____ _____	_____ _____ _____
3. _____ _____	_____ _____ _____
4. _____ _____	_____ _____ _____
5. _____ _____	_____ _____ _____

14) CASH BEQUEST(S): If you make a cash bequest and you do not possess the funds at your death, or your cash beneficiary predeceases you, such cash bequest would lapse (see the reference sheet for explanation of "lapse"). Additionally, if you possess joint bank accounts with your spouse, these accounts will NOT pass through your will, but rather will automatically go to your spouse; therefore, cash bequests from these accounts will lapse as well. Do you wish to make any cash bequests?

NOTE: LIFE INSURANCE/SGLI DOES NOT PASS THROUGH THE WILL

The designated beneficiary on the life insurance/SGLI form is controlling. A will designation cannot override life insurance contract. Also, if you wish to make a cash gift of unknown amount (for example: "I give whatever amount is in my Navy Fed checking account #12345 at my death to X"), you may do so in the specific bequest section under question 13.

If you wish to make a cash bequest, indicate below to whom and how much.

Cash Beneficiary & Relationship	Amount
1. _____	\$ _____
2. _____	\$ _____
3. _____	\$ _____

15) Your "residuary estate" is whatever property remains in your estate after your lawful debts, taxes, expenses of administration have been paid and after any specific gifts from above have been given away. How do you intend to devise your residuary estate?

- All to my spouse, then to my child(ren) if my spouse predeceases me
- A minimum to my spouse, with the balance going to my children or other beneficiaries
- Various other types of dispositions

If you wish to give your residuary estate to more than one person, indicate below to whom and what percentage each beneficiary will receive. The percentages must add up to 100 percent.

Residuary Estate Beneficiary & Relationship	Percentage
1. _____	_____ %
2. _____	_____ %
3. _____	_____ %

16) A beneficiary must have attained what age to be entitled to receive a bequest outright? (Optional)

- 18
- 21
- 25
- 30
- Other _____

17) How do you want your adopted children (if any) to be treated in this will?

- Expressly included
- Expressly excluded
- This will is to be silent on the subject.
- This question is not applicable

18) How do you want your step children (if any) to be treated in this will?

- Expressly included
- Expressly excluded
- This will is to be silent on the subject.
- This question is not applicable

19) If all the beneficiaries you named above do not survive you, do you wish to name alternate beneficiaries(s)?

- Yes
- No

20) If yes to the question above, indicate below the name(s) of your alternative beneficiary(ies).

Name of Alternate Beneficiary	Relation to You	% of Your Estate
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

21) Is there anyone who you specifically do not want to receive anything from your estate?

- Yes
- No

22) If yes to the question above, indicate below the name and relation to you.

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

23) EXECUTOR: An "Executor" 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 out of your estate, and ensuring that the remainder of your estate is properly distributed to your intended beneficiaries. A successor is a person who will serve in the event that the first named individual is unable or unwilling to serve.

Any adult (18 or older) may serve as your Executor, although many 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 or responsible friends who are residents of the same state where you claim to be your legal residence or the state where you own real property.

Who do you want to appoint as your Executor (required)?

- My spouse and a successor Executor
- My spouse and a co-Executor (to act jointly)
- My spouse alone
- One Executor other than my spouse (please list below)
- Other (please list below)

If you have successor Executors or co-Executors, indicate below.

Name of Executor (in order of succession)	Relation to You
1. _____	_____
2. _____	_____
3. _____	_____

24) If you and the other natural parent of your child(ren) die while your child(ren) are still minors, do you wish to appoint a Guardian to take care of your minor child(ren)?

- Yes, one Guardian for any minor child(ren)
- Yes, one Guardian and a successor guardian(s)
- Yes, two co-Guardians (with or without any successors)
- No, I do not wish to appoint a Guardian under this will

Parents should agree on the guardians for minor children to avoid conflicting designations

Name of Guardian (in order of succession)	Relation to You
1. _____	_____
2. _____	_____
3. _____	_____

25) Some states allow you to appoint a Conservator (or Custodian), who will care for the property of a minor child until they turn 18 or whichever age you indicated above. The Conservator and the Guardian may be the same person, or they may be different individuals. Do you wish to appoint a Conservator?

- Yes
- No

26) If yes to the above question, indicate the name(s) of your Conservator(s) below (or simply write, "same as guardian" in the space below).

Name of Conservator (in order of succession)	Gender	Relation to You
1. _____	M / F	_____
2. _____	M / F	_____
3. _____		_____

27) Instead of giving your estate directly to a minor beneficiary, you may elect to give your estate to a person designated as a 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 court supervision. Although the Trustee's primary purpose is to safeguard the inheritance, the money may also be used for any beneficiary's health, education, welfare, or maintenance, at the Trustee's discretion. Your Trustee should be responsible, well organized, trustworthy, and experienced in maintaining books and records.

