

Make a Plan for Those You Love

Proper estate planning is key to passing wealth to your intended beneficiaries. You may think that you don't have an estate worthy of a plan, but if you own anything, albeit of little value, you have an estate. A car, house, boat, cash, stocks, bonds, businesses, minerals, land and household furnishings. These are all assets that constitute an estate. Regardless of the size of your estate, you should consider how these things will pass when you die.

Estate planning is not a retired person's activity only. Anyone who has reached the age of 18 should consider making a will. Can a person write their own will? Although the answer is yes, you should know it's not a wise thing to do. Texas allows for holographic wills, wills written wholly in the handwriting of and signed by the testator; however, Texas law also allows you to operate on yourself but would you?

If you die without a will, then the State of Texas determines to whom your assets will pass. Do you really want the state to determine who will get your possessions at death? You may not like the result.

If you have a will that was written a long time ago, you should review it to determine if it's still current. A good rule of thumb is to review your will every time there are significant changes in the law that may affect estate planning or every time there is a birth, death, marriage, or divorce in your family that may affect your plan. Although a lot of persons previously were affected by the federal estate tax laws, the exemption equivalent has risen so high, currently at 11.2 million per person (or double that for a couple), it is likely that most persons will not have a taxable estate at death. Conversely, you may have written your will during a time when the exemption equivalent was much lower and have bypass trusts written into your wills. You should consult with an estate planning attorney to determine whether a change should be made.

What if you have a will that was written in another state? Although the will may be valid, you should consult with a Texas attorney to determine whether it would be beneficial to have your documents redone.

Trusts are a great way to protect an inheritance for your beneficiaries. If you have minor children it is best to leave their inheritance in a trust so you can control how and when it is distributed and avoid a costly guardianship. If you have a disabled child, you should consider placing their inheritance into a special needs trust upon your death so that the assets won't be counted against them for public benefits such as Medicaid.

Suppose you have a child who is a spendthrift who you believe will burn through an inheritance rapidly. You may want to leave their share in a trust, managed by someone else or at the very least, have a trust that spreads the receipt of funds out over the child's life. Many people should also consider creating a lifetime child's trust with the (adult) child as trustee. When the child dies the money left in the trust can be directed to benefit their lineal descendants, if any, or to your other children.

Along with your will and trust, you should also have additional documents prepared for future incapacity. These documents include a financial power of attorney, medical power for attorney, living will, declaration of guardian, and HIPAA privacy act document.

Don't wait until it's too late. Contact an estate planning attorney to make your plan.

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