

HOW TO MAKE YOUR OWN TEXAS WILL AT HOME

**WITHOUT A
LAWYER**

Everything you need to know to make your own legally effective Will in your own home.

By Sean Y. Palmer

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Cover by the author.

A Word From the Author

***Yes, I'm a Texas attorney.
But not today.***

Today I am just another neighbor who is home-bound during the coronavirus pandemic that is sweeping our neighborhood, our nation, and the world.

This is an extremely stressful time and one in which many of us are considering what will happen if the worst happens. I wrote this e-book as a way to help bring a little peace of mind to my friends and neighbors who are stuck at home, by being prepared.

The information contained here is offered at a time when people cannot visit their attorney due to the local stay at home order or other mandatory quarantine restrictions. It is therefore very basic and should be considered only as a "stop gap" measure to making sure that your desires are known if you cannot express them. It does NOT substitute for, nor should be considered, legal advice. Everyone's life circumstances are different and if and when you can, you should consult with an Estate Planning attorney.

The reality is that many of us will suffer loss in the days ahead. I share my hopes and prayers that our struggle will be over quickly and with minimal pain. I take comfort in knowing that although we are physically apart, we are all in this together as one community.



A handwritten signature in red ink, appearing to read "J. P. [unclear]". The signature is fluid and cursive.

April, 2020

How to Make A Texas Will At Home

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"In the midst of winter, I found there was, within me, an invincible summer."

ALBERT CAMUS



What Is A "Holographic Will"?

A Will drafted in your lawyer's office will look very different from the one you can make on your own in your own home, without a lawyer. For one thing, the one you get from your attorney will be neatly typed, usually on vellum or other sturdy stock paper and encased in a nice envelope or other protection. It will have several signatures beside your own, and will look and feel like what it is - a solemn document that should be handled with the reverence.

A Will you can make on your own, without a lawyer is called a "holographic Will". It is a down and dirty, no nonsense version of the attorney prepared will. It will be a document that is written in your own handwriting- and is written on any kind of paper you have handy to write on.

Both versions are legally valid in Texas probate court. The main visible difference is that one is typed and the other is handwritten by yourself. And that is the most important thing to know about a holographic Will: to be valid in a Texas probate court, **your holographic will must be completely, 100% percent in your own handwriting.**

Last Will and Testament
of

VICTOR L. QUEST

I, VICTOR L. QUEST, a resident of the County of Ta
and State of Illinois, being of sound and disposing mind
memory, do hereby make, publish and declare this to be my
will and Testament, hereby revoking any other wills or
heretofore made by me.

SECTION ONE

I hereby direct that all funeral expenses and
of administering my estate, and all estate, inher
a succession taxes which become due by reason
of my death, shall be paid out of the assets of my estate
practicable after my death.

I give the Executor
in each case to be exer

(a) To sell at
to borrow money and
all or part of the

FORMAL WILL

- LAST WILL
&
TESTAMENT

HOLOGRAPHIC

WILL



The most important thing to remember about a holographic will is that **NO PART of the Will can be typed out or written by anyone else.** That is why the "fill in the blank" forms you will find on the internet are absolutely useless in creating a holographic will. It must be completely in your own handwriting.

And it doesn't matter if you use print or use cursive, as long as it is by your own hand. However, you must write legibly so other people can actually read what you wrote, so you should use whichever method assures an easy read.

