

ESTATE PLANNING FOR YOUNG FAMILIES

Courtesy of the Elder Law Firm of Anderson Associates, P.C.

Copyright Reserved
148 W. Hewitt Ave.
Marquette, MI 49855
(906) 228-6212

www.upelderlaw.com

June 2011

ESTATE PLANNING FOR YOUNG FAMILIES

Parents of young children expect to live for many years to come. The possibility of mortality or a devastating disability is often not given a second thought. Yet death and disability can come at any time, and this is why estate planning should be looked in to by parents of young children. Indeed, parents with young families have special reasons why planning is needed. Here are several important considerations.



1. Prevent a Guardianship Contest. The failure to name a guardian in a Last Will and Testament in the event both parents should unexpectedly die invites a contest in the Probate Court over who will serve as legal guardian of minor children. Parents should give serious thought about who best will be able to raise their minor children if they are gone and name special care givers in a Last Will and Testament.
2. The Living Trust Advantage: Young Children Can't Handle Money. Please remember that the age of majority is 18 years in all States. If parents die and leave children under the age of 18, there is a critical need to appoint financial agents and make other arrangements to assure prudent management of the parent's estate to benefit and protect the minor children. For children 18 years or older, the age of majority means that without a Living Trust or other protective arrangement, 18-year-old children will receive an inheritance without any restrictions should their parents unexpectedly die. Very few 18-year-olds have adequate experience or can be trusted with large sums of money or other assets. In a Living Trust, a trusted mature adult or financial institution serving as successor trustee will make sure funds are not wasted. A Living Trust can be written to require that funds be used for education, medical, and other necessities (such as a first home) rather than frivolous expenditures.

ESTATE PLANNING FOR YOUNG FAMILIES

Courtesy of the Elder Law Firm of Anderson Associates, P.C.

Copyright Reserved
148 W. Hewitt Ave.
Marquette, MI 49855
(906) 228-6212

November 2010

A Living Trust can phase-in distributions at certain ages, such as ½ at 25 and ½ at 30. Also, the Living Trust will protect a child's share if a child experiences creditor, addiction, and/or marital problems.

3. Living Trust Advantage to Avoid the Delays and Expense of Probate. A Last Will and Testament which gives assets to loved ones is a probate document. The probate process may last for 8 to 12 months and requires court approvals in the administration of an estate. This process can unnecessarily delay the receipt of needed funds to cover a child's necessities, and the cost of probate can consume up to 5% to 7% of an estate's value.

The Living Trust, on the other hand, is a private and timely process which will save time and money in the administration process.

4. Using Anti-Bicker Forms to Handle Personal Effects. The issue of who shall receive Mom or Dad's personal things, such as jewelry, recreational equipment, and other keepsakes can create lifetime arguments among children after parents have passed on. Our firm provides special "anti-bicker" forms which help to minimize these kinds of conflicts and maintain family harmony.
5. The Need for Powers of Attorney. When a person has either a short-term or long-term disability, four key legal documents are needed. These documents will avoid a forced guardianship in the Probate Court. First, in a Health Care Durable Power of Attorney, a parent will appoint a primary and at least one alternate person to make his or her medical decisions if the parent is unable to do so, including the power to decide on needed surgeries and to make life support decisions.

Second, a parent's preferences on life support issues can be expressed in a Living Will. Failing to express these wishes in writing can result in unwanted life support and family conflict, including litigation.

ESTATE PLANNING FOR YOUNG FAMILIES

Courtesy of the Elder Law Firm of Anderson Associates, P.C.

Copyright Reserved
148 W. Hewitt Ave.
Marquette, MI 49855
(906) 228-6212

November 2010

Third, in a Financial Durable Power of Attorney, a trusted financial agent and an alternate are appointed to take care of financial decisions and bill-paying when a parent cannot do so.

Fourth, in a HIPAA authorization, certain family members or other loved ones are authorized to speak with your health care providers about your medical condition. Under the new federal medical record privacy rules of HIPAA, one's medical records and health care condition are in a "lock box." Only the patient has access to his or her medical records. To make sure trusted loved ones can find out how the patient is doing, our clients sign several HIPAA authorizations.

As you can see, estate planning for the parents of minor children is important. You are invited to have a free one-hour appointment with one of our attorneys to discuss these issues. A fact-finding form must be completed and brought to the appointment. Both parents should attend the initial appointment.

For your peace of mind, give us a call at (906) 228-6212 or toll-free 877-304-3119 (UP only). You can also visit our website at www.upelderlaw.com.