



## Plan Today to Secure your Tomorrow



# Estate Planning for Blended Families

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The term “blended family” has become commonplace in our society and refers to a family where one or both spouses were previously married and have children from the prior marriage. In some instances, the new couple goes on to have children of their own. With children, stepchildren and ex-spouses involved, estate planning can get quite complex.

When you are trying to take all the different interests involved with your blended family into account, you need help to ensure you provide for everyone adequately. And to ensure you avoid conflict after your death or incapacity, as that’s quite common in blended family situations.

Without a well-crafted estate plan to establish how you want your surviving spouse and children to receive your assets, the distributions made pursuant to the law (or a poorly drafted plan) could lead to tremendous conflict among your loved ones and significant unintended consequences. . To create a comprehensive estate plan that achieves the results you want, it is imperative that you consult with an experienced lawyer.

Deciding how to divide your wealth and assets between your surviving spouse and your biological children can be difficult. If you are close with your stepchildren or you have adopted them, you must take their interests into account as well. This means that you may need to address issues such as child custody and support once you are gone. You will also want to avoid mistakes such as:

- Your children being unintentionally disinherited (by everything going to your spouse)
- Your children’s inheritance being postponed until your spouse dies (that’s often the fastest path to family conflict)
- Your ex-spouse making a claim on your estate
- Family fighting or litigation over your estate or to gain the authority to act

With so many issues to consider, it is necessary to make these decisions while you are healthy and you have the time to create the best strategy for drafting your estate plan whether you have a lot of money or not. If you want to take action to protect your blended family, contact us to schedule an appointment. Let us help minimize the chance of family conflict and ensure your wishes are carried out when you are gone.

One of the main goals of our law practice is to help families like yours plan for the protection of yourself and your family through thoughtful estate planning. Call our office today to schedule a time for us to sit down and talk through a Family Wealth Planning Session, where we can identify the best strategies for you and your family.

## How Legal Planning Helps Build a Strong Blended Family

Yours, mine and ours ... in today's modern family, it's oh so common. The blended family is the product of 2nd (or more) marriages, in which one or more of the parties comes with children from a prior marriage. And then, they may even go on to have children together.

If you have or are part of a blended family, it's important to understand how estate planning could be exactly what you need to keep your family out of conflict and in love, both during life, in the event of incapacity, and when one or more of the senior generation (read: parents) dies.

Let's begin with an understanding of where potential conflicts could arise when you have a blended family.

If you have children from a prior marriage, and you become incapacitated or die, leaving everything to your new spouse or partner, there is almost certain to be some conflict (whether spoken or not) between your children and new spouse.

Your children may feel unloved, forgotten or resentful.



You may think that this can be avoided by leaving everything to your new spouse or partner, and then on his or her death, to your children. But this too could set up a scenario where your children feel the need to monitor your spouse/partner's use of your assets, during his or her life. And that may not be what you want.

Conversely, you may have a partner or spouse that you have not planned for, who you would want to inherit some or all of your assets. But, as things stand right now, your entire estate may go to your children from a prior marriage. This could create a reality where your current partner even gets kicked out of the house you share, if something happens to you before your plan is updated.

You can avoid all of this (and even use the estate planning process to build stronger bonds) by having clear planning in place that has been discussed with your children and your new spouse or partner. We facilitate this as part of the planning process for all blended families.

If you are the child of a parent who has remarried or repartnered, after a divorce or death, of your other parent, you may want to bring these issues to your parent's attention.

If you are ready to create a well thought out estate plan for your blended family, start by sitting down with us. A Personal Family Lawyer® can help you plan for the needs of your unique family. Our Family Wealth Planning Session guides you to protect and preserve what matters most. Before the session, we'll send you a Family Wealth Inventory and Assessment to complete that will get you thinking about what you own, what's most important to you, and what you can do to ensure your family is taken care of.

## Your "Blended" Family Is Likely Headed to Court Unless You Do This

If you have a blended family and do not plan for what happens to your assets in the event of your incapacity or eventual death, you are almost certainly guaranteeing hurt feelings, conflict, and maybe even a long, drawn out court battle.

So let's start with clarity around what a blended family is and whether you have one. If you have stepchildren, or children from a prior marriage, or other people you consider "kin" who are not

considered legal relatives in the eyes of the law, you've got a blended family.

Bottom line: if you have a blended family, you need an estate plan, and not just a will you created for yourself online, or a trust that isn't very intentionally designed to keep your family out of court and out of conflict. Period. End of story. Unless you are okay with setting your loved ones up for unnecessary heartache, confusion, and pain when something happens to you.

### What Will the Law Do?

"Blended Families, once considered "non-traditional" families are swiftly becoming the norm. Currently 52% of married couples (or unmarried couples who live together) have a stepkin relationship of some kind, and 4 in 10 new marriages involve remarriage. So, clearly, this is no longer "non-traditional" but quite traditional, though our laws about what happens if you become incapacitated or die are still very much based on the traditional.

Every state has different provisions for what happens when you become incapacitated or die, and the laws of the state where you become incapacitated or die may or may not match your wishes.

For example, in Colorado, if you are survived by a spouse, your surviving spouse would only receive a part of your estate if you have living children (or parents!), and your living children or parents would receive the rest. And the amount your spouse receives is variable based on the number and ages of your children.

In contrast, in California, all community property assets would go to your surviving spouse, and separate property assets would be distributed partially to a surviving spouse and partially to children, if living, in amounts depending on the number of surviving children.

In Texas, it can get very complex, depending on whether your assets are separate or community, and whether you have children from the marriage, no children from the marriage or living parents or siblings.

These are examples to show you that where you die, and what's true when you die, may not result in the outcome you want for your loved ones, especially if you have a blended family situation.

So, here's what you do to make sure that things do go the way you want: call us and schedule a Family Wealth Planning Session. While the session is normally \$750, if you do some homework ahead of time (homework that's going to make sure your family can find everything you have if and when you become incapacitated or die), we'll waive the Family Wealth Planning Session fee for you, and spend two hours getting to know you, your family dynamics, and your assets, and teach you about the law here in our county and how it would impact your family and your assets in the event of your incapacity or death, so you can ensure that things go the way you want for the people you love.

Even within "traditional" families, aka married parents with families, I want to emphasize that having a full plan is the best way to provide for your loved ones. However, with "blended" families, carefully considered estate plans are, as you can see, even more vital to avoid massive misunderstanding and conflict, and having your assets tied up in court instead of going to the people you want to receive them.

### **Disputes Between Spouse and Children from Previous Marriage**

One of the most common problems that arises in a blended family is that the deceased's children from a prior marriage and the surviving spouse end up in conflict. This one is sadly common. Unless a comprehensive plan has been created, it could be very easy for your surviving spouse to cut your kids out completely.

When you're considering all of these factors for the people you love, it's important to have a Personal Family Lawyer® who can help you look at the reality of what will happen if you become incapacitated or when you die. With the complexities of modern families, it's better to know than to leave it to the law or a court to provide. That way, not only do the people you love get the assets that you want them to receive, but you may also be saving them from years of legal conflict. Just give us a call and we'll help you review your options.

This article is a service of Dalia Anise, Personal Family Lawyer®. We don't just draft documents; we ensure you make informed and empowered decisions about life and death, for yourself and the people you love. That's why we offer a Family Wealth Planning Session,™ during which you will get more financially organized than you've ever been before, and make all the best choices for the people you love. You can begin by calling our office today to schedule a Family Wealth Planning Session and mention this article to find out how to get this \$750 session at no charge.