

GETTING YOUR AFFAIRS IN ORDER

Leaving a Roadmap for Your Loved Ones



Attorney Denise Brown's

Legal Direction

Providing Balanced Counsel

DO I NEED TO PLAN MY ESTATE ?

- ▶ Most people believe you should have a will, but over 60% die without one
 - Don't want to deal with mortality
 - Mistaken belief that state law will take care of it
 - Too young
 - Too few assets

BENEFITS OF PLANNING

- ▶ CHOICE
- ▶ Create a roadmap for your loved one
- ▶ Distribute your property to the person you want
- ▶ Its always too late to get it, when you need it.

BASIC ESTATE PLANNING

- ▶ WILL
- ▶ LIVING WILL
- ▶ POWER OF ATTORNEY
- ▶ PREPLANNED FUNERAL

Get Organized

- a. Know what you have and where it is!
- b. Gather your records and important papers
- c. Household Inventory
- d. Replace very old papers
- e. Consider fiduciaries that will be named

WHAT'S A WILL

- ▶ Legal document that gives instructions to be carried out after your death.
 - Distributes your property to the person you want
 - Appoint the executors and other fiduciaries
 - Nominate a guardian for minor children
 - Indicate your funeral wishes

IT'S A ROADMAP FOR YOUR LOVED ONES

WHAT AUTHORITY IS GRANTED IN A WILL ?

- ▶ Fiduciaries
- ▶ Directives for payment of administration expenses and debts
- ▶ Distribution of assets
 - Real and personal
- ▶ Can be revoked or changed anytime prior to death
- ▶ Must be admitted to probate within 10 yrs

IS EVERYTHING I OWN INCLUDED IN MY WILL ?

- ▶ It depends on how the asset is titled!
 - Assets titled in your individual name
 - No designation of a beneficiary

- ▶ What's not included in your will
 - Insurance proceeds
 - Assets held in retirement/401k accts/ IRA accts
 - Assets in brokerage accounts
 - Assets in revocable trusts
 - Assets owned jointly with another with right of survivorship
 - Real estate and joint bank accounts

WHO CAN MAKE A WILL ?

- a. Must be of sound mind
- b. Know they are making a will
- c. Know the general nature of property and how much they have
- d. Know the names of descendants and others that would be expected to share in the estate

TYPES OF WILLS

- ▶ Holographic—entirely in Testator's handwriting
- ▶ Self proving—includes notarized witness signatures that meets state requirements
- ▶ Self prepared—purchase fill in the blank form

KEY CONSIDERATIONS

- a. What would happen to my property?
- b. Who would care for my minor children or aging parents?
- c. Would my spouse and children be provided for
- d. Would the family business continue?
- e. Who would be my executor?
- f. How can I keep administrative costs to a minimum?

When should I change my will ?

- a. Marriage, remarriage, or divorce
- b. Birth of a child
- c. Move to another state
- d. Death of beneficiary under the will
- e. Changes in federal and state laws
- f. Amendments to wills are codicils

What happens if I die without a will ?

- a. Intestate estate
- b. Kentucky state law determines
 - Who is appointed as fiduciary
 - Distribution of your estate assets
- c. Increases the costs of administering your estate

WHAT'S A POWER OF ATTORNEY ?

- ▶ A legal document that authorizes an individual to act as your agent and perform specific acts on your behalf
 - General POA
 - Durable POA
 - Springing POA

POA authority ceases upon moment of death

WHAT'S INCLUDED IN MY POA ?

- ▶ Power to pay for your support or care
- ▶ Power to borrow money on your behalf
- ▶ Power to conduct banking transactions
- ▶ Power to purchase or transfer property
- ▶ Power to handle legal claims, gain entry to safety deposit boxes, deal with insurance or retirement benefits
- ▶ Power to prepare and file tax returns
- ▶ Power to make gifts, etc

RESPONSIBILITIES OF A POA

- ▶ Obligated to follow your instructions
 - ▶ Obligated to act in your best interests
 - ▶ POA should keep records and act prudently
 - ▶ If POA improperly handles your affairs, they are legally responsible for damages.
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- ▶ POA can be revoked at anytime
 - ▶ POA that will be used with real estate should be recorded
 - ▶ POA can be granted to more than one person

WHAT'S A LIVING WILL ?

- ▶ A legal document that a person uses to make known their wishes regarding:
 - Life prolonging medical treatments
 - Organ donation
- ▶ Primarily used by:
 - Health care providers
 - Family members

AUTHORITY OF LIVING WILL

- a. Designates one or more health care surrogate(s)
- b. Resuscitative efforts
- c. Artificial feeding
- d. Can designate that the decision is left up to surrogate

ALTERNATIVE TO A WILL

- ▶ Trust
 - Irrevocable
 - Revocable
- ▶ Designate beneficiaries
 - All tangible and intangible personal property
 - Real estate

Denise Brown
Denise Brown's Legal Direction
327 Guthrie Street
Louisville, KY 40202
502.587.0331
www.4realdirection.com