

# ELDER LAW & ESTATE PLANNING CENTER

Plan for Tomorrow, Today

## **Blended Families**

The most common marital status today is neither "married", "single", nor "divorced", it is "Remarried". With so many re-marries, there is a higher chance a client is going to be part of a blended family. Blended family meaning each spouse has children from a previous marriage.

Children of a prior marriage can be an integral and loving part of the new family relationship and treated by both spouses as if all are their natural offspring. The challenges that arise in a blended family when trying to establish an estate plan revolves around a conflict of interest in the desire to provide for the other spouse's children.

A common and informal way of addressing the issue within the family unit is to exchange oral promises between spouses. What I see most often is a couple having only simple wills, meaning the estate is left to the survivor of them, and a promise that the surviving spouse would divide the estate equally between the children of both spouses. These oral promises are often problematic and raise issues as to enforceability.

Even with harmonious blended families, lack of planning may lead to unforeseen difficulties. For example, if all assets are left to the new spouse, the prior children may not be provided for as the deceased spouse would have wished. As in the situation stated above, the surviving spouse will inherit all of the estate in accordance with the will. The surviving spouse is now the sole owner of the estate and is not legally obligated to give any share of that estate to the decedent's spouse children. The oral promises made between spouses, does not have to be honored.

On the other hand, if arrangements are made so that one spouse leaves assets for children of a prior marriage, therefore bypassing the surviving spouse, there may not be enough assets remaining to provide for the surviving spouse. As long as there is no animosity between the blended families, the thought of one's children not being provided for, are never considered.

The key to estate planning is to prepare for the "what ifs". It is unclear as to what everyone's situations will be five, ten, twenty years down the road. For example, a spouse that had every intention of sharing the estate with step-children, could find one of his/her own children desperately needs money. Instead of splitting the estate evenly, he/she leaves it to the struggling child and not to the step-children.

There are several estate planning tools blended families can use to achieve their respective goals. With careful consideration, estate planning for the blended family can provide orderly, equitable and compassionate distribution of estate assets, while also minimizing or eliminating potential animosity between the surviving beneficiaries.

For more information, contact: The Elder Law & Estate Planning Center – 843-757- 5294 – 10 Pinckney Colony Rd., Suite 400, Bluffton, SC 29909.

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