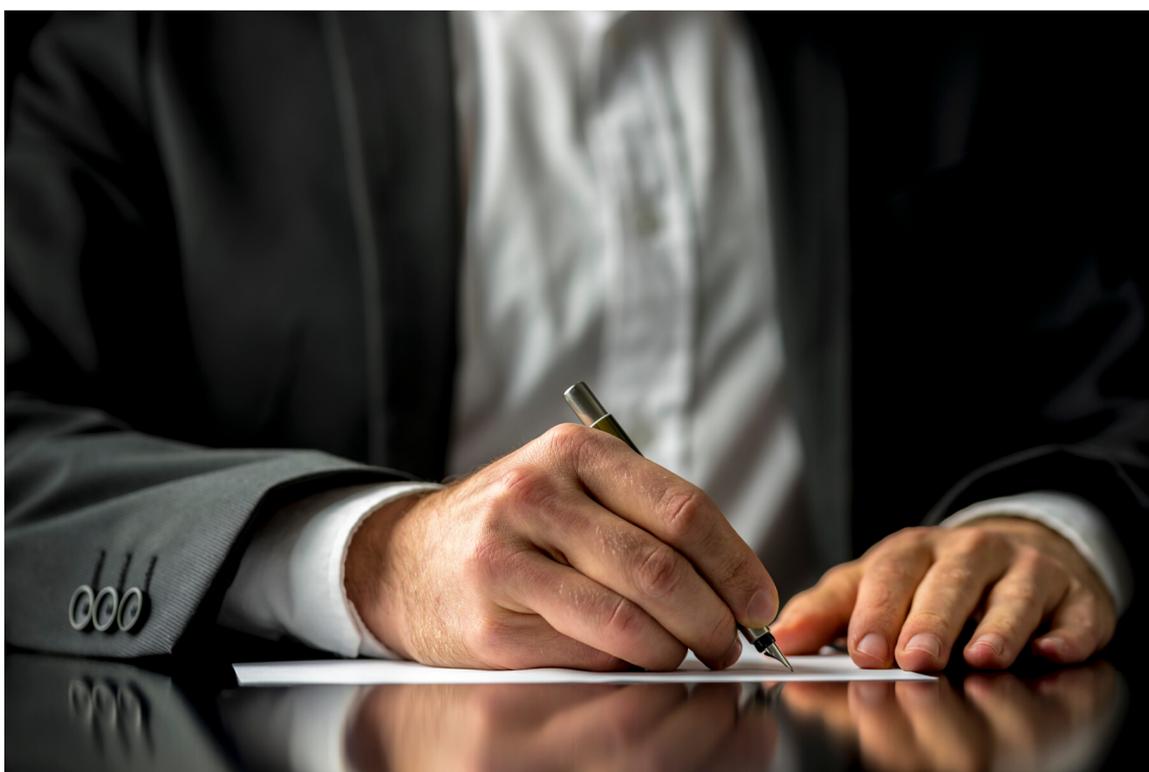
Remember, if you want your holographic Will to be valid in the State of Texas, it must be 100% written by your hand.

