

Will of Willa Willmaker

Part 1. Personal Information

I, Willa Willmaker, a resident of the State of California, Alameda County, declare that this is my will.

Part 2. Revocation of Previous Wills

I revoke all wills and codicils that I have previously made.

[This provision makes clear that this is the will to be used by the probate court—not any other wills or amendments to those wills, called "codicils," that were made earlier. To prevent possible confusion, all earlier wills and codicils should also be physically destroyed.]

Learn more about [revoking](#) and [amending wills](#).]

Part 3. Marital Status

I am married to Bob Willmaker.

[Here you identify your spouse if you are married—or your partner, if you are in a registered domestic partnership, civil union, or other marriage-like relationship recognized by your state.]

Part 5. Pets

I leave my Boston terrier, Clementine, and \$1,500 to Jenny Amigo, with the hope that the money will be used for Clementine's care and maintenance. If Jenny Amigo does not survive me, I leave Clementine and \$2,000 to Bob Smith, with the hope that the money will be used for Clementine's care and maintenance.

[Here you can leave your pet to a trusted caretaker. You can also leave money to the caretaker with a request that the caretaker use the money for your pet's care.]

Learn more about [estate planning for your pet](#).]

Part 6. Disposition of Property

A beneficiary must survive me for at least 45 days to receive property under this will. As used in this will, the phrase "survive me" means to be alive or in existence as an organization on the 45th day after my death.

[This language means that to receive property under your will, a person must be alive for at least 45 days after your death. Otherwise, the property will go to whomever you named as an alternate. This language permits you to choose another way to leave your property if your first choice dies within a short time after you do.]

This will clause also prevents the confusion associated with the simultaneous death of spouses or domestic partners, when it is hard to tell who gets the property they have left to one another. Property left to a spouse or domestic partner who dies within 45 days of the other spouse or domestic partner, including a spouse or partner who dies simultaneously, will go to the person or organization named as alternate.

Learn more about [survivorship requirements.](#)]

If I leave property to be shared by two or more beneficiaries, and any of them does not survive me, I leave his or her share to the others equally unless this will provides otherwise.

[This clause states that if you leave a gift to two or more beneficiaries without stating the percentage each should receive, the beneficiaries will share the gift equally. This clause is included as a catchall; you can determine the shares for almost every shared gift.]

My residuary estate is all property I own at my death that is subject to this will that does not pass under a general or specific bequest, including all failed or lapsed requests.

[This definition is included so that you and your survivors are clear on the meaning of "residuary estate."]

I leave \$10,000 to Gary Johnson. If Gary Johnson does not survive me, I leave this property to Suzie White.

[This language leaves a specific item of property—\$10,000—to a named beneficiary, Gary Johnson. If Gary Johnson does not survive the testator, then Suzie White will get the money.]

I leave my rare stamp collection to Jenny Amigo, Michael Swanson, and Jose Gladstone as follows: Jenny Amigo shall receive a 1/4 share. Michael Swanson shall receive a 1/4 share. Jose Gladstone shall receive a 1/2 share.

[This language leaves a specific item of property—a stamp collection—to three people in unequal shares.]

I leave my collection of Nash cars to the Big Sky Auto Museum and Marcus Stone in equal shares. If Marcus Stone does not survive me, I leave his share of this property to Cyndy Stone.

[This will leaves specific property to an organization and a person equally. Since the testator here was concerned about providing for the possibility that the person would not survive to take the property, she named an alternate for him.]

Learn more about [alternate beneficiaries.](#)]

I leave my residuary estate to my spouse, Bob Smith.

[This clause gives the residuary estate—all property that does not pass under this will in specific bequests—to the testator's spouse. Your residuary estate may be defined differently depending on your plans for leaving your property.]

Learn more about [residuary beneficiaries](#).]

If Bob Smith does not survive me, I leave my residuary estate to Ricky Willmaker and Gloria Willmaker in a children's pot trust to be administered under the children's pot trust provisions.

[If the person named here to take the residuary estate does not survive the testator, the residuary estate will pass to the two people named: the testator's children. The property will be put in one pot for the children to use as they mature. If this were a complete will, the specifics of how this pot trust operates would be explained later in the will. Keep in mind that, in this example, the pot trust will come into being only if the testator's spouse does not survive the testator by at least 45 days.]

Learn more about [using a will to create a trust](#).]

If both of these children are age 18 or older at my death, my residuary estate shall be distributed to them directly in equal shares.

[This clause makes clear what should happen if the children are older than the age at which the testator specified the pot trust should end. In this case, no pot trust will be created; the children will get the property directly and divide it evenly.]

If either of these children does not survive me, I leave his or her share to the other child.

[This clause explains that if either child does not survive, the other will get the property directly.]

