

Estate Planning 101

Estate planning is life planning. For self, family members, and friends, it is important to establish or update some basic and primary documents. These documents will allow your wishes to be carried out by authorized persons and relieve others of the burden associated with making determinations on your behalf. All adults, regardless of age or status, need these documents in place. Legal counsel is recommended for designing, completing, and recording basic estate planning documents. Estate planning is a responsible decision. Estate planning is a loving decision.

Creating a Will

A will is a legal document that tells everyone, including the courts and all of your family and heirs, how and to whom you want your assets distributed after your death. It dictates what assets are to be given to whom, what to do with your remaining property (such as selling it, giving it to charity, or using it to pay any remaining debts that you may have), who will care for your minor children as their legal guardians, and who will be your executor (the person who carries out your will's instructions). If you die without a will to direct the courts, you die intestate, meaning that your state's laws and the court system will make these decisions for you. The decisions of a court may be drastically different from your intentions.

Naming a guardian for your children can, quite understandably, be a very uncomfortable thing to do. But that doesn't change the fact that it's very important and should be taken care of ahead of time. You'll want to choose someone that you trust, who is in good health, and has sufficient resources to provide for your kids. You also should consider someone who is generally of like mind as yourself, so that they will bring the kids up in much the same manner, and with the same values, as yourself.

Make sure that you secure copies of your will and that others know how to locate your will. Legal counsel is recommended for completing this important document in a manner that fulfills your intentions.

Living Trust

A living trust provides lifetime and after-death management of assets. If you are serving as your own trustee, the trust instrument will provide for a successor upon your death or incapacity. Court intervention is not required. Living trusts also are used to manage property. If a person is disabled by accident or illness, the successor trustee can manage the trust property. There are many positive reasons to establish a trust but do not overlook the fact that it will involve more upfront effort and expense. In many respects, a living trust and a will accomplish similar objectives. A trust, however, allows you to realize other objectives that a will cannot. But those advantages don't come without a price. Whether or not a living trust is better for you than a will depends on whether the additional advantages are worth the cost. When choosing, remember that one size does not fit all. What is right for one person may not be right for everyone. Your estate plan should be prepared in a way that best meets the needs of you and your family. Once again, legal counsel is recommended for completing this important document in a manner that fulfills your intentions.

Durable Financial Power of Attorney

This document gives a person of your choice the right and ability to make financial decisions on your behalf should you become incapacitated and unable to do so. It authorizes your agent to act for you with respect to money and property – for example, writing checks, paying bills, accessing safe deposit boxes, managing property, or filing tax returns. Many people choose a spouse or adult child, a trusted friend, or a family attorney as their financial power of attorney. Once again, legal counsel is recommended for completing this important document in a manner that fulfills your intentions. Make sure your agent has a copy to authorize his/her status.

Health Care Power of Attorney

This document, sometimes known as a health care proxy, gives to an individual of your choice the right to make medical decisions for you if you can't make them for yourself. Your preferences with respect to health care and medical intervention should be discussed with this person and set forth in this document. Once again, legal counsel is recommended for completing this important document in a manner that fulfills your intentions. Make sure your agent has a copy to authorize his/her status.

Living Will

A living will is sometimes called an advance medical directive. Living wills are essentially instructions to the medical staff of a hospital or care unit regarding medical treatment for the signer should he or she become incapacitated or unable to direct their own medical care.

Many people use living wills to outline their instructions on the use of life support. In fact, living wills originally became popular in response to famous cases in which a person remained on life support in a persistent vegetative state while their family members battled over their fate in court. Some who sign living wills do so to make sure that no extraordinary measures will be taken to extend their lives if they are in a coma with no hope of recovering. Others sign them so that loved ones will know what their wishes are if they are no longer capable of expressing them. Once again, legal counsel is recommended for completing this important document in a manner that fulfills your intentions. Make sure copies are provided for your health care power of attorney and other family members or trusted friends.