

---

An  
Attorney's  
Guide  
to

# Estate Planning

---

*How To Get A Will (Without Spending A Fortune)*



Brought to you by the Estate Planning Division of Pearsall Law Firm, Inc.

---

*3rd Edition*

Introduction to This Booklet .....	4
The Basics .....	4
Our Goal .....	4
Your Author .....	5
Background.....	5
Licensure .....	5
Awards .....	5
Philosophy .....	5
Hobbies .....	5
Contact.....	5
<b>Chapter 1.....</b>	<b>6</b>
What Estate Plans Do .....	6
Leave Behind Your Final Words .....	6
Save Time, Money, & Stress .....	6
<b>Chapter 2 .....</b>	<b>7</b>
What Estate Plans Are.....	7
Attested Will .....	7
Living Will.....	7
Ethical Will .....	7
<b>Chapter 3 .....</b>	<b>8</b>
What Is In An Attested Will? .....	8
1. Cover Page.....	8
2. Declarations.....	8
3. Minimization of Court Involvement .....	8
4. Guide to Interpretation .....	8
5. Definition of Key Terms .....	9
6. Governance .....	9
7. Payment of Expenses.....	9

8. Disinheritance .....	9
9. Specific Bequests .....	9
10. Residuary Estate .....	9
11. Omission of Family.....	10
12. Nomination of Executor.....	10
13. Powers of the Executor .....	10
14. Custodianship Clause.....	10
15. Accounting Clause .....	11
16. Spendthrift Clause .....	11
17. Non-Assignment Clause .....	11
18. Guardianship Clause .....	11
19. Severability Clause.....	11
20. Witnessed and/or Notarized Signature .....	12
Bonus Provisions .....	12

**Chapter 4.....13**

<b>Getting A Will (Without Spending A Fortune) .....</b>	<b>13</b>
Do-It-Yourself Options .....	13
Do-It-With-Help Options .....	13
Attorney Fees .....	14
Other Options .....	14
The Third Option .....	14

**Chapter 5.....15**

<b>The Pearsall Difference .....</b>	<b>15</b>
The Pearsall Difference.....	15
Witnesses .....	15
Let's Get Your Will Started .....	15

# Introduction to This Booklet

## The Basics

Estate planning is probably the most serious legal issue that you never think about.

If you are charged with a crime, you might go to prison. If you are sued, you might lose some money.

But if you pass away with no will, your family can lose everything.

Worse than that, they can lose their love to each other.

Probate court has split more than one family apart. Money can truly bring out the worst in people, and in probate court, tens or hundreds of thousands of dollars are often at stake.

## Our Goal

Our goal is to help you and your family avoid that nonsense.

We cannot turn you into an



expert estate planner. That takes years of studying the legislation and court rulings, and years of writing thousands of estate plans and then bringing them into court to prove that they are valid and enforceable.

We cannot make you an expert, but we *can* teach you just enough to help you get an affordable will

That is our goal with this booklet. We will start by giving you the background information you need in order to appreciate what a will is and what it can do for you.

Then, we will offer some ideas for how to get a will without spending a fortune, on your own or with the help of an attorney.

However, please do not mistake anything in the following pages as legal advice. Someone can only give you legal advice after speaking with you and learning about your unique situation.

Since we have not met you, the best we can do is educate you as your teachers, not telling you what to do as your attorneys. No attorney-client relationship is created through this booklet.

Let's begin!

# Your Author

## Background

Gurney F. Pearsall III is the lead attorney for estate planning services at Pearsall Law Firm, Inc.

Mr. Pearsall graduated from the University of Colorado School of Law, where he served as a senior law review editor and interned at the Supreme Court of Colorado.

Mr. Pearsall has practiced estate planning as a private attorney for Pearsall Law, and as a military officer. As a captain in the U.S. Army Reserves, Mr. Pearsall spent the past year serving at Fort Hood, where he drafted hundreds of wills for veterans, Soldiers, and military families.

