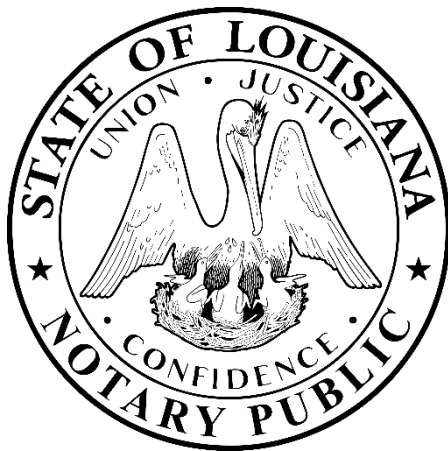


LAST WILL & TESTAMENT ORGANIZER

Version 4.05

THIS ORGANIZER IS FOR:

[Client's Name]



Charles P. Tolliver II
Civil Law Notary Public

Lighthouse Notary Services,
A Professional Notary Corporation
4323 Division Street • Suite 102
Metairie, Louisiana 70002

504.298.DOCS

Intestate versus Testate

Laws controlling how property is divided after someone dies are referred to succession laws, and in Louisiana they are **very strict**. There are two situations: one where the deceased has a will (testament) and one where the deceased does not.

Should the deceased have a testament the succession is considered **testate**, with the deceased being called the testator and the successors of the testator being called legatees. Should the situation be the opposite, without a testament, then the succession is called **intestate** and the successors to the deceased person's estate are called heirs.



The primary advantage of a testate succession is that the provisions in the testament will control most of the dispositions. In an intestate

succession, the laws of the State of Louisiana shall determine who inherits and in what proportions.

Louisiana, along with eight other states, is a community property state. As such, property can be in two categories: **separate** and **community**.

Separate property is property that was acquired before the marriage or with separate funds, inherited property, or property given to one of the spouses. Community property is property accumulated by a couple during the existence of the marriage. Therefore, in absence of a testament, if there are children involved, the spouse inherits **none** of the other spouse's separate property and none of the other spouse's community property.



Do I Need a Will?

Controlling the order of succession, making bequests to non-family members, and some other certain situations are some of the things that you can do with a **testament**. Other situations include naming a guardian for minor children, having an independent executor, making a trust, or making provisions of others. **Should you fail to have a will**, listed below is the Order of Succession that the State of Louisiana provides in the absence of a will:



Order of Succession in Louisiana

COMMUNITY PROPERTY

To children or children's descendants, with usufruct to spouse. If no one exists in this group, then:

▼

To spouse (if there are no children or descendants of children.) If no one exists in this group, then:

▼

To brothers and sisters with usufruct to parents, if parents are alive. If no one exists in this group, then:

▼

To nieces and nephews, or their descendants, with usufruct to parents if parents are alive. If no one exists in this group, then:

▼

To parents, if there are no brothers or sisters, nieces or nephews, or other descendants. If no one exists in this group, then:

▼

To grandparents or other ascendants. If no one exists in this group, then:

▼

To nearest collateral relative. If no one exists in this group, then:

▼

To State of Louisiana

SEPARATE PROPERTY

To children or children's descendants. If no one exists in this group, then:

▼

To brothers and sisters with usufruct to parents if parents are still alive. If no one exists in this group, then:

▼

To nieces and nephews, or their descendants, with usufruct to parents if parents are still alive. If no one exists in this group, then:

▼

To parents, if there are no brothers and sisters, nieces and nephews, or other descendants. If no one exists in this group:

▼

To spouse. If there is no spouse, then:

▼

To grandparents or other ascendants. If no one exists in this group:

▼

To nearest collateral relative. If no one exists in this group, then:

▼

To State of Louisiana

Testament Interview



The following information is necessary to draft your testament. In Louisiana there are strict statutory requirements. Please consider all the information carefully and please print and fill in completely. Double check all spellings of names and print legibly!

