

# What Every Parent Needs to Know About Estate Planning

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# What is in an estate plan?

## EP Documents

- **Will** - effective only at death, names a guardian, creates trusts for children, disposes of estate to beneficiaries, appoints executor
- **Financial Power of Attorney** - effective only during life, names an agent to make financial decisions on your behalf (i.e. selling property, paying bills, banking powers, dealing with SSA and IRS)

## EP Documents con't

- **Advance Medical Directive** - effective only during life, names an agent to make medical decisions on your behalf, makes wishes known regarding life support, organ donation and disposition of body (burial/cremation)
- **Revocable Trust** - Will substitute, allows you to plan for incapacity, avoid probate and avoid ongoing court supervised trust accountings

## Additional EP documents relevant for parents

- **Standby guardianship** - names a guardian if both parents are incapacitated or one is deceased or unfit and the other is incapacitated
- **Consent to Medical Care for a Minor** - parents can authorize individuals (babysitter, nanny, family member) to make medical decisions for minor children if parents are away

## Beneficiary Designations

- Life insurance and Retirement Assets pass by beneficiary designation, not under your Will
- Joint Accounts - can name a POD/TOD beneficiary
- Per Stirpes v. Per Capita

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## *Why do I need a Will?*

- Name a Guardian. Name an Executor.
- Create trusts for children to provide asset protection
- If a child has special needs, a Will (or Trust) can provide special protections
  - Can withhold distributions to a child if child has addiction issues (drugs or gambling), is in a cult, or has emotional problems



# *What if I die without a Will?*

No estate plan = intestacy

## *Court-imposed guardianship*

The court will appoint a guardian to raise your child

- Guardian of the person of the minor - ensures emotional and physical well-being of child
- Guardian of the minor's estate - ensures financial well-being of child's assets until age 18
- Ongoing court costs for accountings



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## *Why may I need a Trust?*

- In VA, a trust created at your death under a Revocable Trust is not subject to ongoing court supervision
  - Allows you to avoid VA probate
- If you have property in another state, you'll likely want a trust to avoid probate in that state

## *Do I need life insurance?*

- Replace lost income from deceased parent, helps offset cost of childcare, healthcare costs, mortgage payments and college
- Term insurance is relatively inexpensive

# *Intestacy Problems*

VA statutes provide who receives your estate if you do not make a Will

## *Intestacy Problems Explained*

- If a spouse has a child from outside the current marriage, the spouse will receive 1/3 and the decedent's child(ren) will receive 2/3
- Children inherit at age 18 when they are not financially responsible

## *Intestacy Problems Explained*

- Without a Will, you cannot (1) exclude an estranged family member from inheriting and (2) include a non-family member (like a step-child) to inherit
- Unmarried couples will not inherit from each other unless they make a Will. For those with minor children, this means the children, not the surviving partner, receives all of the deceased parent's assets

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# *Gift*ing

## *529 Contributions*

- You can frontload up to 5 years
- Each parent can deduct \$4,000 per child on VA income tax return for VA 529 contributions

## *Health and Education*

- Exclusion from normal gifting rules
- Can spend unlimited amounts on "qualified expenses"

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# Questions?



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