## Licensure

Mr. Pearsall is licensed to practice law in the state and federal courts of Texas, in the State of Colorado, and for the federal government as a judge advocate.

## Awards

Mr. Pearsall's legal writings and theories have been published in magazines, law reviews, and journals, and have earned several national awards, including the Burger Prize, awarded at the U.S. Supreme Court in a 2015 event hosted by Justice Ruth B. Ginsburg.

## Philosophy

Mr. Pearsall distinguishes his estate planning practice by focusing on client convenience, so that the entire estate planning process can often be accomplished with a phone call and an office visit.

Mr. Pearsall draws on his experience as a military officer to draft every estate plan as if it were his own. His experience with

drafting hundreds of wills and estate plans for deploying Soldiers ingrained in him the importance of getting the job done quickly and correctly, so that his wills and estate plans are as bulletproof as they can be, and sail through court with no drama.

## Hobbies

Mr. Pearsall enjoys composing music. As a ghostwriter, Mr. Pearsall has worked with 75+ clients around the world on projects large and small, ghostwriting everything from biographies and novels to textbooks and resumes.

## Contact

Mr. Pearsall welcomes your questions. Feel free to reach him anytime at [Gurney@PearsallLawFirm.com](mailto:Gurney@PearsallLawFirm.com).



# What Estate Plans Do

## **Leave Behind Your Final Words**

You've worked so hard, for so many years, for yourself and for your family.

Maybe you have a car, a home, life insurance, a retirement account, savings in the bank, college funds... but no estate plan?

The estate plan is a roadmap for who should receive your property. If you leave behind no roadmap, your property can end up in the wrong person's hands.

An estate plan puts your wishes in writing, so there is no question about what to do. A good estate plan removes all doubt as to who should receive your property if you pass away, and who should make medical and/or financial decisions for you if you are incapacitated.

## **Save Time, Money, & Stress**

An estate plan cuts down on probate, leaving your loved ones with more time and money.

"Intestacy" is the court proceeding that takes place if someone passes away without a valid estate plan. Since the person who passed away left no instructions to the court, the court will have to do what intestacy law assumes that he or she wanted to do.

Intestacy law is a blunt instrument. Its bluntness creates two main problems.

First, intestacy prefers giving everything to a category of relatives, like "children, "parents," or "siblings." But it is not easy splitting up things like a house, and the sheer expense of probate can mean that your loved ones have to sell the house in order to get the house.

Second, intestacy law does not care about what you want. Instead, intestacy law sticks to simple categories.

Friends get nothing.

Children share equally, even if one is very wealthy, irresponsible, or not deserving of an equal share.

You are married or single. A fiancé gets nothing, no matter how much you love him or her. A spouse gets a large share of your property, or all of it, no matter how loveless the marriage is or long you two have been separated.

So, what do estate plans do? They comfort your loved ones with your final words, and they slash the amount of time and money that probate takes from your loved ones in their time of need.

The next chapter explores the three kinds of wills that make up a well-rounded estate plan.

## Chapter 2

# What Estate Plans Are

*Estate plans are made up of three kinds of wills, explored below.*

### **Attested Will**

A simple attested will tells the court who to give your property to. You can give to anyone or anything. Your friends, your family members, and groups like the ACLU or charities are often named.

A complex attested goes into more detail than its simple counterpart. Special provisions include disinheritance, conditional gifts (“I give to so and so, if...”), funeral preferences, giving to minors, and specific bequests that give specific items to specific people. There are also special provisions for people who have minor children or assets.

### **Living Will**

While an attested will deals with the transfer of your property after your death, the living will deals with the transfer of your decision-making abilities while you are incapacitated.

“Incapacitation” means that you are unable to make decisions, for instance because you have fallen into a coma after a car crash or heart attack.

If you leave behind no living will, then your loved ones may need to get a court order to let someone make decisions. This can result in a massive delay, and result in the wrong person being appointed to make life or death decisions.

### **Ethical Will**

Your ethical will is the most ancient kind of will, and it leaves behind your life advice and guidance.