Section A: Testator's Information

Name: First: _____ Middle: _____

Maiden: _____ Last: _____

Physical Address: _____ City: _____

State: _____ Parish: _____ Zip Code: _____

Cell Phone: (____) _____ E-Mail: _____

Last 4 Digits of Social Security Number: _____ Date of Birth: ____/____/____

Single Married (If married go to Section B) Divorced Widowed (If divorced or widowed go to Section B1)

Section B: Spouse's Information

Name: First: _____ Middle: _____

Maiden: _____ Last: _____

Physical Address: _____ City: _____

State: _____ Parish: _____ Zip Code: _____

Cell Phone: (____) _____ E-Mail: _____

Date of Marriage: ____/____/____ Place of Marriage: _____

Do you have a Matrimonial Agreement? If Yes, fill in the following:

Date of contract: ____/____/____ Name, Address, Phone Number of Notary That

Prepared the Contract: _____

If married previously go to Section B1, otherwise go to Section C.

Section B1: Previous Marriages

	Previous Spouse Name	Date Married	Date Dissolved	How Ended?	If Divorced, Court Case No.
1.				<input type="checkbox"/> Divorce <input type="checkbox"/> Death	
2.				<input type="checkbox"/> Divorce <input type="checkbox"/> Death	
3.				<input type="checkbox"/> Divorce <input type="checkbox"/> Death	
4.				<input type="checkbox"/> Divorce <input type="checkbox"/> Death	

Family Information

Section C: Children's Information

Please complete the following information for any of your living children (by birth or adoption). If you need more space, please attach additional sheets.

1. Name: First/Middle/Last: _____

Physical Address/City/State/Zip: _____

Date of Birth: ____/____/____ Living Deceased Other Parent's Name: _____

Single Married Divorced Widowed

2. Name: First/Middle/Last: _____

Physical Address/City/State/Zip: _____

Date of Birth: ____/____/____ Living Deceased Other Parent's Name: _____

Single Married Divorced Widowed

3. Name: First/Middle/Last: _____

Physical Address/City/State/Zip: _____

Date of Birth: ____/____/____ Living Deceased Other Parent's Name: _____

Single Married Divorced Widowed

4. Name: First/Middle/Last: _____

Physical Address/City/State/Zip: _____

Date of Birth: ____/____/____ Living Deceased Other Parent's Name: _____

Single Married Divorced Widowed

Do any of the above children have permanent mental or physical disabilities or an incurable disease or condition: Yes No If yes, please list their names: _____

Section C1: Parent’s Information

Please complete the following information for any of your living children (by birth or adoption). If you need more space, please attach additional sheets.

1. Name: First/Middle/Last: _____ Living Deceased

2. Name: First/Middle/Last: _____ Living Deceased

Forced Portion

This section is Not Applicable

Section D: Forced Heirs (La. C.C. 1493 et. al.) & Disinheriting a Forced Heir (La. C.C. 1617 et. al.)

Under Louisiana law, a person may not dispose of a certain portion of his property if he has forced heirs. A forced heir is any child of the deceased who is 23 years of age or younger or of any age who because of their mental incapacity or physical infirmity are permanently incapable of taking care of their person or administering their estates at the time of death of the decedent.

- If there is only one (1) forced heir, then the forced portion is 25% or 1/4 of the testator’s estate.
- If there are two or more (2+) forced heirs, then the forced portion is 50% or 1/2 of the testator’s estate.

Please Name any Forced Heirs:

	Child’s Name	Forced Portion	Disinherit?	Grounds For Disinheriting
1.			<input type="checkbox"/> Yes	
2.			<input type="checkbox"/> Yes	
3.			<input type="checkbox"/> Yes	
4.			<input type="checkbox"/> Yes	

If yes, then you must name the child expressly and declare the reason, facts, or circumstances that constitute the cause for disinheritance; otherwise, the disinheritance is null. Under Louisiana law, a parent has just cause to disinherit a child if:

- The child has raised his hand to strike a parent or has struck a parent.
- The child has been guilty, towards a parent, of cruel treatment, crime, or grievous injury.
- The child has attempted to take the life of the parent.
- The child, with no reasonable basis, has accused the parent of committing a crime for which the law provides a punishment of life imprisonment or death.

