

Manage

Estate Planning Essentials

Who needs an estate plan? The answer is simple. Anyone who owns property — e.g., a home, a car, a bank account, a business, a retirement account, personal belongings — needs an estate plan. Even if you don't own a lot of property, estate planning can help protect your family.

It Starts with a Will

A will is a legal document that allows you to direct how your estate will be administered and distributed. A properly drawn will can:

- Protect your family by making provisions to meet their present and future financial needs
- Name an executor or personal representative who will carry out your wishes
- Name a guardian for your minor children
- Establish trusts to manage the inheritances of any beneficiaries who may be minors or are otherwise inexperienced in asset management
- Avoid delays and the added expense that intestacy proceedings may involve

“Your attorney can draw up a will and/or trust agreement for you or review any existing will or trust you may have . . .”

- Give you the peace of mind of knowing your family and other heirs will be well taken care of according to your desires

If you die without a will (“intestate”), a state court will choose an administrator for your estate and, if needed, a guardian for any of your children who are still minors. The court's choice may or may not be the person you would have selected.

The court-appointed administrator will distribute your property according to the state intestacy laws, regardless of any desires you may have expressed during life. Your children, grandchildren, or other heirs who are minors at the time of your death may automatically receive their shares of your estate outright when they reach the age of majority, whether or not they are experienced enough to manage their inheritances wisely.

Choosing an Executor

An executor's job is to administer the estate and distribute property according to the directions in a will. You can choose almost anyone who is an adult and is legally competent to serve as executor — your spouse, sibling, friend, business associate, or financial or legal adviser,



for example. You can also name a corporate executor, such as a bank trust department.

Not every individual can, or wants to, handle the responsibilities of serving as an executor. So before you name a sibling, friend, or other family member to serve as your executor, talk to the person you are considering to make sure he or she understands what will be involved and wants to serve.

The Value of Trusts

Contrary to popular belief, trusts are not only for the very wealthy. Including a trust in an estate plan can be a good way to provide management for any inheritances received by children who are minors or others who might not otherwise be able to manage their inheritances themselves. A trust created during life — a living trust — can also help avoid probate.

A living trust is a legal arrangement involving three parties. The creator sets up the trust. The trustee holds and manages the trust's assets. And the beneficiary benefits from the trust property. The three don't have to be different individuals or entities. You have the flexibility to be both the creator and the beneficiary. Or, you could be the creator and the trustee. It's even possible to play all three roles, where the law allows. A living trust can be revocable, meaning you can change the term of the trust at any time, or irrevocable — the terms can't be changed.

You can also create a trust in your will — a testamentary trust. Another type of trust, called a special needs trust, can provide for a child with special needs after the parents' deaths without jeopardizing any benefits the child may be receiving from government programs, such as Social Security and Medicaid.

Letter of Intent

Anyone with a special needs child might also want to write a letter of intent. A letter of intent gives family members and others the benefit of the parents' knowledge about the child's capabilities and needs. It might include:

- Biographical information
- Financial information
- Medical history and needs
- Social contacts
- Negative influences the parent wants to guard against
- Personality traits
- The child's skills, hobbies, and abilities
- Any goals the child is working toward

Letter of Instruction

Your estate planning may not be effective if no one knows about your arrangements. A letter of instruction tells your loved ones where to locate important documents, provides contact information for your legal and financial advisors, and gives instructions for carrying out your wishes.



A letter of instruction should say where important legal documents are kept — your will, power of attorney, and health care proxy, as well as deeds and titles to property and vehicles. In addition, it should list investments, insurance policies, bank accounts, and any retirement plan accounts or pension benefits you have, as well as the location of your safe deposit box, its key, and a list of its contents. Also, include instructions about any particular funeral or burial arrangements that you want.

It's important to keep your letter of instruction updated *and* to let your loved ones know where to get their hands on it.

Legal Assistance

Your attorney can draw up a will and/or trust agreement for you or review any existing will or trust you may have to make sure those documents are up to date. He or she can also assist you with writing a letter of intent and/or letter of instruction.

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