An alternative to a trust is a bequest under the Uniform Transfers to Minors Act ("UTMA"), whereby the inheritance is given to the Guardian or Conservator to use for the benefit of the minor beneficiary(ies). In this scenario, the inheritance would be initially controlled by the Executor, and after probate, to the Guardian or Conservator of the minor beneficiary(ies). This arrangement may be preferable to a trust because it is ordinarily less complicated and less expensive than establishing a trust.

If a child of yours is a minor at the time of your death, the bequests to that child shall be:

- Paid to the child's Guardian or Conservator ("UTMA")
- Held in trust by a TRUSTEE until the child attains majority
- Held in trust by the EXECUTOR until the child attains majority

****If you do not elect the property to be held in trust, please skip to Question 28****

A single trust 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 principle. 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 is cumbersome and likely to be expensive to maintain.

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

- Yes
- No

29) If you wish to establish a trust, do you want to appoint:

- One Trustee
- Two Co-Trustees
- One Trustee and a successor Trustee

30) Indicate the name(s) of your Trustee(s) below.

Name of Trustee (in order of succession)	Relation to You
1. _____	_____
2. _____	_____
3. _____	_____

31) Do you want the Trustee to have the power to dissolve the trust if it becomes uneconomical to maintain it? Yes No

32) Do you want the Trustee to have the power to dissolve the trust if the trust falls below a specific amount? Yes No

33) If yes to the question above, what amount? \$ _____

LIVING WILL QUESTIONNAIRE

A Living Will is a declaration that if you were terminally ill or in vegetative state where your survival is not possible without the use of life support, certain medical treatment should NOT be given to prolong your life. A Living Will is often accompanied by a Durable Power of Attorney for Health Care (or Advanced Medical Directive), which permits you to appoint another person (or persons) to make health care decisions on your behalf when you can no longer make such decisions yourself. The scope of the health agent's powers may be very broad (e.g., changing doctors or hospitals, authorizing certain medical treatment, or terminating all medical treatment). Complete this Questionnaire if you would like a Living Will and a Durable Power of Attorney for Healthcare prepared for you. You should note that a Living Will, although oftentimes prepared in conjunction with a will, is a separate document and is NOT a part of your Last Will and Testament.

- 1) Do you want a living will? Yes No
- 2) Do you want a Durable Power of Attorney for health care?
 Yes No

****If no please skip to Question 8****

- 3) Who do you want to designate as your health care agent?
- My spouse
 - My spouse and a successor agent who is named below
 - Someone who is not my spouse, and who is named below

Name/ Relation: _____

Address: _____

Phone: () _____

- 4) With regard to the appointment of a second agent to make health care decisions:
- A second agent is NOT to be designated
 - A second agent is to be designated, and either agent can act independently
 - A second agent is to be designated, and the agents must act jointly unless one is incapacitated
 - 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

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

Name/ Relation: _____

Address: _____

Phone: () _____

- 5) Is your agent authorized to donate your organs for transplant?
- Yes
 - No

****If no, please skip to Question 7****

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) Do you wish to express a preference to die at home rather than in a hospital (*only applicable for living will document*)?

- Yes
- No

8) Do you have a funeral preference?

- Cremated
- To be buried at a specific location: _____
- Burial at sea
- Other: _____
- No preference

9) Do you want to be buried with full military honors?

- Yes
- No

DURABLE POWER OF ATTORNEY-FINANCIAL

A durable power of attorney is a reliable way to arrange for someone to make your financial decisions should you become unable to do so yourself. The durable power of attorney does not go into effect unless a doctor certifies that you have become incapacitated (a vegetative state, for example if you are in a coma). This is called a "springing" durable power of attorney. This document will only come into effect if and when you are unable to make decisions for yourself. **This is important because most other powers of attorney cease to be effective if and when you become incapacitated.**

1) Do you want a Power of Attorney for Finances?

- Yes
 No stop here

2) **1st CHOICE** (person who has the powers when you become incapacitated):

Legal Name: _____

Address: _____

Phone Number:(_____) _____ Relationship to you: _____

3) **2nd CHOICE** (if the first choice is unwilling or unable to serve):

Legal Name: _____

Address: _____

Phone Number:(_____) _____ Relationship to you: _____

Below is a list of powers you can generally expect to see associated with a Durable Power of Attorney:

Real Property (acquire, transfer, change title)

Tangible Personal Property (acquire, transfer, maintain and sell)

Securities (stocks, bonds, mutual funds)

Commodity futures & options (commodity future contracts & put options)

Financial Institutions (open account, write checks, borrow \$, safe deposit boxes)

Business Operations (partnership, sole proprietorship, business ventures)

Resignation from Fiduciary positions (executor, trustee, attorney in fact, guardian)

Claims & Legal Proceedings (litigate, arbitrate, defend lawsuit, bankruptcy)

Tax Matters (IRS proceedings, tax returns, refunds)

Estate, Trust & Other Beneficiary Transactions

Government Benefits (social security, civil benefits, military benefits)