- The child has used any act of violence or coercion to hinder a parent from making a testament
- The child, being a minor, has married without the consent of the parent.
- The child has been convicted of a crime for which the law provides a punishment of life imprisonment or death.
- The child, after attaining the age of majority and knowing how to contact the parent, has failed to communicate with the parent without just cause for a period of two years, unless the child was on active duty in any of the military forces of the United States at that time.

1. Name: First/Middle/Last: _____

Reason for disinheriting? _____

Collation

This section is Not Applicable

Section E: Collation

Louisiana law presumes that any transfer by donation of property to a forced heir is intended to be an advance payment on that heir's portion of your estate. This is known as collation, and it applies to all gifts an heir receives in advance of his/her share. Therefore, unless that gift is specifically exempt from collation, it is "returned" to the mass of the estate and divided together with all your other effects.

Please indicate your intentions regarding collation:

_____ **Exempt all gifts from collation.** (i.e. all of the gifts you have already given are considered to be an extra portion to the forced heir and should not be deducted from their portion of the inheritance).

_____ **Exempt the following gift(s) from collation.** (i.e. only the following gifts should be considered an extra portion to the forced heir and should not be deducted from their portion; all other gifts are to be added to the value of the estate and deducted from his/her inheritance).

	Description of Gift	Date of Gift	Recipient of Gift	Value of Gift
1.				
2.				
3.				
4.				

_____ **Apply collation to all gifts.** (i.e. all gifts previously given are not to be considered an advance on the forced heir's inheritance and should be deducted from their portion of the inheritance).

_____ Apply collation to the following gift(s). (i.e. only the following gifts should be deducted from the forced heir's inheritance; all others are considered to be an extra portion and therefore exempt from collation).

	Description of Gift	Date of Gift	Recipient of Gift	Value of Gift
1.				
2.				
3.				
4.				

Usufruct

This section is Not Applicable

Section F: Usufruct

Usufruct is the legal right of a person to use and derive a profit or benefit from property that belongs to another person. For example, your children will inherit your portion of any community property, such as your family home, but your spouse may continue to live in that home and enjoy a "benefit" from the portion that is owned by your children.

Please indicate your intentions regarding usufruct to your spouse:

_____ **Confirm usufruct under La. Civil Code Art. 890 for:** (check all that apply)

_____ Family Home _____ Movables (ex. Furniture) _____ Immovables (ex. Real Estate):

_____ Separate Property _____ Mineral Rights

_____ Do not attach usufruct to proceeds of a sale

Terms or Conditions of Usufruct for your spouse: (choose one)

_____ My spouse may continue to use my property until remarriage only.

_____ My spouse may continue to use my property for life.

_____ Other: _____

_____ **Do NOT Confirm Usufruct**

Will you require your spouse to post a security bond? Because a bond can encumber large amounts of assets, disposing of this requirement of bond relieves your surviving spouse of that burden. It is not required for the exercise of the usufruct. (Choose one)

_____ Dispense with posting bond _____ Require posting of bond

Please indicate your intentions regarding usufruct to another person:

Legacies

This section is Not Applicable

Section G1: Particular Legacies – La. C.C. 1587

In this section, you will put all of the requests for specific items going to specific people.

	Particular Item	Person Receiving Gift	Relationship to You
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Section G2: General Legacies – La. C.C. 1586

This section is Not Applicable

After you have bequeathed particular legacies, if any, you can bequeath a fraction or certain proportion of your estate to a specific person. For example, a fraction or certain proportion of your separate or community property, movable or immovable property, or corporeal or incorporeal property can be bequeathed to a specific person(s). Usually, these items are indistinguishable from each other such as money or shares of stock.