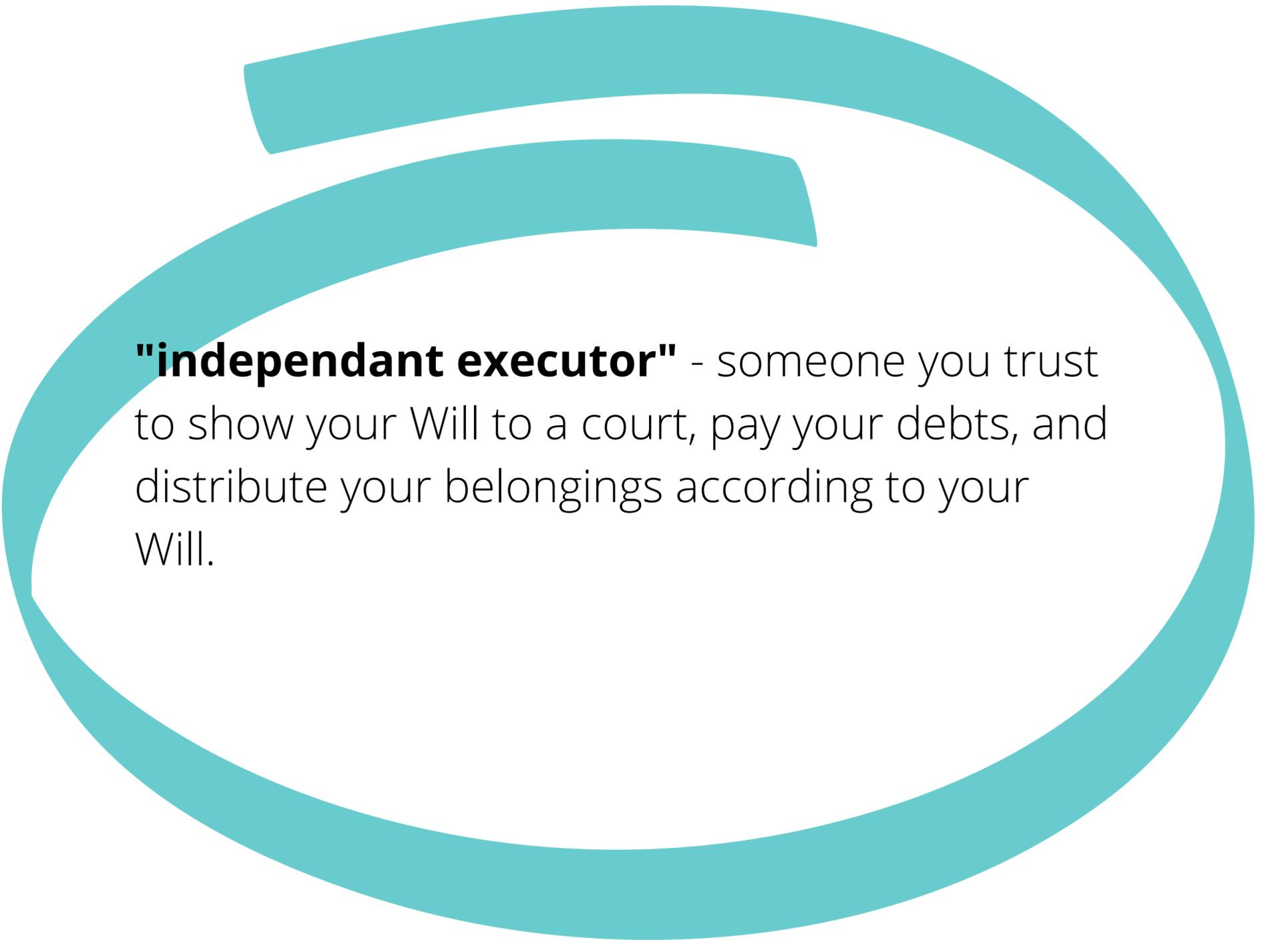


How to Make A Holographic Will

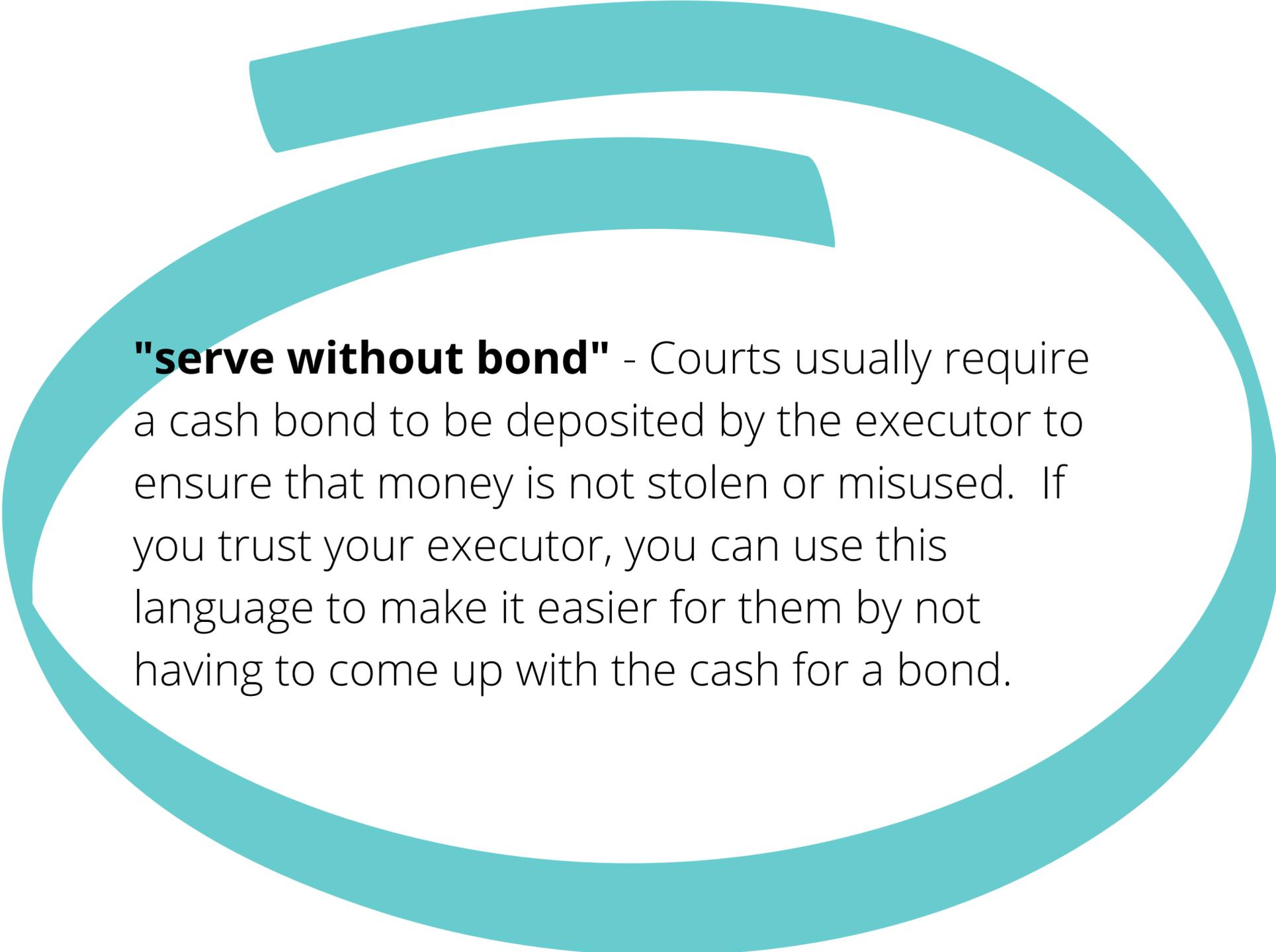
Because a holographic Will is informal, you can write it and tailor it as you feel you need to. I cannot give you specific advice as how you draft it will depend on your own situation and desires. I have given a couple examples at the end of this book. However, here are the necessary elements that every person writing their own Will should consider putting in:

- A clear statement that it is your Will;
- A list who you want to get your belongings. You can be as general or as specific as you want;
- The name of the person you want to serve as your "independent executor" (see next page);
- A statement that you want to enable your independent executor to serve "without bond" (see next page);
- The date when you signed the Will;
- Your signature.



A large, teal-colored decorative swirl that frames the text on the left side of the page.

"independant executor" - someone you trust to show your Will to a court, pay your debts, and distribute your belongings according to your Will.

A large, teal-colored decorative swirl that frames the text on the left side of the page.

"serve without bond" - Courts usually require a cash bond to be deposited by the executor to ensure that money is not stolen or misused. If you trust your executor, you can use this language to make it easier for them by not having to come up with the cash for a bond.

How to Make Sure Your Will Is Valid

For your holographic Will to be valid you must:

1. WRITE IT ALL IN YOUR NORMAL HANDWRITING.

- No one else can write any of it- even partly.
- No part of it can be typed.

