

# How to Write Your Own Last Will and Testament

A last will and testament is a legal document that dictates what happens to your estate once you pass away. If you have a complicated estate, it's best to have an attorney help you write your last will and testament, so you can be sure that your estate is handled properly. If your situation is relatively straightforward, you can draft your own last will and testament and avoid attorney fees. Learn about the components of a last will and testament and how to make sure yours is legally viable.

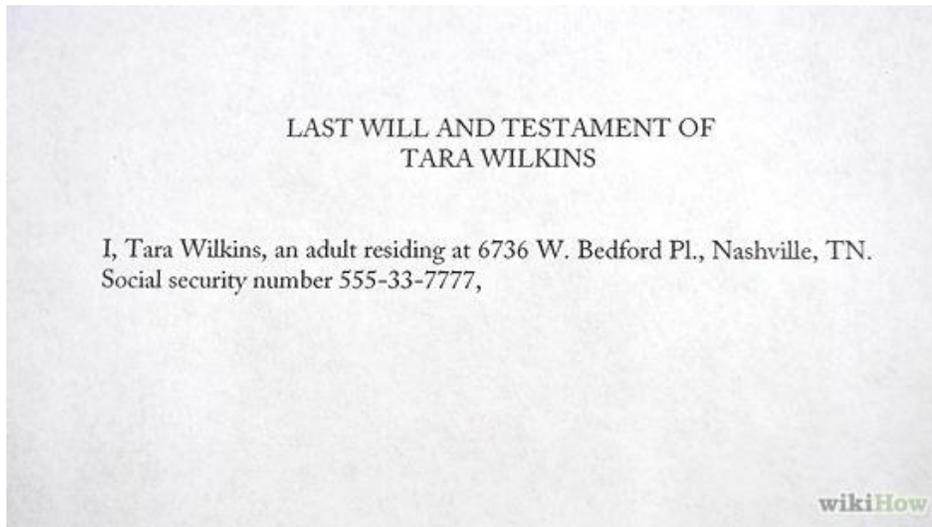
*Note: The advice provided here relates to the jurisdiction of the United States. If you live elsewhere, contact a relevant legal adviser for specific advice with respect to your country's laws.*

## Things to Consider Before Writing Your Last Will and Testament

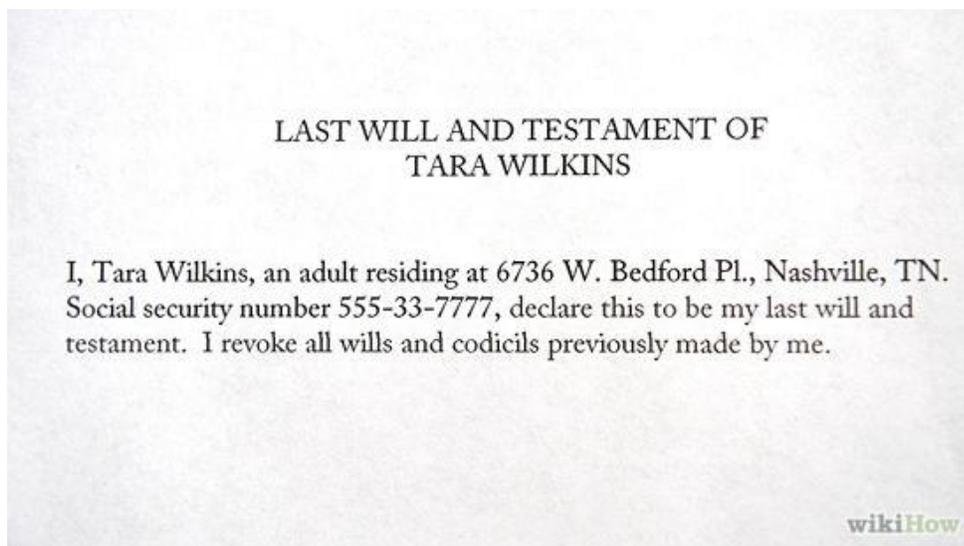
- 1. Know your state's requirements.** Each state has different requirements for what constitutes a legal last will and testament. The Uniform Probate Code (UPC) is an act drafted by the National Conference of Commissioners on Uniform State Laws to standardize state laws governing wills and other matters related to estates. It has been adopted in full by 17 states and in part by many other states. Differences in requirements among the states include the following:
  - Some states require that your will be signed by witnesses, while others do not.
  - Some states require that your will be notarized, while others do not.
  - Some states recognize handwritten wills, while others do not.
- 2. Make a plan for fulfilling your states requirements.** Once you know your state's requirements, decide how you plan to fulfill them. Consider the following options:
  - Write your own will and be responsible for making sure it fulfills your state's requirements. Be aware that state laws can change from year to year, so the process may be more complicated than you think.
  - Hire an attorney to review the will you write, provide you with witnesses and ensure that you have met your state's requirements.
  - Use an online will writing service,<sup>[2]</sup> which will automatically ensure that your will is written according to your state's requirements. Online will writing services generally cost \$60 - \$100, depending on how complicated your will is.

