

The Plan Every Young Family Needs

WHY AN ESTATE PLAN IS THE BEST SAFEGUARD FOR YOUR CHILDREN'S FUTURES

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The Best-Laid Plans

Car seats, vaccines, kneepads, helmets, vitamins, pediatricians, safety gates and nanny-cams – parents will do anything to protect their kids. Where work, travel and date nights once ruled the day, childproofing and play dates quickly take over as a young couple starts a family. They will choose the best school districts and open college savings accounts to ensure that their children will have a solid education. They will read parenting books to learn tips for keeping their kids healthy and safe – and many of their conversations with friends will center on the same topics. They will devote the majority of their energy, money and attention to caring for their children, protecting them in every possible way.

Parents can sleep well at night only after they have taken every imaginable step to ensure that their kids are safe. Sure, they will always worry, but it helps when they feel prepared. Unfortunately, too many young parents overlook one danger that could harm their family the most.

When they make plans for their kids, parents usually assume they will be there to oversee the plans. This is a lot easier than facing the uncomfortable truth: not all parents will be around to help their kids grow up. Parents don't like to think about their own mortality, especially when they have young children. Unfortunately, tragedy can strike even young families. The best-laid plans will all fall short if they do not include strategies that address this "what if".

Why Should You Plan?

Too many people assume that only "old people" or "rich people" need estate plans. In reality, young families need good estate plans as much as any other demographic. Your estate plan isn't only about what you want to happen to your "stuff" when you die. In fact, your estate plan really isn't about *you* at all – it is all about your family. A good estate plan minimizes the cost, complication and stress that your family will have to deal with if something happens to you.

The best way to illustrate the value of a good estate plan to young parents is to explain what happens if they have no plan at all. These are not remote possibilities. If tragedy strikes a young family with no estate plan, this is what *will* happen.

John and Mary are a married couple in their 30s with three children under the age of 10. Like many young families, John and Mary decided to postpone creating an estate plan until they "need one."



BAD THINGS CAN HAPPEN:

Driving home one night, John and Mary are involved in a car accident that leaves John unconscious. Mary is distraught to learn that, under Ohio law, the doctors are not required to follow her wishes regarding John's treatment because she is not his Health Care Power of Attorney. On top of that, Mary has no authority to access any of the money in John's individual bank account to help pay for the family's bills, because she is not his Durable General Power of Attorney. If Mary wants to gain control over John's affairs, she will need to go to Probate Court and ask to be appointed as John's Guardian – a process that takes both time and money.

FROM BAD TO WORSE:

The doctors tell Mary that John is brain dead and will never recover. They ask her to decide whether to turn off his life support machines. The decision tears Mary apart. John eventually dies, and Mary hires an attorney to administer his estate in Probate Court. Mary has to wait until Probate Court appoints her as Administrator of John's estate before she has any power to use John's assets to pay for his medical and funeral bills. John had no Will, so Probate Court distributes John's estate according to Ohio's default intestacy laws – not according to John's own wishes. This process takes many months and costs thousands of dollars.

Because Mary was John's wife when he died and all three children belonged to both of them, John's entire estate passes to Mary. If John and Mary had any children from previous relationships, Mary would receive only a fractional share of John's estate and she would have to post a bond to be John's Administrator. The rest of John's assets would go to John's children.

THE ULTIMATE DISASTER:

Mary is now a single mother with three young children. Unfortunately, Mary did not learn from the past, and she still does not have an estate plan. A few years after John's death, Mary gets cancer. After a long battle, Mary dies, leaving behind her three kids.

Mary and John had created college savings accounts for each child. They had childproofed every inch of their home, and they had taken great care to teach the kids to look both ways before they crossed the street – but they did not create a plan for their kids in the event that something happened to Mary and John.

Their family returns to Probate Court, this time to administer Mary's estate. Because Mary and John didn't name a Guardian for their children, Probate Court gets to choose "substitute parents" for the kids. The court usually appoints a close relative as Guardian, but there is no guarantee that Mary and John would approve of the court's choice. The Guardian must check in with the court regularly until the children are 18 – each time incurring court costs and legal fees, which come out of the kids' inheritance.



Since Mary died without an estate plan, her estate splits among the children in three equal shares under Ohio's default intestacy laws. The Guardian will use these assets to care for the children until they turn 18. On each of their 18th birthdays, the kids will receive whatever is left of their share, in one big lump sum. It is safe to say that Mary and John's many plans did not include giving their kids a windfall on their 18th birthday. Statistics show that an inheritance given to an 18 year old usually lasts about 18 months.

The Moral of the Story

While it is easy to read Mary and John's story and think that it would never happen to you, the truth is that it could happen to anyone, at any time. But there is good news: while we cannot control the tragedy, we can control the result.

Estate plans are not one-size-fits-all. Your optimal estate plan depends on your individual circumstances and goals. You can make your estate plan do anything you want it to do – you are limited only by your imagination (and your attorney's skill). The bottom line is that you need a plan.

Mary and John could have avoided most of their problems if they'd had a basic estate plan. This consists of a Will, a Durable General Power of Attorney, a Healthcare Power of Attorney and a Living Will. Your Will controls your estate after you die. The other documents control your estate while you are alive, if you become incompetent or terminally ill. The Powers of Attorney would have given Mary the authority she needed to make healthcare and financial decisions for John while he was in the hospital. A Living Will would have spared Mary from the agonizing decision of whether to end John's life support, because John would have made that decision for himself. Most importantly, with a Will Mary and John would have been able to choose the "substitute parents" for their kids.

While a basic estate plan is always better than no plan at all, it is not always the best plan for young families. With a basic plan, Mary and John's kids still would have received a windfall on their 18th birthdays. Creating a Stand-By Trust will avoid this result. After the death of both parents, a Stand-By Trust holds all of their assets in a Common Trust that their Trustee uses to care for the kids while they grow up. The parents get to choose the age at which they think their children will be responsible enough to receive their inheritance. Then they can spread that inheritance out over a number of years, so their children don't get it all in one lump sum. One of the best features of a Stand-By Trust is that, after the parents' estate administrations are finished, the Trustee no longer has to check in with the Probate Court – which means that court costs and legal fees will not devour the kids' inheritance.

In the end, it's all up to you. You can't resist planning for every possible danger that might threaten your children and every possible advantage you want them to have. So why not



invest in an estate plan that will ensure that your wishes will be carried out? There is nothing more important in the world than your children. They deserve your protection even after you are gone.

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