2. SIGN AND DATE IT AT THE END.

- It does **not** have to be signed in front of a witness.
- It does **not** have to be signed in front of a notary public.

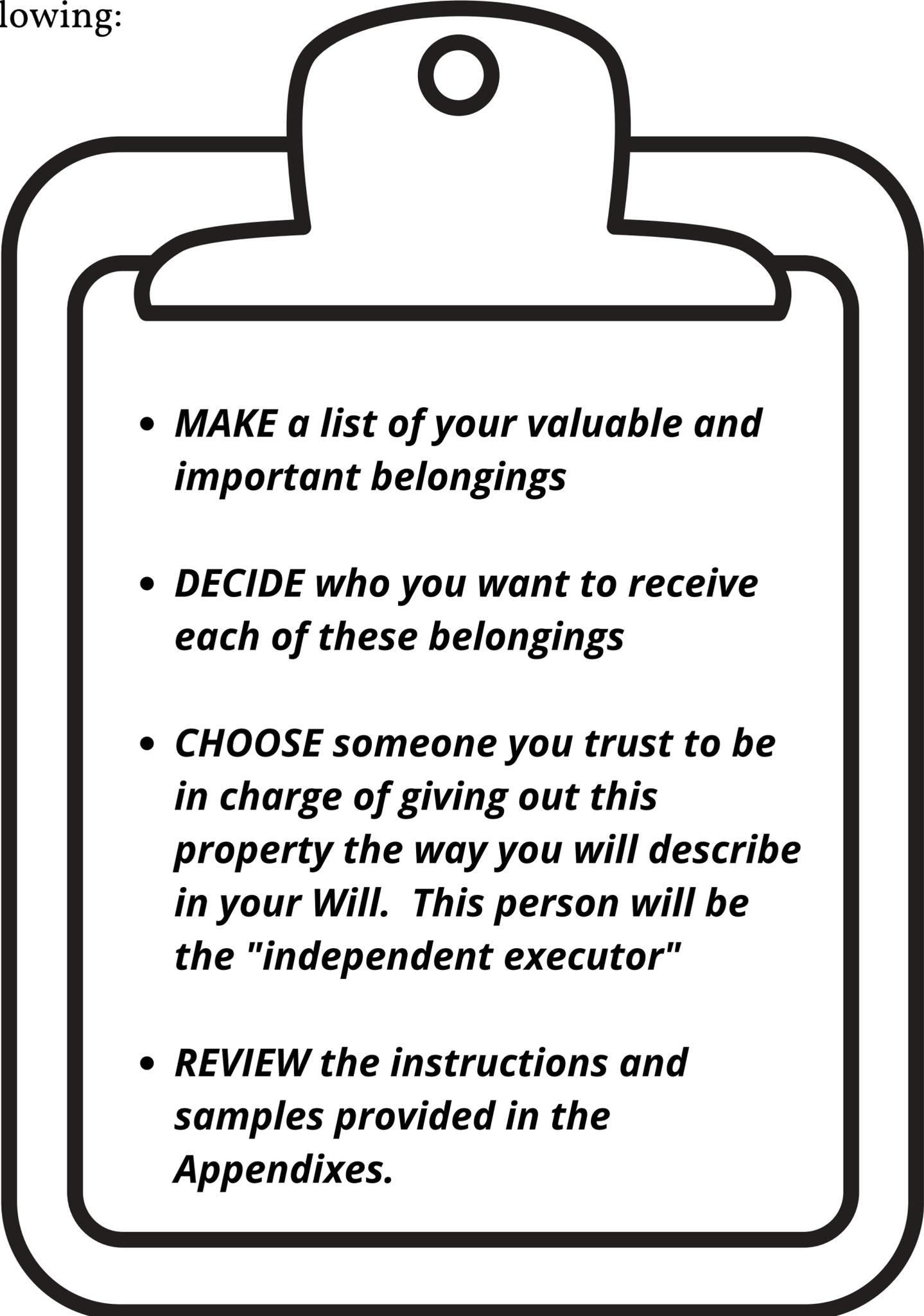
OTHER TIPS:

- I recommend that you write your holographic Will in **blue ink** so that if a copy is made, it is easy to tell which is the original (because the copy will be made in black ink).
- Put your Will in a safe place such as a fireproof lock box.
- **Be sure** you tell the executor and one additional person that you have made a Will and where it can be located.

