

INHERITANCE LAW IN THE UNITED STATES



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DISCLAIMER



Nothing contained in this presentation constitutes legal advice. This presentation is for informational and educational purposes only.



You should contact a Islamic Scholar, and an attorney to obtain advice with respect to any particular issue or problem.



Living Will/
Healthcare
Proxy



Last
Will/
Trust



Funeral
Instruction



Power of
Attorney

4 DOCUMENTS YOU NEED

KEYS



Possible to follow Islamic Law

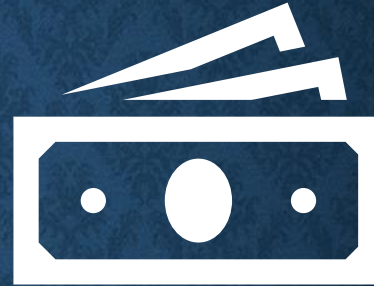
You must ACT



Distribute
per
Islamic
Law



Appoint
guardian
for
children



Get your
affairs in
order



DON'T
WAIT

WHY DO YOU NEED A WILL?



Complete
discretion



Pets



Charities



Disinherit
family

STATE LAW

DIE WITHOUT A WILL

- Loose control
- Costly

STATE LAW

- Spouse receives **100%** if no children
- Spouse receives \$50,000 plus $\frac{1}{2}$ residuary if children (children divide $\frac{1}{2}$ residuary)
- Children receive 100% if no spouse

WHAT TO DO IF THERE IS NO WILL?

- Heirs redistribute shares
 - Cannot be forced to consent
 - Difficult to divide assets
- **WRITE A WILL**

WILL DISTRIBUTION PROVISIONS

- “My estate will be distributed as Mufti _____ says”
- “My executors will distribute my wealth according to **Shariah**”
- Attach 30 page schedule
- “I give everything to my son, who shall distribute it according to the Shariah”

SPECIFY HEIRS, SPECIFY SHARES

M survived by wife, 2 sons, a daughter
father, and mother:

- I give $\frac{1}{8}$ of my estate to my wife.
- I give $\frac{1}{6}$ of my estate to my mother.
- I give $\frac{1}{6}$ of my estate to my father.
- I give $\frac{13}{120}$ to my daughter.
- I give $\frac{26}{120}$ to each of my sons.

HOW TO DRAFT A WILL

- Information about assets, family, debts
- Decide if you want to leave a Wasiyyah
- **Discuss with family**
- Draft Will – Self v. attorney
- Execute Will

**LAST WILL AND TESTAMENT
OF**

I, _____, residing at _____,
_____, County of _____, and State of _____,
being of sound mind and memory, make, publish and declare this to be my Last Will and Testament, and revoke all prior Wills and Codicils made by me.

ARTICLE 1
FUNERAL EXPENSES

My Executor shall pay all my funeral expenses and all expenses of the administration of my estate, as soon as may be practicable.

ARTICLE 2
BEQUESTS

- A. I give and bequeath _____ of my net estate passing under this, my Will, to _____.
- B. I give and bequeath _____ of my net estate passing under this, my Will, to _____.
- C. I give and bequeath _____ of my net estate passing under this, my Will, to _____.
- D. Under no circumstances shall the total amount distributed under this **ARTICLE 2** exceed the value of ONE-THIRD (1/3) of my net estate passing under this, my Will.

ARTICLE 3
RESIDUARY ESTATE

All the residue of my estate, both real and personal, wheresoever situate, ("Residuary Estate") I give, devise and bequeath as follows:

- A. If my husband, _____, survives me, then he shall receive either:
1. ONE-FOURTH (1/4) of the Residuary Estate, if I am survived by one or more of the following: (a) My son(s); (b) My daughter(s); (c) The issue of my son(s); OR
 2. ONE-HALF (1/2) of the Residuary Estate if none of the following survive me: (a) My son(s); (b) My daughter(s); (c) The issue of my son(s).
- B. If my wife, _____, survives me, then she shall receive either:
1. ONE-EIGHTH (1/8) of the Residuary Estate, if I am survived by one or more of the following: (a) My son(s); (b) My daughter(s); (c) The issue of my son(s); OR
 2. ONE-FOURTH (1/4) of the Residuary Estate if none of the following survive me: (a) My son(s); (b) My daughter(s); (c) The issue of my son(s).

BEQUESTS (WILL/LIVING TRUST)

- Made through will or trust
- Takes effect only at death
- In 2018, ~40 billion dollars donated thru bequests
- “I give, devise and bequeath to DS for its general purposes 1/3 of the rest, residue and remainder] in my estate, both, real or personal.”
- MasjidDS.org/donate/plannedgiving/

of my son(s), and I am survived by any one or more of the following: (a) My daughter(s); (b) Daughter(s) of my son(s); OR

3. The balance of the Residuary Estate remaining after making the distributions of the Residuary Estate as per this **ARTICLE 3**, if I am not survived by any one or more of the following: (a) My son(s); (b) My daughter(s); (c) The issue of my son(s).

