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Blog

Read our latest thoughts on Estate Planning, Trust Services and Asset Management.

Part 1: The Perils of Dying Without a Will or Trust

Nobody likes to think about their mortality but planning your future arrangements to protect the people you love is important. If you die without a will or trust, the distribution of your assets and property is carried out according to state law and may not reflect your wishes. Passing away without either of these legal documents can lead to lengthy court battles, excessive costs, and unnecessary stress for your loved ones.

What is Probate?

Probate is a legal process that can occur after you pass away. It is a court-supervised procedure involving the distribution of your assets to your beneficiaries or heirs.

While the probate process can be complicated, costly, and time-consuming, passing away without a will makes the process necessary to ensure your assets are distributed fairly. While it may not be the most exciting topic, probate is an important part of our legal system that can provide peace of mind for those family members settling your estate when you pass.

What is Dying Intestate?

Dying without a will is also known as dying intestate, meaning your estate comprising of all your assets, property, and debts, will be distributed according to the state laws instead of your wishes.



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Another issue is the lack of privacy. Probate proceedings are public records, meaning anyone can access information about your assets, debts, and beneficiaries. This lack of privacy can be especially problematic if you have business interests or other sensitive assets you prefer keeping private.

Effect on Children When Dying Intestate

If you have children who are minors, dying without a will or trust can be especially dangerous. Without a designated guardian, the court will determine who will continue to care for your children if you and your spouse pass away. This lack of direction from you and your spouse can lead to custody battles and unnecessary stress for your children during an already challenging time.

When you die intestate, the distribution of assets can become even more complicated when you have underage children. In such cases, the court may appoint a guardian to manage your children's inheritance until they reach adulthood. The court does not know your wishes, and the person they appoint may not be a person you trust or feel would manage the assets with your children's best interest at heart.

You Have No Say in Who Raises Your Children

Naming a guardian is a topic every parent should take seriously as it could have grave consequences for their children's future.

When you do not name a guardian for your children, you leave their fate up to chance. If something happens to you and your spouse, the court must appoint a guardian for your children. The court-guardian may not necessarily be someone you would have chosen and may not align with the values and beliefs you and your spouse have, or the values you wanted your children to be exposed to.

While it may be challenging to think about, it is essential to take time choosing a guardian for your children. Consider someone who is trustworthy, responsible, and shares your values.

A Final Point

Creating a will or trust is an essential part of estate planning, especially if you have underage children. Without a will or trust, your assets may be distributed according to state laws, and you will have no say in who raises your children or manages their inheritance. In addition, probate proceedings can be lengthy, costly, and public, with potential tax implications.

Working with your financial advisor and an experienced estate planning attorney, you can ensure your wishes are fulfilled and provide for your loved ones after your passing.



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