

Top Five Reasons Why a Parent Should Have an Estate Plan

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As a parent, you may often find yourself worrying about unexpected and unfortunate events. You think about horrible questions like “What will happen to my children if I suddenly die?” Some of these worries include how your children will be properly provided for or who will take care of your children if you suddenly become physically or mentally disabled or pass away. Your children will be going through a difficult and emotional time experiencing the unexpected loss or disability of a parent, thus, it is important to make the transitions for your children as easy as possible.

If you have a child who is under the age of eighteen (18), it may lead to terrible consequences if you were to become incapacitated or pass away without having all of the proper documents in place to protect your family. The proper estate plan will give you peace of mind knowing that your children are taken care of if something unfortunate happened to you. Below are the top five reasons why you, as a parent, should have an estate plan.

- 1. Create a trust as a nest egg for your children.** If your children could inherit a significant amount of assets, then it is a great idea to form a trust in your estate planning documents and name a trustee to manage that money. The trust can be very flexible so as to provide your children with the benefits of the assets, while still protecting the assets from creditors or even unwise decisions made by a young person. The trustee can, if authorized by the document, distribute money to the child very broadly for their health and medical care, education for college or private school, and maintenance in accordance with their lifestyle at the time of your passing. This benefits your child as they would not experience a disruption to their lifestyle in addition to grieving for a lost parent.
- 2. Nominate a person who will look after your children.** As a parent, you will want to make sure that the right person is taking care of your children. You may have strong feelings that you would want your parents or a sibling to take care of your children if you are not able to. This decision should be memorialized in writing. If you do not have a Last Will and Testament or a “Will” naming the person who will take care of your children, the person who wishes to become the legal caretaker of the child will have to go to court for a formal guardianship proceeding and be appointed the guardian of the child. Depending on the court system, this process is expensive and could take a long time. In addition, during this interval, your child could be left without a legal caregiver, and may not have a person who is able to make important decisions for them such as decisions related to their medical care and communicate with their school.

- 3. Name a person to manage your children's money and property.** Even though as a parent, you may wish that one day your children inherit all of your assets, you want to make sure that a young child or a teenager suddenly does not come to possess a large sum of money. It is very important to note that minor children under the age of eighteen cannot manage property and cannot have a bank account or similar property in their name alone. Therefore, a competent adult is required to manage any property or assets that your minor children are to inherit.

One fact that often comes as a surprise to many parents is that in Pennsylvania, if you die without a will, your child's other parent cannot be solely appointed to serve as a child's guardian to manage their inheritance by a court. This means that if a child inherits property from a parent who passed away, and the deceased parent did not have an estate plan naming other parent as being in charge of the child's property, that surviving parent alone cannot be appointed by the court as a guardian to manage that property on behalf of a child. This applies even if the parents were married and the children were living with the parents at the time of the death. However, if under an estate plan, you name your children's other parent as the person responsible for looking after their property and assets on their behalf, then there are no issues with the parent managing that property.

- 4. Use life insurance to pay for your child's college, healthcare and lifestyle.** After you have named your guardians and prepared the appropriate trust document, you may want to plan for how to make certain amounts of assets immediately available to provide for your children. Life insurance policies are an excellent way to ensure that there is a large amount of money available. A great benefit of using life insurance is that in Pennsylvania, life insurance benefits pass to your children inheritance tax free. Provided your estate is under the current Federal Estate Tax Exemption amount of \$11.18 million, life insurance can also pass to your children without having to pay Estate Tax to the IRS. Therefore, unlike funds in a bank account or a retirement account, which could be subject to inheritance taxes here in Pennsylvania, your children receive all of the life insurance funds without the death tax bill. The life insurance funds can be directed into a trust where they can provide for your children's college education, living expenses, health and medical care, etc.
- 5. Preserve income tax benefits of 401(k) and IRA accounts.** If you have a retirement plan such as an IRA or a 401(k) account, and wish to have your child benefit from that account, then it is very important to have a proper estate plan in place. This is necessary to ensure that your child is able to retain as much of the pre-income tax benefits of the retirement plans. If this is not done properly, then the retirement account may have to be liquidated, causing all of the income taxes that are deferred to become due. Thus, the amount of assets available to the child could become greatly reduced due to the large sums of income taxes that are now payable.

As a parent, the most important reason to have an estate plan is to have peace of mind. This advantage cannot be by measured in dollars and cents. You eliminate emotional worries of how your children will be cared for by having a well thought out estate plan in the unfortunate event of your death.

If you are a parent with young children and you wish to put together an appropriate estate plan to protect your family and your assets, our Montgomery County law firm's experienced estate planning attorneys can assist you. Our standard estate planning packages include documents such as a Last Will and Testament, Durable Power of Attorney, and Health Care Power of Attorney/Living Will.