This will recounts your life-changing events and epiphanies, your successes and failures, your experiences, and your convictions.

This is as meaningful to write as it is to receive, and people often carry it around with them like a personal Bible.

That said, it is a very difficult will to write, because there is no template. We generally take bullet points from our clients, and expand on them to create an eloquent, loving ethical will.

# What Is In An Attested Will?

## 1. Cover Page

A cover page identifies the document as a final will (instead of a rough draft for the court to ignore), identifies the day the will was executed, and identifies the drafter of the will and their contact information.

The cover page is not necessary for a document to be a will, but it helps the court ensure that the document was meant to be a will, it protects the will from markings and stains, and it helps the family members quickly locate three important details: that this is your final will, that this will has been executed on a certain date, and how to contact the drafter of the will.

## 2. Declarations

Not everyone is allowed to write a will. Every state imposes certain requirements on who can write a will, and the State of Texas requires, for instance, that a person be an adult for legal purposes and of sound mind.

This is why we declare that you are allowed to write a will because you meet these and other qualifications. Our wills also use this space as an opportunity to revoke any previous will, so that there is no question that this is the person's one and only attested will.

## 3. Minimization of Court Involvement

Probate is big business. Studies estimate that it is a multi-billion dollar business, in fact. Our wills therefore order the court to

keep its involvement here to a minimum. Sometimes, all the court has to do is read you will, put its stamp on your will, then step away. The more

involved the court is, the more time and money it will take from your loved ones.

## 4. Guide to Interpretation

Like any good contract, a will should establish how its words should be read.

This guide should help remove some of the ambiguities that are in the DNA of the English language. Many wills, even from law firms, forget to include this provision.

By clarifying how to read the will, we can help avoid a fight. Greed brings out the worst in people, so if someone can make thousands of dollars by invalidating a will, then they will very likely give it an effort.

A good guide to interpretation shuts some of the most popular doors to a fight.





## **5. Definition of Key Terms**

Like the guide to interpretation, the key terms section helps cut down on will contests by clarifying what the key words in a will are supposed to mean.

We want to leave nothing to assumption! Assumptions can get a will thrown out or stuck in court for months.

You might think that you are not leaving behind enough property to be worth fighting over. But consider what a fortune people sometimes spend in divorce court, just to prove a point or be spiteful.

The same can happen in probate court. When families fight, the lawsuits can be bitter, ugly, and very, very expensive. Defining key terms helps avoid these fights.

## **6. Governance**

Our wills make it clear which state laws will control how the will is read and administered. This may be obvious for someone born and raised in one state, but it is best to leave nothing to assumption.

If you own property in other states, or often visit or work in other states, this provision can avoid a fight that drains your loved ones of time and money.

## **7. Payment of Expenses**

An important part of probate is letting creditors claim what they are owed. Student loans, car payments, credit card debts, and other debts should be paid off, so you can give debt-free property. This part of the will discusses how to pay off your debts.

## **8. Disinheritance**

As we approach the question of how to distribute your property, we want to first announce who will receive nothing.

Sometimes, children are disinherited because they have misbehaved or because they are already well-off and taken care of. People sometimes disinherit a parent or a sibling, or some other relative, because that person is irresponsible or was cruel to the person writing the will.

It can be very hurtful to be disinherited, so if you are disinheriting someone for any reason other than their misconduct, it would be kind to explain why you are disinheriting them. Otherwise, the person may think that they offended you.

## **9. Specific Bequests**

A specific bequest is a gift of a specific item to a specific person or organization. Your car, your firearms, your land, your special necklace, your dog - you own an endless amount of things that would be meaningful gifts, and would be difficult to split up among many people.

