



THE JBSA JURIST

VOLUME 2, ISSUE 7

JULY 2016

Estate Planning - It's a Two-Step Process

Most people think of Wills when they think of estate planning. Whether a person dies with a Will or without a Will (called "intestacy"), both cases are part of the Probate process. This process governs how the real property, personal property, and intangible property is distributed at death. However, it is not the only legal mechanism for passing property upon one's death. A second way to pass property involves contract law and beneficiaries. This article discusses the need for having a Will and the importance of naming beneficiaries.

A Will is important. It identifies the specific people or entities who you want to receive your property when you die. A Will allows you to name a guardian of your minor children, if you have them, and who is to safeguard your minor children's assets. It also identifies whom you do not want to get your property or to take care of your children and their property. Everyone should have a Will to ensure that your wishes are followed. If a person dies without a Will, then the person dies intestate. Without a will, you cannot assume that that property will go to your spouse or the people that you consider family. If you die intestate, the laws of the state where you die determine who receives your property. Although there may be some similarities, each state statute varies from the others. This may result in your property being disposed in ways you do not intend. The only way to make sure that your wishes are followed is to have a Will.

It is also possible for property to pass outside the Probate process, and that involves contract law. If another person or entity has possession or control of your property or property interests and you have a contract that states who will acquire that property or property interests upon your death, that contract transfers your legal right to the property outside of the probate process. This may sound complicated, but it is actually very simple. An example of this process is a life insurance policy. You contracted that in exchange for paying a premium, the insurance company will pay a lump sum amount at the time of your death. As part of creating the insurance policy, you probably listed a beneficiary. That person will receive the lump sum amount without ever going through probate. Life insurance and SGLI are two examples of a contractually-held property. Bank accounts, stocks, bonds, mutual funds, IRAs, 401(k)s, TSP, and the Death Gratuity are also examples of property that pass through contract law upon your death.

Naming beneficiaries of contractually-held assets is relatively easy and usually does not require help from an attorney. Typically, you need to contact the entity who controls or possesses your property and ask for a "beneficiary statement" or "pay upon death statement" to complete. Witnesses may be required to fill out the document or it may need to be notarized, but such a statement is generally easy to understand and can be accomplished without the assistance of an attorney. When it comes to a conflict between who is a beneficiary in your Will and a beneficiary of contractually-held property, the contract wins. If a Will gives life insurance to your mother but the "pay upon death statement" gives it to your ex-spouse, the ex-spouse gets the life insurance. That is why it is important to ensure that the beneficiary information is correct.

Now you know there are two steps in estate planning, having a Will and updating your "pay upon death statement" or "beneficiary statement" for your contractually-held property. Completing both steps will assist your loved ones with carrying out your wishes in the event of your death. A little work on your part now will save a lot of work and money for them in the future. Please see a Legal Assistance Attorney for help with your estate planning.

AREA DEFENSE COUNSEL

ADCs are experienced judge advocates outside the local chain of command to allow Airmen completely confidential legal advice for criminal and adverse matters.

Ft Sam Houston: DSN 471-9679

Lackland: DSN 473-2924/2926

Randolph: DSN 487-2274

SPECIAL VICTIMS' COUNSEL

SVCs are experienced, independent judge advocates who provide confidential legal advice to victims of sexual assault. They serve both restricted and unrestricted reporters, help victims understand their legal rights, and explain how the legal process works for processing sex assault claims.

JBSA (Lackland): DSN 473-4748

**PREPARE FOR YOUR
LEGAL ASSISTANCE APPOINTMENT**

LOG ONTO: <https://aflegalassistance.law.af.mil>

Wills & Power of Attorney Powers of Attorney

1. Click on tab "Legal Worksheets"
2. Complete worksheet for documents you wish to have created
3. Save your ticket number, then call the Legal Office for an appointment!
4. Please complete survey online

Legal Assistance

1. Click on tab "Legal Information"
2. If the information you are looking for is not listed, call the Legal Office for an appointment!
3. Please complete online survey!

**TO SCHEDULE AN APPOINTMENT CALL
ONE OF THE OFFICES BELOW**

JBSA-Ft Sam Houston

502 FSG/JA
2422 Stanley Road, Bldg 134

*Legal Assistance Primarily by
Appointment*

Walk-in Hours

Tues 0830-1030 All eligible clients
Thurs 0830-1030 Active Duty only

Notary and Powers of Attorney

Mon-Thurs 0730-1630
Fri 0730-1200

**DSN 420-0169
Comm: 210-808-0169**

JBSA-Randolph

502 SFLSG/JA
1 Washington Circle, Bldg 202

*Legal Assistance Primarily by
Appointment*

Walk-in Hours

Tues 0900-1000 All eligible clients
(no wills for retirees)
Thurs 0900-1000 Active Duty only

Notary and Powers of Attorney

Mon-Fri 0900-1130 and 1300-1500

**DSN 487-6781
Comm: 210-652-6781**

JBSA-Lackland

502 ISG/JA
1701 Kenly Ave, Suite 134

*Legal Assistance Primarily by
Appointment*

Walk-in Hours

Wed 0830-0930 All eligible clients

Notary and Powers of Attorney

Mon, Tues, Thurs, Fri 0830-1530
Wed 0830-1230

**DSN 473-3362
Comm: 210-671-3362**



WISDOM - VALOR - JUSTICE