

# What is a Holographic Will?<sup>1</sup>

April 8, 2020 by Rania Combs

**C**an you imagine writing your will on your bedroom wall? How about the fender of your vehicle?

According to the Guinness Book of World Records, the shortest will in the world consisted of three words — “All to wife”— written on the bedroom wall of a man who realized his death was imminent. In 1948, a farmer in Canada trapped under his tractor carved “In case I die in this mess I leave all to the wife. Cecil Geo. Harris” into his tractor’s fender. The fender was probated as his will.

Each state and country has different rules about what constitutes a valid will. So a will valid in one jurisdiction may not be valid in another. But Texas does authorize the use of holographic wills, a handwritten will, which dispense with some of the formalities required for typewritten or formal wills.

## **REQUIREMENTS FOR HOLOGRAPHIC WILLS IN TEXAS**

A holographic Will is a handwritten will. In order to be valid in Texas, a holographic Will must be wholly in the handwriting of the person making the Will (the testator) and signed by him or her. It is also customary to date the Will.

A testator can write a holographic will on anything, including stationery. It is not necessary for witnesses to sign a holographic Will; however, it is still necessary for the testator to have testamentary capacity and testamentary intent when making the Will.

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<sup>1</sup> <https://texaswillsandtrustslaw.com/2020/04/08/what-is-a-holographic-will/#:~:text=A%20holographic%20Will%20is%20a,will%20on%20anything%2C%20including%20stationery.>

Testamentary capacity means the the testator must be of sound mind.

Testamentary intent means the Testator intended to make a writing that dictates how his property will be distributed after his death .

## **DO HOLOGRAPHIC WILLS EXPIRE?**

In Texas, a holographic Will is a valid Will. It will be just as effective as a formal, typewritten Will, and will remain effective until you revoke it.

## **POTENTIAL PITFALLS WITH HOLOGRAPHIC WILLS**

Holographic wills are often used in emergency situations until more formal documents can be drafted. However, the law does not restrict the particular circumstances in which they can be used. Although they may seem like a cheap and easy way to handle your estate planning needs, relying on them as a primary estate planning tool can be risky.

Many testators do not know the requirements for a valid will in Texas. As a result, holographic wills sometimes contain defects which lead to unnecessary expenses and delays in administering their estate.

For example, if the holographic will has ambiguous provisions, a court proceeding may be necessary to construe the meaning of ambiguous terms. Or if it does not contain language allowing an executor to serve independently, it may require a court-supervised administration.

Often retaining an attorney to draft your will costs much less than fixing a mistake after you die. An attorney can help you avoid common mistakes, and in the process, give you peace of mind that your last wishes will be carried out just the way you intended.

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