



Requirements of a Valid Last Will and Testament Under Alabama Law



For a Will to be valid in Alabama, the testator must be 18 years or older and competent to create a Will. The Will must be in writing, signed by the testator, and signed by two witnesses. While a notary and self-proving affidavit are not required, they are highly recommended to ensure that the Will is successfully probated. Please see paragraphs 1 to 7 for specific information and the last page for a sample Georgia self-proving affidavit.

A will, also known as a **Last Will and Testament**, is a legal document in which a person provides instructions for the distribution of their assets, upon death. This document can also be used to designate a guardian for any minor children (children under the age of 18 years old). In order for a will to be valid in Alabama, you need to meet these requirements.

1. Age & Capacity Requirements

In order to execute a Last Will and Testament in Alabama, person must be at least 18 years of age. The person must also be of sound mind. To be of sound mind means to be aware of what property you have in your estate, what you want to do with your property, and you must be able to comprehend how your property will be distributed based on your Will.

A common mistake made by many is waiting until a sick family member is suffering from some form of dementia before urging them to execute a will. This is never a good idea as it will almost always call the person's capacity into question, which may provide an opening for the Will to be contested.

2. Writing and Signature Requirements

A last will and testament in Alabama must be in writing and signed by the testator (the person writing the will), or at the testator's direction and in his or her presence. The will also has to be witnessed and signed by at least two people. These witnesses must either see the testator sign the will or witness the testator acknowledge his or her signature on the will. Historically, a person who had an interest in the assets in the will would be disqualified as a witness to the execution of the will. That is no longer the case.

3. "Self-proving" Will Requirements

If the above two requirements are met, the Will has been validly and legally executed in Alabama. However, when the Will has to be enforced by a probate court, one of the

witnesses will have to appear at the probate court in order for the Will to be enforced by the court. If a Will is self-proving, then this step can be skipped.

A “self-proving” Will is one that comes with a sworn statement from the testator, who acknowledges that the document is his Last Will and Testament and that he or she is 18 years of age or older, of sound mind, and that he or she is executing the Will voluntarily. The witnesses of the Will must affirm that the testator voluntarily signed the Will, and to the best of their knowledge the testator was at least 18 years old, of sound mind, and was under no duress when signing the Will. These sworn statements can be made in front of a notary public. For this reason, most Wills are notarized in addition to the previously-mentioned requirements.

A Will may be simultaneously executed, attested, and made self-proved, by acknowledgment by the testator, and affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where execution occurs and evidenced by the officer’s certificate, under official seal, in substantially the following form provided on the attached page.

If you would like further information, please refer to [Title 43, Chapter 8 of the Alabama Code](#) or call your nearest Legal Assistance Office

Office of the Staff Judge Advocate
Legal Assistance Office
6930 Morrison Ave., Bldg 130
Fort Benning, GA 31905

(SAMPLE SELF-PROVING AFFIDAVIT)

STATE OF ALABAMA

COUNTY of _____

I, _____, the testator, sign my name to this instrument this _____ day of _____, 20____, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence."

Testator

We, _____ and _____ the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator, hereby signs this will as witness to the testator's signing, and that to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Witness

Witness

Subscribed, sworn to and acknowledged before me by _____, the testator and subscribed and sworn to before me by _____, and _____, witnesses, this _____ day of _____, 20____.

(Signed) _____

SEAL

(Official Capacity of Officer)