Step 1.

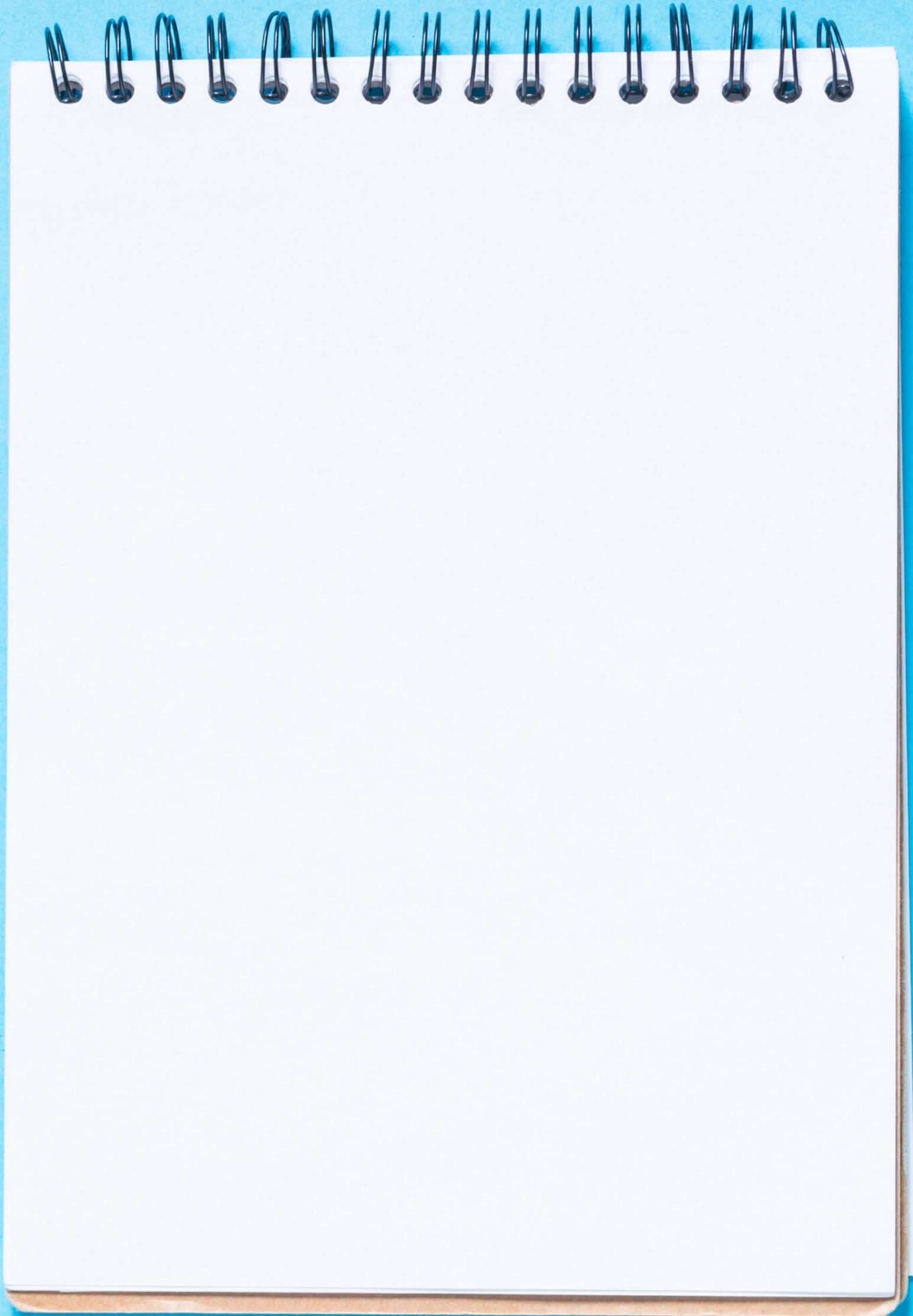
Prepare

Since you will be writing your holographic Will in your own handwriting, it will not be easy to make edits. Therefore it is better to have everything planned out before you start writing. Before you start, do the following:

- 
- ***MAKE a list of your valuable and important belongings***
 - ***DECIDE who you want to receive each of these belongings***
 - ***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 the Appendixes.***

Step 2.

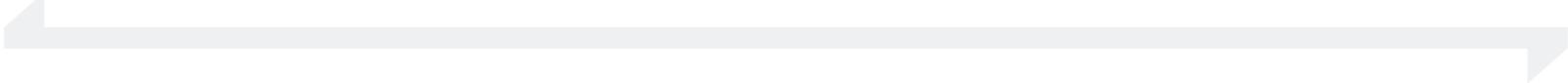
Materials You Will Need:



(that's it!)

Step 3.

Create Your Will



Writing can be difficult for some but this document must be 100% in your own handwriting. You may want to practice writing a few lines on a scrap piece of paper.