## Components of a Last Will and Testament

- 1. Identify yourself by name, social security number and address.** These identifying factors will ensure that your will isn't confused with that of someone with the same name.
  - You may also include your date of birth to further identify yourself.
  - If you don't have a social security number, provide a different ID number.



2. **Make a declaration.** State clearly that you are of sound mental health and of contractual capacity, and that this will expresses your last wishes. Without this important step, it could be argued that your will is not legally viable. Include the following lines.



- *I declare that this is my last will and testament, and that I hereby revoke, annul and cancel all wills and codicils previously made by me, either jointly or severally.*
  - *I declare that I am of legal age to make this will, and that I am sound of mind.*
  - *This last will expresses my wishes without undue influence or duress*
3. **Include family details.** If you're leaving part of your estate to a spouse, children or other family members, they should be named as such in your will. Include the following lines, if appropriate:

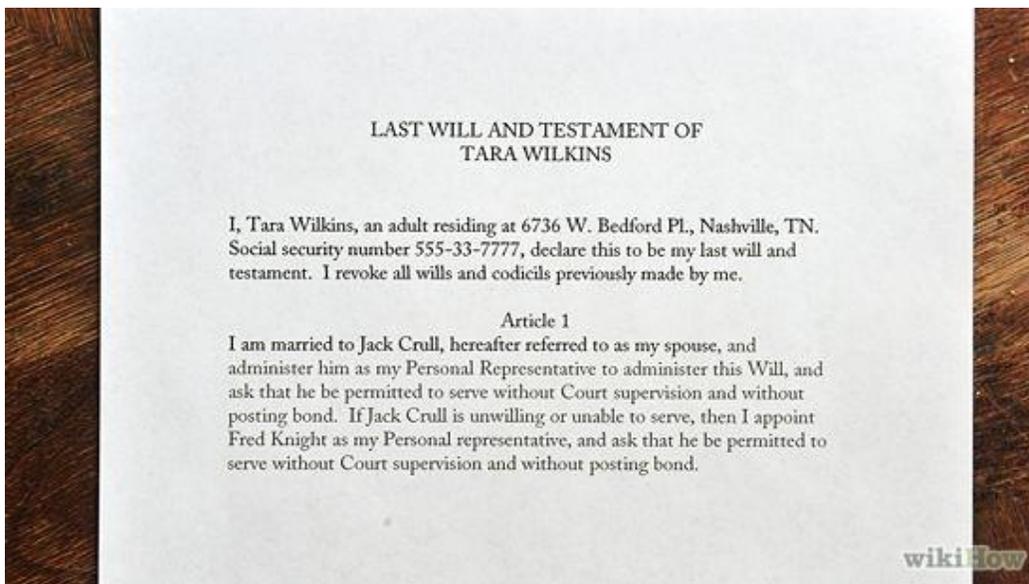
I, Tara Wilkins, an adult residing at 6736 W. Bedford Pl., Nashville, TN, Social security number 555-33-7777, declare this to be my last testament. I revoke all wills and codicils previously made by me.