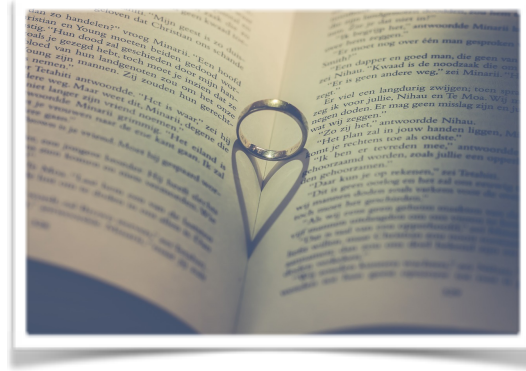
## **10. Residuary Estate**

A residuary estate is what you own at the time of your death, after your expenses are paid and your specific bequests are given.

Residuary gifts can be given to one person, many people in equal amounts, or many people in differing amounts. People can receive "outright" or "in trust." "In trust" would mean setting up a trust for them, with a trustee making payments over time.

We encourage our clients to give percentages of their residuary estate. After all, a \$15,000 donation to a church might be worth 10% of your estate one day, and 25% another day.

Our clients often name a substitute person or group of people, in case the first person does not survive.



We also give the court instructions for what to do if no one you mentioned survives you. Whether it is a plane crash, earthquake, or burglary, tragedies happen. Lives are lost. But the more instructions that a court receives, the less that court has to do - and that means that the multi-billion-dollar business of probate will take as little time and money away from your estate and your loved ones as possible.

## 11. Omission of Family

Our wills include a provision stating that you have named everyone you intended to name, and anyone not named has been intentionally left out.

Angry family members can stall the probate process by week or months, with frivolous challenges about the will being invalid because the person forgot to mention them.

## 12. Nomination of Executor

Your executor is the person who carries out your wishes. This person goes to court with your death certificate, starts the probate

process, pays off your creditors, then finds your property and gives it to the people you want it to go to.

Our clients often name their beneficiaries as their executors. After all, the executor will be happy to do the job if it means receiving some or all of the estate.

The alternative is to name a non-beneficiary as an executor. This person will probably want to be paid, and they might drag

their feet because the paychecks stop coming when the job ends.

We encourage our clients to appoint a substitute executor, and we leave the court with instructions for what to do if all of these executors are unable to serve.

## 13. Powers of the Executor

This provision is often the longest one in our attested will, because we outline, in painstaking detail, all of the possible powers that executors can have.

The more authority your executor has, the less time and money your family will lose to probate.

## 14. Custodianship Clause

The custodian takes the property that a minor receives, uses that property for the minor's benefit, invests and reinvests the property in order to grow it, and then hands over the property to the minor once that minor turns a certain age: 18, 19, 20, or 21.

Even if you are not giving property to a minor, a minor may end up receiving property. If you leave property to an adult child but that child passes away, perhaps your grandchild will receive it next. Perhaps that grandchild is under 18 years old.

That will trigger your custodianship clause and tell the court what to do. Without that clause, the probate process will freeze for a few weeks or months while your loved ones bicker and fight about who should hold the property and for how long.

### **15. Accounting Clause**

Executors can sometimes neglect their duties, or drag their feet in order to collect as much money as possible from the estate as possible. This clause lets your beneficiaries audit the executor.

In turn, this clause can reduce the conflict and fighting that sometimes erupts between executors and beneficiaries.

### **16. Spendthrift Clause**

Sometimes, people will start spending money that they do not yet have. Perhaps someone has been meaning to buy a car, and now that they are about to inherit property, they buy the car on the promise that they will have the money “soon.”

Now, the car dealership is involved in probate, and that can result in delays and extra expenses to the probate process.

So, our wills make it clear that a beneficiary cannot touch their inheritance until they get it, and any burdens they put on their inheritance will be null and void.

### **17. Non-Assignment Clause**

A beneficiary sometimes tries to strike up the following deal: “I’ll buy this Jeep now, and in exchange you can take whatever I am about to inherit in this probate case.”

Again, this can complicate the probate process, slow it down, and make it more stressful and expensive for the rest of your loved ones. Because of that, our wills say that a beneficiary cannot give away their right to inherit until they actually inherit.

