

About half the states in the country recognize the validity of handwritten wills, and Texas is one of them. It might seem like there could be a few problems with having someone write out their own will by hand, but in fact, there can be some huge and expensive legal problems with this type of will.

Texas Requirements for Holographic Wills

Although it sounds like something three-dimensional and high-tech, referring to a will as holographic simply means that it was written in the deceased person's handwriting. A holographic will is not required to be witnessed by "credible witnesses" the way that a traditional will is.

To be valid under Texas will requirements, a holographic will must be "written wholly in the testator's handwriting," and the testator must sign it. The testator is the person creating the will. That person must have had "testamentary capacity" at the time they wrote out the will, which basically means they were of sound mind and able to understand that they were creating a will.

A holographic will does not have to be labeled as a will. All that is necessary is that the language indicates "testamentary intent." Using the word "will" would indicate testamentary intent, but the document might also say that the testator plans to "give" or "transfer" property. The document should accurately identify the recipient and the property being transferred and name someone to serve as executor.

Forgery is a Big Concern

Without the requirement for attestation by witnesses, it can be common for a holographic will to be challenged as a forgery. In some cases, handwriting experts

have determined that holographic wills are not the product of the testator. Attorneys who fail to consult a handwriting expert may even be sued for malpractice. Forgery is just one type of fraud that can be used to challenge the validity of a will.

Lack of Clarity

When someone works with an attorney to prepare a traditional will, the attorney ensures that all legal requirements are satisfied. The property will be clearly described and individuals named as executors or beneficiaries will be appropriately identified. The intent of the testator will be clear.

The same is not always true when someone writes out a handwritten will on their own. Courts may refuse to honor all or part of the terms because the meaning is unclear from a legal perspective. Cases involving a handwritten will can be tied up in court for a considerable time.

Investing in a Formal Will Can Save Significant Time and Money in the Long Run

The irony of holographic wills is that people often forgo legal estate planning formalities to save time and money, yet they end up sacrificing both in the long run. Courts can be reluctant to accept holographic wills without careful consideration because they can be subject to fraud. Terms may not be honored if the meaning is subject to more than one interpretation or if the handwriting is hard to decipher.

If a loved one has left a holographic will and you need help with estate administration or you want to consider replacing a holographic will with a traditional will, the

experienced team at The Nordhaus Firm would be happy to assist. Call us at 214-726-1450 or contact us online at your convenience.