D. If my mother, _____, survives me, then she shall receive either:

1. ONE-SIXTH (1/6) of the Residuary Estate, if I am survived by one or more of the following: (a) My son(s); (b) My daughter(s); (c) The issue of my son(s); (d) More than one sibling; OR
2. If my wife/husband, and my father or father's father, survive me, and all of the following fail to survive me: (a) My son(s); (b) My daughter(s); (c) The issue of my son(s); and (d) More than one sibling, then my mother will receive ONE-THIRD (1/3) of the balance of the Residuary Estate remaining after making the distributions of the Residuary Estate as per this **ARTICLE 3** to my husband/wife; OR
3. If either my wife/husband, my father or father's father, or if my wife/husband and my father or father's father, fail to survive me, and all of the following fail to survive me: (a) My son(s); (b) My daughter(s); (c) The issue of my son(s); (d) More than one sibling, then my mother will receive ONE THIRD (1/3) of the Residuary Estate.

E. The remainder of my Residuary Estate after making all the distributions above in this Article 3 (the "Remainder") shall be distributed as follows:

1. If I am survived by only daughter(s), and no son(s) survive me, then:
 - i. If I have only one (1) daughter that survives me, then such daughter that survives me shall receive ONE-HALF (1/2) of the Remainder;
 - ii. If I have two or more daughters that survive me, then such daughters that survive me shall receive TWO-THIRDS (2/3) of the Remainder in equal shares;
2. If I am survived by only son(s), and no daughter(s) survive me, then my son(s) that survive me shall receive the Remainder, in equal shares.
3. If I am survived by both son(s) and daughter(s), then the Remainder shall be distributed as follows:
 - i. Each son that survives me shall receive a share calculated by multiplying the Remainder by the following fraction:

$$\begin{array}{lcl} \text{Numerator} & = & 2 \\ \text{denominator} & = & \text{the sum of: (a) the number of daughter(s) that} \end{array}$$

ARTICLE 8
GUARDIAN

A. I appoint my spouse as Guardian of the person and property of any minor child of mine. If my spouse does not survive me then I appoint _____, as Guardian of the person and property of any minor child of mine. If _____, for any reason is fails to qualify as guardian, is unable or unwilling to act as guardian, or ceases to act as guardian after being qualified, then I appoint _____, as Guardian of the person and property of any minor child of mine.

B. Any Guardian of the person and property of any minor child of mine shall educate and nurture said child in an Islamic environment.

C. I direct that no person hereinabove named as Guardian of the person and property of any minor child of mine shall be required to furnish any bond or other security for the faithful performance of his or her duties as such, in any jurisdiction, or be required to furnish or file in any jurisdiction any periodic report, accounting or inventory as such Guardian or be liable for failure to file any such report, accounting, or inventory.

IN WITNESS WHEREOF I have hereunto subscribed my name to this my Last Will and Testament, this ____ day of _____ in the year 2017. This Will consists of SIX (6) pages.

We, the undersigned, do hereby certify that the foregoing instrument was signed by the above-named Testator, _____, in the presence of us and each of us and that said Testator at the same time declared said instrument to be Testator's Last Will and Testament and requested us and each of us to sign our names thereto as witnesses to the execution thereof, which we hereby do in the presence of said Testator and of each other on the day and year last above written.

_____residing at _____

_____residing at _____

REQUIREMENTS OF VALID WILL

- 18 years old
- Sound mind & memory
- Testamentary Capacity
- Due Execution

DUE EXECUTION



In writing



Testator signs at the end



Testator signs in presence of 2
attesting witnesses



Testator “publishes” (declares)
will



Testator requests witnesses to
sign



Disinterested witnesses sign

ALTERNATIVE TO A WILL

- Revocable/Living Trust

IS A WILL ENOUGH?

- Probate Estate
 - Property owned individually
 - Car
 - Bank accounts owned individually
- Non-probate Estate
 - Joint property/accounts
 - IRA's, 401(k), pension plans, annuity***

CORPORATE MATCHING GIFTS

- Many companies match charitable gifts made by employees. Please contact us for more information on how you can double your gift to DarusSalam.
- masjidds.org/donate/outright-gifts/

NEW CHARITABLE DEDUCTIONS

- If you take the standard deduction you can claim a brand new "above-the-line" deduction of up to \$300 for *cash* donations to charity you make this year.
- Under the CARES Act, donors can get a Federal income **tax deduction for charitable contributions** of up to **100%** of their **Adjusted Gross Income (AGI)**