### **18. Guardianship Clause**

If you are the parent of a minor child, or if you might come to have a minor child in the foreseeable future, then consider nominating someone as their guardian. A guardian raises your minors until they are adults, if your death leaves them orphaned.

Parents are often together, so a violent accident that takes one parent’s life may also take the other parent’s life. The guardianship clause helps ease the burden on the family, and helps prevent having your parents, siblings, and other family members from fighting each other in court over who should raise your children.

More importantly, this clause can help stop the court from giving your minors to a person you do not like, trust, or even know.

### **19. Severability Clause**

Contracts often include a severability clause, telling the court that if one piece of the document is invalid, then the court should strike that one piece and leave the rest alone. This helps avoid the situation

where the court finds one problem, and then shreds the rest of the document because of that one problem.

We include this language in our wills.

## **20. Witnessed and/or Notarized Signature**

When someone comes to us and asks if a certain will can be challenged, the very first thing we look at is whether the will was executed correctly. This is often the easiest way to invalidate a will, no matter how well-written it might be.

Depending on whether the will is written by hand or by computer, it may need two witnesses who are “disinterested,” and it may also need a public notary who can notarize your will with no conflict of interest. The will execution ceremony must also be done correctly.

There are complex rules about what kinds of witnesses are disinterested, what kinds of notaries have no conflict of interest, and how to correctly execute a will.

These rules are beyond the scope of a introductory booklet like this one. All we can say is that even if you try to write your own will, it is well worth your time to hire an attorney to help you correctly sign it.

## **Bonus Provisions**

Lastly, a good estate planning attorney has to be ready to add “bonus provisions” as well, depending on the client’s preferences.

Some clients would like to create a trust for their pets.

If someone has a child with special needs, like autism, then a special needs trust may be necessary.

After all, if that child inherits anything, then the State of Texas may cut off disability payments or seize the inheritance as reimbursement for the disability payments.

Every estate plan is unique, so a good estate planning attorney will set aside some time to speak with their client, figure out exactly what the client wants, then figure out which provisions would accomplish that goal.

# Getting A Will (Without Spending A Fortune)

## Do-It-Yourself Options

Of course, you do not have to spend a fortune to write your own will. It may take several hours, but at least it is free.

The risk with do-it-yourself wills is that you may end up writing a will that is invalid, or a will that is valid but destined to be stuck in probate court until your estate is extinguished by legal fees and there is nothing left to fight for.

Like any other contract, a will is only as good as the legal experience of the person who writes it. If you have not written and fought for hundreds of wills in court, then it is best to write a will by standing on the shoulders of giants.

This is why even experienced estate planning attorneys use templates. There are many clauses that can be repeated verbatim, from one will to another, no matter how simple or complex the will is.

These days, sample wills are easy to find online and in the appendix of estate planning books. Online, you can find the wills of celebrities, like Marilyn Monroe, and copies of probate court cases.

These free resources are a helpful start for someone trying to write their own will. But that is all they can ever be: a start.

## Do-It-With-Help Options

It is often safer and much quicker to rely on forms and templates. Nowadays, for \$100 or so, you can generate an entire will online after answering just a few questions.

The risk of doing it yourself, or doing it with help, is that you are not an attorney. You have not written hundreds of wills or studied probate law. This will could be thrown out of court, or get stuck in court for years, as your family breaks apart with bitter disputes that will empty your estate.

No matter how flashy or expensive it might be, the template and the will generator cannot give you the legal advice you need to get a will that sails through probate without any expensive drama.

In estate planning, like in surgery, if you do not know *exactly* what you are doing, then you may be leading yourself and your family down the highway to tragedy.

The problem with do-it-yourself wills and do-it-with help wills, ultimately, is that you get what you pay for. You get a **cheap will** in the worst sense of the word, leaving you worse off than having no will at all.

We have reviewed many of these wills. Each one is only a few pages long, and is missing enormous amounts of basic language.

## Attorney Fees

Let's talk about attorney fees.

The first kind of fee is a mystery. You can ask in ten different ways what the fee will be, and get no straight answer. That is a good hint that the fee is too high.

