

Practical Probate: Protecting Your Family with Living Trusts

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I recently had a discussion with a married couple with two children, ages 4 and 2. They were interested in providing for their children if something were to happen to both parents.

One way to accomplish this would be with a living trust. The parents could create a living trust, place assets into the trust, and name a trustee in addition to or in place of the parents. If both parents were to pass away while their children were still young, the trust could provide money to pay for the children's education, medical care, housing, clothing, or anything else for the children's benefit.

Once the children attained a certain age – it could be any age – 18, 25, 30, or some other age – anything left in the trust would then be turned over to children in their adulthood.

The trustee – the person responsible for managing the trust – would use the trust money to pay for whatever of the children's expenses the trust was designed to cover. The trustee would be bound by the terms of the trust to be sure the trust assets were properly invested, and the trustee would be liable if he or she wasted trust assets.

Providing for the management of assets for minor children is important – if it's not done with a trust or custodial account, a guardianship

estate might need to be established in the probate court. In addition to "youth" – those under the age of 18 – there are other reasons why managing assets for the benefit of an adult may be needed. For example, it can be very challenging for a young adult to responsibly manage a significant asset. Likewise, adults in their 30s or older may lack the sophistication or maturity to responsibly manage a significant asset. Perhaps providing support for someone with serious creditor issues, or someone who is easily taken advantage of is a goal. A parent or grandparent with adult children or grandchildren in difficult marriages may want to ensure that a potential "ex" spouse doesn't end up with some or all of assets intended for their own child or grandchild. In all of these cases, a living trust could provide for the management of assets and support of loved ones without giving them the asset outright.

Trusts can be funded with any of a variety of assets – real estate, financial accounts, life insurance proceeds, and bequests in a will are just a few potential sources of trust assets.

Living trusts are not appropriate for everyone. Only after consulting a qualified, ethical attorney who will take the time to understand your situation and objectives, and explain your options, is it possible to make an

informed decision as to whether a living trust is appropriate for you.

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