



## For the Kids: 8 Elements Your Estate Plan MUST Consider if You Have Minor Children

Virtually all parents will agree that having children is the greatest blessing one can experience in life. Equally true, however, is that having children can make life much more complex than just about any other event. Nowhere is this truer than when it comes to estate planning. Whether married or single, many people without kids can have a fairly basic estate plan in place that will cover most of their needs.

Once they have children, however, there is a lot more that needs to be considered. The following eight elements are essential for all parents of minor children to consider when creating or updating their estate plan. Take some time to review these items, and then work with your attorney to ensure everything is set up according to your wishes.

### **Naming a Guardian**

If parents do nothing else in terms of estate planning, they should always name a guardian for their children. Sadly, far too many parents in America are putting their kids at risk because they haven't yet chosen who will be named guardian should they die or become unable to care for them in the future. Even some people who do know whom they would like to name as guardian haven't yet identified them in their estate plan.

If parents die without having named a guardian legally, the state will step in and decide what should happen to the children. They will follow a set formula to see which family member should be given the children, even if that person is the last one you would ever select. The state has no way to know who will raise your children according to your wishes unless it is clearly identified in your estate plan.

### **Planning for Temporary Emergencies**

Even if you do have a guardian identified who can step in should you die or become permanently incapacitated, there are other situations to plan for. Many people want different things to happen for short term emergencies than they would for a permanent situation. For

example, if both parents get into a car accident and are going to be in the hospital (and unable to make decisions) for several weeks, it may be best to have a parent who lives nearby step in to provide temporary care.



Should both parents pass away, however, a sibling in another city might be the best option. Identifying who you want to take care of your children in temporary situations is something many people overlook, but is quite important. This type of



scenario happens far more often than most would expect, so take some time to think about it, and then put your wishes into your estate plan.

### **Setting Up a Revocable Living Trust**

Beyond setting up a guardian, and dealing with temporary situations, setting up a revocable living trust is one of the most important things you can do. Trusts allow you to put money or other assets into a legal structure that allows you to make decisions about it now, which will take effect should you become incapacitated or pass away. A revocable living trust is one of the best options because it allows you to make changes as needed while you are still living.

### **Individual Trusts or Pot Trusts**

When creating a trust for your children, you will want to decide whether it is best to create an individual trust for each child, or if one trust for all of them (called a pot trust) is the best option.



While a pot trust is much easier to create and manage up front, it will give the trustee a lot more responsibility down the road. In addition, pot trusts typically don't become available to the beneficiaries until the youngest child reaches the age of 18.

There are certainly benefits and drawbacks to both options, and many factors that influence which is going to be right in your situation. Talking with an attorney about this decision can help ensure you make the right choice for your kids.

### **Ensuring Inheritance is Given to Children in a Safe and Practical Way**

Unless it is otherwise specified, inheritance will be given to minor children on their 18th birthday. Many parents think back to when they were 18 and realize that it is rarely a good idea to give people this age a large amount of money without any restrictions. Parents can make stipulations in trusts to help ensure their children get the most benefit out of their inheritance.

For example, it is possible to specify that your children will only have access to money when they are 18 if they are paying for college or a down payment on a house. This will help protect the children from blowing through all the money in their youth. The trust can also specify that your children will get all remaining money without restrictions when they turn 26 or some other age you determine to be proper.



### **Managing Property While Children Are Still Young**

Many parents have a home, cottage, and other types of property that they want to leave to their children. If the kids are under 18, however, they likely can't legally manage the property on their own. When in this situation, parents can name a person or institution to manage the property on their behalf until they turn 18 or some other age you deem appropriate.

### **Adding Life Insurance to Your Estate Plan**

Having a life insurance policy is extremely important for parents who are still financially responsible for their children. In the vast majority of cases, a life insurance policy will pay out to a surviving spouse, who will then use the money to care for the family. In single parent situations, or when both parents die at the same time, however, it is important to direct the life insurance policies properly.



Life insurance policies can almost always be directed into a trust on behalf of your children should both parents pass away. This will provide your children with access to the money they need (through a trustee) more quickly, and give you more control over how that money is used.

### **Designating Beneficiaries of All Retirement Accounts**

Many people have multiple retirement accounts in their name. This could be multiple accounts from different jobs, or each spouse having their own accounts, or any number of other situations. It is important to make sure that each retirement account is set up in such a way that the children will get the money (or it goes to a trust on their behalf). If this is not clearly stated, the money may need to go through probate, which would cause a delay in getting the money and cost a significant amount of it.

All parents need to be thinking about the future of their children, and what would happen to them should they pass away or become incapacitated. The best way to ensure everything is in order is to sit down with an experienced estate planning attorney like Neil Tyra and work through all the details together. While it may seem overwhelming, it is definitely worth the effort. Contact The Tyra Law Firm today at (301) 315-0811 to learn more about how we can help you plan your estate and protect your children's future!