If Bob Smith, Ricky Willmaker and Gloria Willmaker do not survive me, I leave my residuary estate to Christine Clemens.

All personal and real property that I leave in this will shall pass subject to any encumbrances or liens placed on the property as security for the repayment of a loan or debt.

[This language explains that whoever gets any property under this will also gets the mortgage and other legal claims against the property, such as liens. And anyone who takes property that is subject to a loan, such as a car loan, gets the debt as well as the property.]

Part 7. Forgiveness of Debts

I wish to forgive all debts specified below, plus accrued interest as of the date of my death:

Sheila Jenkins, April 6, 2007, \$10,000.

[Forgiving a debt is equivalent to making a bequest of money. It is a common way to equalize what you leave to all your children when you have loaned one of them some money—that is, the amount that you would otherwise leave that child can be reduced by the amount of the debt being forgiven.]

Part 8. Executor

I name Bob Smith to serve as my executor. If Bob Smith is unwilling or unable to serve as executor, I name Jenny Amigo to serve as my executor.

No executor shall be required to post bond.

[This clause identifies the choices for executor and an alternate executor who will take over if the first choice is unable or unwilling to serve when the time comes.]

Learn more about [executors](#).]

Part 9. Executor's Powers

I direct my executor to take all actions legally permissible to have the probate of my will done as simply and as free of court supervision as possible under the laws of the state having jurisdiction over this will, including filing a petition in the appropriate court for the independent administration of my estate.

[This clause sets out the specific authority that the executor will need to competently manage the estate until it has been distributed under the terms of the will. The will language expresses your desire that your executor work as free from court supervision as possible. This will cut down on delays and expense.]

When you print out your will, a second paragraph will list a number of specific powers that your executor will have, if necessary. It also makes clear that the listing of these specific powers does not deprive your executor of any other powers that he or she has under the law of your state. The general idea is to give your executor as much power as possible—to avoid going to court to ask for permission to take a particular action.]

Part 10. Payment of Debts

Except for liens and encumbrances placed on property as security for the repayment of a loan or debt, I direct that all debts and expenses owed by my estate be paid using the following assets: Account #666777 at Cudahy Savings Bank.

[This clause states how debts will be paid. Depending on your choice when making your will, your debts may be paid either from specific assets you designate, or from your residuary estate—all the property covered by your will that does not pass through a specific bequest.]

Learn more about [leaving instructions in your will for paying and forgiving debts](#).]

Part 11. Payment of Taxes

I direct that all estate and inheritance taxes assessed against property in my estate or against my beneficiaries to be paid using the following asset: Account #939494050 at the Independence Bank, Central Branch.

[This clause states how any estate or inheritance taxes owed by the estate or beneficiaries should be paid. You can choose whether your taxes should be paid from all of your property, from specific assets you designate or by your executor according to the law of your state.]

Learn more about [estate and inheritance taxes](#).]

Part 12. No-Contest

If any beneficiary under this will contests this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of as if that contesting beneficiary had not survived me.

[This harsh-sounding clause is intended to discourage anyone who receives anything under the will from challenging its legality for the purpose of receiving a larger share. Many states will not enforce a no-contest clause if the challenger has a good reason for the contest. Other states have passed laws specifically stating that a no-contest clause will not be enforced. If a court decides not to carry out the no-contest clause in your will, the rest of the document will be enforced as written.]

Learn more about [no-contest clauses](#).]

Part 13. Severability

If any provision of this will is held invalid, that shall not affect other provisions that can be given effect without the invalid provision.

[This is standard language that ensures that in the unlikely event that a court finds any individual part of your will to be invalid, the rest of the document will remain in effect.]

SIGNATURE

I, Willa Willmaker, the testator, sign my name to this instrument, this _____ day of _____, _____, at _____. I declare that I sign and execute this instrument as my last will, that I sign it willingly, and that I execute it as my free and voluntary act. I declare that I am of the age of majority or otherwise legally empowered to make a will, and under no constraint or undue influence.

Signature: _____

WITNESSES

We, the witnesses, sign our names to this document, and declare that the testator willingly signed and executed this document as the testator's last will.

In the presence of the testator, and in the presence of each other, we sign this will as witnesses to the testator's signing.

To the best of our knowledge, the testator is of the age of majority or otherwise legally empowered to make a will, is of sound mind and under no constraint or undue influence. We declare under penalty of perjury that the foregoing is true and correct, this

_____ day of _____, _____, at
_____.

First Witness

Sign your name: _____

Print your name: _____

Address: _____

City, State: _____

Second Witness

Sign your name: _____

Print your name: _____

Address: _____

City, State: _____

[Every state requires a will to be signed by two adult witnesses. A notary generally is not required, but having a will notarized can make it easier to prove that your will is legitimate.]