

SOUTH DAKOTA WILL INSTRUCTIONS
All Property to Trust "Pour Over Will"

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This form is for person(s) who are establishing or have established a Living Trust.

Although living trusts are a useful tool in assisting one in estate planning, it should be noted that the necessity of a will has not been totally dispensed with merely by the creation of a living trust. One should also have, in addition to a living trust, a "pour over" will, or a will that provides that any assets not transferred to the living trust at the time of the grantor's death are to be transferred to the trust at the time of the grantor's death. This is necessary because inevitably there are always some assets which have not been transferred to the trust at one's death, and this method assures that they too will be controlled by the trust in a method that the grantor chooses, rather than distributed according to the various state laws regarding intestacy.

This will is designed to be completed on your computer. To do so, use your mouse and click on each field which will be highlighted in gray. This will replace the gray with the words you type.

Example: _____ [1] will become JOHN DOE.

If you do not see the gray shaded area in Word, go to View, Toolbars and check Forms.

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For additional information, see the Law Summary and Information and Preview links in the search results for this form. A Definitions section is also linked on the Information and Preview page.

LAST WILL AND TESTAMENT OF

BE IT KNOWN THIS DAY THAT,

I, _____, of _____ County, South Dakota, being of legal age and of sound and disposing mind and memory, and not acting under duress, menace, fraud, or undue influence of any person, do make, declare and publish this to be my Will and hereby revoke any Will or Codicil I may have made.

**ARTICLE ONE
Conveyance to Trust**

Be it known that while living I transferred, assigned, conveyed and delivered all rights, title and interest in and to certain property owned by me to my Living Trust created the ____ day of _____, 20__ and known as THE _____ REVOCABLE TRUST, hereinafter referred to as "Trust". After the payment of estate expenses and debts, all remaining rights, title and interest in any and all property owned by me at the time of my death, whether real or personal, wherever situated, which has not been so transferred to the Trust, is hereby willed, devised, bequeathed, given, transferred, assigned, conveyed and delivered to said Trust to be administered in accordance with the terms of the Trust.

**ARTICLE TWO
Debts and Expenses**

The payment of all my just debts, funeral expenses, costs and expenses of last illness and administrative expenses shall be paid by my Personal Representative, or if funds are not available then by the trustee of the Trust.

**ARTICLE THREE
Guardian of Minor Children**

Complete as applicable:

- I have no children.
- My Children are all adults.
- I have minor child(ren). If any of my child(ren) are minors under the age of 21 years of age on the date of my death, then I direct that _____ shall be appointed as Guardian of those minor children.

**ARTICLE FOUR
Appointment of Personal Representative, Executor or Executrix**

I hereby appoint _____, as Personal Representative of this Will. In the event my Personal Representative shall predecease me, or, for any reason, shall fail to qualify or cease to act as my Personal Representative, then I hereby appoint _____ to serve as successor Personal Representative of this Will.

Signature: _____

The term "Personal Representative", as used in this Will, shall be deemed to mean and include "Personal Representative", "Executor" or "Executrix".

ARTICLE FIVE
Waiver of Bond, Inventory, Accounting, Reporting and Approval

My Personal Representative and successor Personal Representative shall serve without any bond, and I hereby waive the necessity of preparing or filing any inventory, accounting, appraisal, reporting, approvals or final appraisement of my estate.

ARTICLE SIX
Powers of Personal Representative, Executor and Executrix

I direct that my Personal Representative shall cooperate with and follow any instructions and directions as provided by the Trustee of my Trust, in order that all provisions of my Trust be given full effect. Nothing contained herein shall be construed or interpreted to diminish any power and authority granted to my Trustee, and all provisions contained herein shall be interpreted to insure that all provisions of said Trust be carried out as directed.

I direct that my Personal Representative shall have broad discretion in the administration of my Estate, without the necessity of Court approval. I grant unto my Personal Representative, all powers that are allowed to be exercised by Personal Representatives by the laws of the State of South Dakota.

ARTICLE SEVEN
Construction Intentions and Misc. Provisions

It is my intent that this Will be interpreted according to the following provisions:

1. The masculine gender shall be deemed to include the feminine as well as the neuter, and vice versa, as to each of them; the singular shall be deemed to include the plural, and vice versa.
2. The term "testator" as used herein is deemed to include me as Testator or Testatrix.
3. This Will is not a result of a contract between myself and any beneficiary, fiduciary or third party and I may revoke this Will at any time.
4. If any part of this Will shall be declared invalid, illegal, or inoperative for any reason, it is my expressed intent that the remaining parts shall be effective and fully operative and it is my intent that any Court so interpreting same construct this Will and any provision in favor of survival.

Signature: _____

I direct that this Will and the construction thereof shall be governed by the Laws of the State of South Dakota.

I, _____, having signed this Will in the presence of _____ and _____ who attested it at my request on this the _____ day of _____, 20____ at _____ (address), declare this to be my Last Will and Testament.

Testator/Testatrix
Print Name: _____

The above and foregoing Will of _____ (name of testator/testatrix) was declared by _____ (name of testator/testatrix) in our view and presence to be his/her Will and was signed and subscribed by the said _____ (name of testator/testatrix) in our view and presence and at his/her request and in the view and presence of _____ (name of testator/testatrix) and in the view and presence of each other, we, the undersigned, witnessed and attested the due execution of the Will of _____ (name of testator/testatrix) on this the _____ day of _____, 20____.

SAMPLE DOCUMENT

Witness Signature
Print Name: _____
Address: _____

City, State, Zip: _____
Phone: _____

Witness Signature
Print Name: _____
Address: _____

City, State, Zip: _____
Phone: _____

South Dakota Self Proving Affidavit

I, _____, the testator/testatrix, 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 will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Testator
Typed Name: _____

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/testatrix signs and executes this instrument as [his] [her] will and that [he] [she] signs it willingly, that [he] [she] executes it as [his] [her] free and voluntary act for the purposes therein expressed, and that each of us, in the presence and hearing of the testator/testatrix, hereby signs this will as witness to the testator's/testatrix signing, and that to the best of our knowledge the testator/testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

SAMPLE DOCUMENT

Witness

Witness

The State of South Dakota
County of _____

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

(Seal) _____
(Signed) _____

(Official capacity of officer)