The second kind of fee is an hourly fee. The fee might be in your budget. "\$250 per hour," you might think. "I can afford that. This should only take, maybe, half an hour."

Perhaps you are right, but hourly fees have a way of adding up. A massive questionnaire and a few calls and office visits will turn \$200 into \$1,000 in the blink of an eye.

The third kind of fee is a flat fee. An attorney might charge \$750 for a simple will. The flat fee is rarely less than \$500.

Why charge so much money for what should only take a few minutes of work?

In part, high fees are a way to respond to the fact that very few people want a will. In part, high fees are a way to make a statement about the high-quality of the attorney's services. In part, high fees are high because practicing law is expensive. The paralegals, associates, office space, advertising, and law student loans all add up and are then passed onto you.



## Other Options

Perhaps an attorney takes partial payments. \$750 may be too much, but three payments of \$250 may work.

Perhaps an attorney accepts a "layaway" agreement, where you make very small payments over many months, until you have paid all or most of their fee.

The problem is that you are still paying a fortune for what seems like very little work. The only difference with these payments is that it takes forever to get the job done.

If you prefer immediate assistance at a more affordable rate, ask if the attorney accepts "unbundled" (partial) work. Instead of writing the will, a attorney could review a will that you write, or be a legal consultant.

It's nice in theory, but we do not know any attorneys who would agree to that. After all, your mistakes might lead to a lawsuit from your family against that attorney for bad legal advice. Partial work from the attorney also means much more work for you to do.

## The Third Option

It seems that most people are stuck between two bad options: a will generator for a cheap will that is likely worse than no will at all, or spending a fortune on an attorney.

If only there was a way to combine the ease and affordability of a will generator with the advice and guidance of an attorney...

# The Pearsall Difference

## The Pearsall Difference

At Pearsall Law Firm, Inc., we have designed a **full service will generator** that lets us charge the unbeatable rate of **\$200**.

Our entire process takes only 2 steps:

1. You answer our online questionnaire, and our system uses that to create a will.
2. We carefully review your will for “red flags,” then contact you with questions and to schedule a time for you to sign your will, at our office or at your home.

The first step lets us dramatically reduce our fee because it cuts out the most time-consuming part of estate planning.

The second step brings in the legal review and legal advice that is so critical to successful estate planning.

If you live in or near San Antonio or Austin, then you can meet with us in our office to review and sign your will.

If you live further away, have no fear: we can send a mobile notary to you, or at least to a place where they can meet you halfway.

## Witnesses

Once you have filled in the questionnaire, all that’s left to do is find two witnesses who are not related to you and who are getting nothing from your will.

Eligible witnesses include your friends, coworkers, neighbors, acquaintances from Facebook, people who belong to a group that you identify with (high school classmates, the local book club or chess club, etc.), and total strangers.

Your witnesses may be more interested in coming if they will also get a \$200 will.

Texas requires 2 witnesses, but 3 is best. If 3 witnesses sign your will, it sends a strong message to anyone thinking of fighting you in the hopes of making some quick cash.

The message is: “Don’t Even Bother.”

## Let’s Get Your Will Started

To get your will started, simply click [here](https://docs.google.com/forms/d/e/1FAIpQLSeutOt4wOospaJjybdLPdLRxIZl5JBfuzyxEITEbKeuI1Zj7A/viewform) or type out the following address into Google: <https://docs.google.com/forms/d/e/1FAIpQLSeutOt4wOospaJjybdLPdLRxIZl5JBfuzyxEITEbKeuI1Zj7A/viewform>.

That link leads to our online questionnaire, which asks you 15 questions. Only 6 questions require an answer. If you have a general idea of what to do with your will (for example: “everything to my spouse, or else to my kids”), then our form should only take 2-3 minutes to fill out and send.

Everyone deserves to leave a lasting legacy, and that includes you. Please do not put this off, as our holiday discount will end, and the price will return to **\$500 per will**.



**PEARSALL LAW FIRM**

ATTORNEYS AT LAW