Article 1

I am married to Jack Crull, hereafter referred to as my spouse

- *I am married to [spouse's first and last name], hereafter referred to as my spouse.*
- *I have the following children: [list children's first and last names as well as their dates of birth].*

4. **Appoint an Executor (known in some states as a Personal Representative).** The Executor is the person who carries out your instructions and administers your estate after your death. Every state has rules over who can serve as executor. In most states, anyone who is at least 18 and living in that state is acceptable, but you should take care to choose a person who is honest, thrifty, prudent and resourceful. Name a backup Executor as well, in case the first person you name can't perform his or her duties. Include the following line:



- *I hereby nominate, constitute and appoint [executor's first and last name] as Executor.*
- *If this Executor is unable or unwilling to serve, then I appoint [backup executor's first and last name] as alternate Executor.*

5. **Empower the Executor.** In this section you authorize the Executor to act in your interest regarding your estate, debts, funeral expenses, and other items.<sup>[6]</sup> State whether your Executor should post bond or serve without bond, then write clauses empowering the Executor to do the following:

... as my Personal Representative, and ask that he be permitted to serve without Court supervision and without posting bond.

#### Article II

I direct my Personal Representative to pay out of my residuary estate all of the expenses of my last illness, administration expenses, legal enforceable creditor claims, all Federal estate taxes, state inheritance taxes, and all other governmental charges imposed by reason of my death without seeking reimbursement fro or charging any person for any part of the taxes and charges paid, and if necessary, reasonable funeral expenses, including the cost of any suitable marker for my grave, without the necessity of an order of court approving said expenses.

wikiHow

- Sell any real estate in which you may own an interest at the time of your death and to pledge it, lease it, mortgage it or otherwise deal with your real estate as you yourself would do.
  - Pay all of your just debts, funeral expenses, taxes and estate administration expenses. This allows your heirs to take their shares without later deductions or complications.
6. **Bequeath your assets.** State the way in which your assets will be divided among people using percentages, which should add up to 100%. For example, one line might read: *To my mother, Barbara Smith, I bequeath Five (5%) Percent.*

reimbursement fro or charging any person for any part of the taxes a charges paid, and if necessary, reasonable funeral expenses, including cost of any suitable marker for my grave, without the necessity of an court approving said expenses.

#### Article III

I devise, bequeth, and give my dog Rudy to Sarah Pinkler.  
I devise, bequeth, and give my Honda Pilot to Mark Wilkins.  
I devise, bequeth, and give my Rolex watch to Tina Wilkins.

#### Article IV

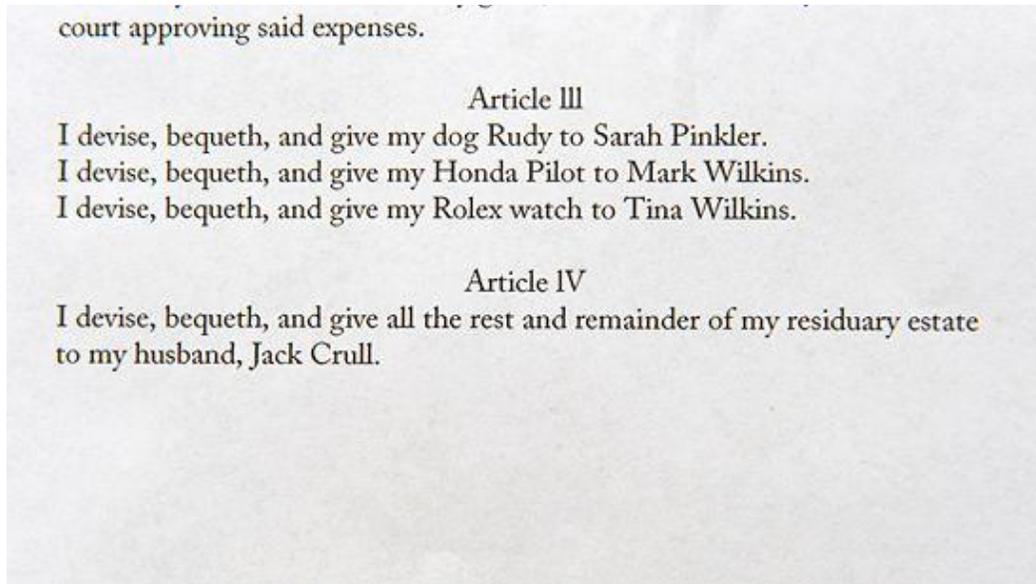
I devise, bequeth, and give all the rest and remainder of my residuary to my husband, Jack Crull.