Do NOT use pencil or erasable ink. As mentioned earlier, use blue ink if possible.

Check your spelling.

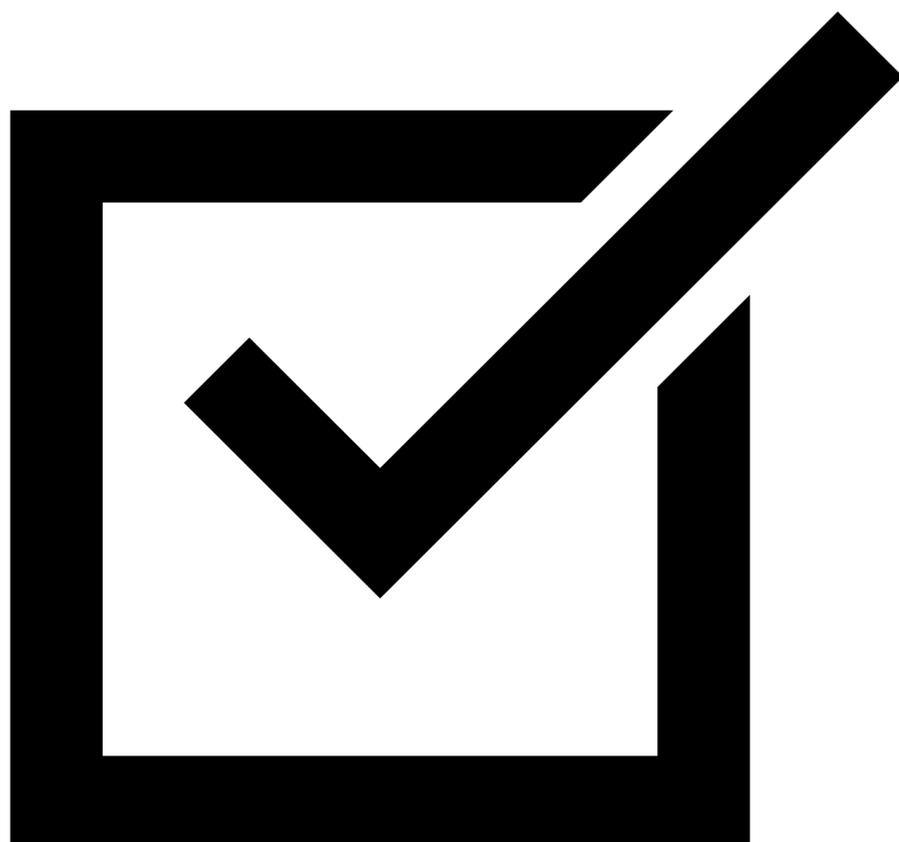
If you make an error, **DO NOT** use white-out. **DO NOT** try to scribble it out completely. If you need to correct an error, simply draw a single line through the middle of the word(s) you want to delete and then initial just above the error to indicate that it was YOU who crossed it out. Then continue on from there. The reason for this is that the Court may need to look at this and need to interpret what you were doing. They want to be sure it was you that made the correction, and not someone later who was trying to change your Will.