	Portion of the Estate	Person Receiving Gift	Relationship to You
1.			
2.			
3.			
4.			

Section G3: Universal Legacies – La. C.C. 1585

This section is Not Applicable

A universal legacy is the disposition of all the estate, or the balance of the estate that remains after particular or general legacies.

	Legacy	Person Receiving Gift	Relationship to You
1.	<input type="checkbox"/> Balance of the Estate <input type="checkbox"/> All of the Estate		
2.	<input type="checkbox"/> Balance of the Estate <input type="checkbox"/> All of the Estate		
3.	<input type="checkbox"/> Balance of the Estate <input type="checkbox"/> All of the Estate		
4.	<input type="checkbox"/> Balance of the Estate <input type="checkbox"/> All of the Estate		

Section G4: Joint Legacies – La. C.C. 1588

This section is Not Applicable

Please list any legacies that you expressly want shared by two or more persons.

	Particular Item	Person #1	Person #2	Relationship to You
1.				
2.				
3.				
4.				

Appointments

This section is Not Applicable

Section H: Tutorships of Minor Children – La. C.C. 246, et. al.

Upon the death of one parent, the surviving parent has the right of tutorship of the minor children.

Should the other parent pre-decease you, you have the right to designate who will be the tutor or guardian of the minor child(ren) should you die before the child(ren) reach the age of majority. Please indicate who you want to be the tutor of your minor children should the other parent pre-decease you. In addition, should the primary tutor be unwilling or unable to assume the responsibilities of tutorship, please indicate a contingent tutor.

	Person In Charge (Primary)	Address	Relationship to You
1.			
	Person In Charge (Backup)	Address	Relationship to You
2.			
Special Conditions			

Administration of the Estate

Section I: Executor (Administrator) of the Estate – La. C.C. 3801, et. al.

Please indicate the person you wish to execute the terms of your will and administer your estate upon your death. The executor may NOT be a minor, interdicted or otherwise prove to be mentally incompetent, a convicted felon, or a person of bad moral character.

Primary:

1. Name: First/Middle/Last: _____

Physical Address/City/State/Zip: _____

Will they be required to post bond? Yes, Bond Required No , Bond NOT Required

Special Requirements: _____

Backup/Alternate:

2. Name: First/Middle/Last: _____

Physical Address/City/State/Zip: _____

Will they be required to post bond? Yes, Bond Required No , Bond NOT Required

Special Requirements: _____

Testamentary Capacity

Section J: Physical Infirmary

Do you have any physical infirmities? Yes No

If yes, please describe: _____

Section J2: Mental Infirmary

Do you have any mental infirmities? Yes No

If yes, please describe: _____

Section J3: Capacity to Testate

- 1. Do you comprehend the nature and consequences of the dispositions?** Yes No
 - 2. Do you have the ability to read English?** Yes No
 - 3. Do you understand spoken English?** Yes No
 - 4. Do you have the ability to sign your name?** Yes No
 - 5. Do you read Braille?** Yes No
-

Additional Services

The following services cost extra.

- 1. Testamentary Trust?** Yes No
 - 2. Living Will (Do Not Resuscitate Order)?** Yes No
 - 3. Economic Mandate (Economic Power of Attorney)?** Yes No
 - 4. Healthcare Mandate (Healthcare Power of Attorney)?** Yes No
 - 5. Specific Mandate (Specific Power of Attorney)?** Yes No
 - 6. Revoke a previous Mandate (Power of Attorney)?** Yes No
-

Affirmation

I hereby swear or affirm that the aforementioned information provided to Lighthouse Notary Services, A Professional Notary Corporation for the purposes of preparing my last will and testament is true and correct to the best of my knowledge, information, and belief.

Signature

Date