wikiHow

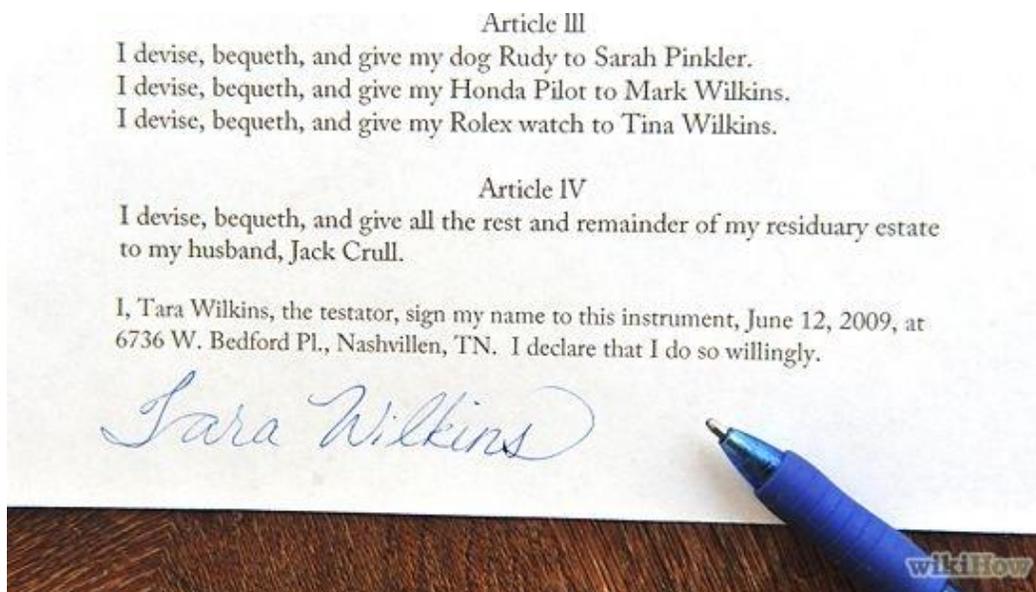
- Include provisions that clearly explain who gets a beneficiary's gift if that person dies before you. For example, *To my mother, Barbara Smith, I bequeath Five (5%) Percent should she survive me; otherwise the share of Barbara Smith shall pass instead to her lawnman, Chauncey Gardner should he survive Barbara Smith and myself.*
- If you want a deceased beneficiary's gift to just go back into the pot and be divided among your living beneficiaries in shares proportionate to what you provided for them, you can use conditional language such as *To my mother, Barbara Smith, I bequeath Five (5%) Percent*

*should she survive me.* If you leave it at that and do not name an alternate to specifically receive Barbara's gift, her gift will "lapse" and go back into the pot.

7. **Make special requests.** If you want to stipulate how your remains should be handled, where you will be buried, and how your funeral will be paid for, include a line beginning with. *I direct that on my death my remains shall . . .*



8. **Sign the will.** Conclude the document with your signature, name, date, and location. In many cases it must be signed in the presence of two witnesses, who then sign a statement asserting that you are of legal age and sound mind and that you signed your will in their presence.



- Before you sign the will, find out how it should be signed in your state. How you and your witnesses sign the will is a matter of state law and can affect its validity.
- Initial each page of your will.

## What to Do After You Write Your Will

1. **Store the will safely.** Your will does not get filed with the courts until after your death. Tell only your nominated Executor where you keep it. You may also wish to give the Executor a copy or second original.



2. **Do not write on your will once it is written and signed.** Make any future changes by way of a "codicil," a separate document which explicitly refers to the original will.



**NOTE:** Laws change from time to time and vary from state to state, so no template can guarantee that your last will and testament will be legally airtight. Use this article as a guide, but consider having an attorney review your written will before you finalize it.

### Sources

- <http://statelaws.findlaw.com/estate-planning-laws/wills/>
- [http://www.huffingtonpost.com/jim-t-miller/will\\_b\\_2077438.html](http://www.huffingtonpost.com/jim-t-miller/will_b_2077438.html)
- <http://www.free-legal-document.com/last-will-and-testament.html>
- <http://www.nolo.com/legal-encyclopedia/how-write-will.html>
- <http://www.abanet.org/publiced/practical/books/wills/home.html> – research source