Step 4.

Review Your Will

After you have completed your Will, review it to make sure it has all the necessary elements and contains everything you want it to say:

- Is it written entirely in your own handwriting?
- Can anyone (including a stranger) read and understand your handwriting?
- Does it declare itself to be your Will?
- Does it make it clear who you want your property to go to?
- Does it name an "independent executor"?
- Does it allow the independent executor to "serve without bond"?
- Did you date it?
- Did you sign it?



Step 5.

Protect Your Will

This may be the most important step. Make sure your Will physically survives your death **AND** make sure that your independent executor knows where to find the Will and has access to it. In most situations, the probate court will want to have the original document.

It is a good idea to save your Will wherever you keep your other important papers. Do not place it where it may be exposed to water or extreme temperature. Remember that although it is a good idea to secure your papers with a lock- you must give your independent executor a way to OPEN the lock on their own. It is also a smart practice to let one other person you know and trust know about the Will and its location in case your independent executor cannot serve their function at the time.

Good options include:

- A desk drawer with a lock
- A filing cabinet in a brightly colored folder marked "In Case of Emergency"
- A fire and waterproof safe or lock-box.

If you can, store your will in upstairs area to avoid flood damage.

You can mail a copy of your Will to your executor with instructions on how to retrieve the original.

A Final Thought

We are living in extraordinary times, but in my experience, life has very little of what anyone would call "ordinary time".

In my nearly 20 years as a family law attorney I have counseled hundreds of good people as they are going through the most difficult moments of their lives- divorces, battles over children and other painful times. And no matter what the legal problems is, I try to give two related things: **hope** and **empowerment**. Hope that they will see a brighter day soon. And empowerment by giving them the knowledge they need, when they need it, so they can light their own way forward.

Some may say writing a Will is a grim thing to do. I disagree. I believe that creating a Will, much like filing for a divorce or custody, is a powerful act of hope and empowerment. It is a life affirming act because it says that you refuse to feel helpless and out of control of your own destiny.

With the global pandemic griping all communities, it can seem like these are dark days. But I believe that if we continuously offer each other hope and empowerment on the community level and individually, then we will learn to shine our own light on each other in ways we never did before. This guiding light will sustain us until the new day dawns- which it surely will.

If I can be of any service to you, please do not hesitate to contact me at sean@thepalmerlawfirm.com or calling 832-819-3529.

Appendix A:

Example of a Simple Will

I, **your name** declare that this is my will. I leave my entire estate to **your spouse/name of another person** as independent executor of my estate, to serve without bond.

I appoint **your spouse/name of another person** as guardian of the persons and estates of my minor children.

Date/month day, year,

Your Signature

Appendix B:

A More Complete Will

I, _____ a resident of _____, 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 _____ as independent executor of my estate. If I am not married or my spouse is unable or unwilling to act, I appoint _____ 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 inventor and list of claims, if required. No bond shall be required of any executor. Any executor shall have all the powers granted to trustees under the Texas Trust Code.

If appropriate, the executor may make distributions for the benefit of minors or persons under any other legal liability, including the Texas Uniform Transfers to Minors Act.

If my spouse does not survive me, I appoint _____ 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 reasons and at any time _____ is unable or unwilling to act, I appoint _____ as guardian. No bond or other security shall be required of any guardian.

Date/month day, year

Your regular signature