

*THIS DO-IT-YOURSELF GUIDE HAS BEEN CREATED FOR TEXANS IN THE CONTEXT OF THE COVID-19 PANDEMIC AND THE RESULTING LIMITS ON PEOPLE'S ABILITY TO MEET WITH ATTORNEYS AND OTHERS. THIS INFORMATION IS NOT LEGAL ADVICE, AND IT DOES NOT TAKE INTO ACCOUNT THE WIDE VARIETY OF LIFE CIRCUMSTANCES THAT YOU MAY HAVE. HOUSTON VOLUNTEER LAWYERS (HVL) STRONGLY ENCOURAGES YOU TO MEET WITH AN ATTORNEY TO DISCUSS YOUR ESTATE PLANNING NEEDS WHEN THE LOCAL STAY-AT-HOME ORDER IS LIFTED AND IT IS SAFE FOR YOU TO DO SO. PLEASE VISIT WWW.MAKEJUSTICEHAPPEN.ORG FOR THE MOST UP-TO-DATE VERSION OF THIS DOCUMENT.*

## **DO-IT-YOURSELF GUIDE FOR HANDWRITTEN "HOLOGRAPHIC" WILLS IN TEXAS**

A "holographic" will is simply a will that is entirely in your own handwriting. If done correctly, it is valid and can be legally enforced. In order to make a valid handwritten will in Texas, **the entire document MUST be in your OWN handwriting. No one can write any part of it except for you and no part of it can be typed. You can write in cursive or print, but the entire will must be in your handwriting only. You MUST write legibly so other people can easily read and understand what you wrote.**

To make a valid holographic will in Texas, HVL recommends the following:

- Write that it is your will.
- Write who you want to receive your belongings.
- Write who you want to serve as the "independent executor."
  - *Note:* The "independent executor" is someone you trust to show your will to a court, pay your debts, and give out your belongings.
  - He/she can be the same person who receives your belongings.
- Write that you want your "independent executor" to "serve without bond."
  - *Note:* To "serve without bond" means that your "independent executor" will not have to give money to the court for a bond. Courts usually require a bond to make sure money is not stolen or misused. But if you trust this person, using this language makes it easier for them to give out your belongings.
- Put the date that you write the will.
- Sign the will.

Your handwritten "holographic" will does not need to be signed in front of witnesses or a notary. HVL recommends you write in blue ink so that if a copy is made, it will be easier to tell which is the original. Place your will in a safe place and tell your "independent executor" where this is.

HVL has included two (2) simple sample "holographic" wills. If you use one of them, you must copy the sample to another sheet so that it is written in your own handwriting.

Please note, there are two (2) ways to have a valid will in Texas. One way is with a "holographic" will, as discussed above. The other way is with a formal will, which must be witnessed. HVL recommends you make a formal will with HVL (for low-income Houstonians) or another lawyer when you are able to do so. You may contact Houston Lawyer Referral Service (713-237-9429, <https://hlrs.org/>) to help you find a lawyer.

These samples are to be used as examples only and are applicable under Texas law. **Neither this, nor the instructions attached, constitute legal advice or the initiation of an attorney-client relationship.**

These are examples of what you can copy to be a holographic will. They are provided without any representations as to the appropriateness of the will for your particular situation. However, in most situations, it will be better than having no will at all.

For your holographic will to be valid:

- 1) YOU MUST WRITE IT ALL IN YOUR NORMAL HANDWRITING – no one else can write any part of it and no part of it can be typed, and
- 2) You should sign and date it at the end.

If you copy either sample below to make your holographic will, you should write your own information—name, beneficiary (person getting your belongings), executor, date, signature—in the spots indicated with underlined text. If you do not have minor or disabled children, then you can leave those lines out.

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### Sample 1

I, Your Name, declare that this is my will. I leave my entire estate to my spouse/name of another person. I appoint my spouse/name of another person as independent executor of my estate, to serve without bond. I appoint my spouse/name of another person as guardian of the persons and estates of my minor children.

Date/month day, year

Your regular signature

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### Sample 2

#### Last Will and Testament of Your Name

I, Your Name, a resident of Harris (or whatever county you live in) County, Texas, revoke all my prior wills and codicils and declare this to be my will.

If I am married and my spouse survives me, I give my entire estate to my spouse.

If I am not married or my spouse does not survive me, I give my entire estate to my descendants who survive me, per stirpes.

If neither my spouse nor any descendant of mine survives me, I give my entire estate to my heirs.

I appoint my spouse as independent executor of my estate. If I am not married or my spouse is unable or unwilling to act, I appoint name of person as independent executor of my estate. No action shall be required in any court other than the probating and recording of this will and the return of an inventory and list of claims, if required. No bond shall be required of any executor. Any executor shall have all of the powers granted to trustees under the Texas Trust Code.

If appropriate, the executor may make distributions in any manner provided by law for distributions for the benefit of minors or persons under any other legal disability, including the Texas Uniform Transfers to Minors Act.

If my spouse does not survive me, I appoint name of person as guardian of the person of any child of mine who is under a legal disability at the time of my death. If for any reason and at any time name of person is unable or unwilling to act, I appoint name of another person as guardian. No bond or other security shall be required of any guardian.

Date/month day, year

Your regular signature

## **A Texas Handwritten “Holographic” Will Checklist**

### **Prepare**

*Before you start:*

- Make a list of your valuable and important belongings. Examples may include: bank account, home, car, family heirlooms, etc.
- Decide who you want to receive each of these belongings. It is ok if it is all to the same person or to different people. It is your will and you get to decide.
- Choose someone you trust to be in charge of giving out this property the way you will describe in your will. This person will be the “independent executor.”
- Review the instructions and samples provided in this packet.

### **Materials**

*You will need the following:*

- Clean sheet of paper.
- Ink pen (preferably blue, but any color will do).

### **Create**

*Now you just have to write your will:*

- Write your will using the instructions and samples in this packet.

### **Review**

*Take a look at what you just wrote and make sure you can say yes to all of the following:*

- Did I handwrite the entire will?
- Could a stranger read my handwriting and understand what I wrote?
- Does it say this is my will?
- Is it clear who I want to receive my property?
- Did I write who I wanted to be the will’s “independent executor”?
- Did I write that I wanted the “independent executor” to “serve without bond”?
- Does it have the date?
- Did I sign it?

### **Protect**

*To make sure your will is honored upon your death, do the following:*

- Put your original will somewhere safe (like a sandwich bag in your freezer).
- Tell your “independent executor” where you placed the original will.

*If you ever change your mind about who you want to receive your belongings, follow the instructions in this packet to create a new will. Be sure to tear up your old will, and tell your “independent executor” if you move the will to another location.*