



Plan Today to Secure your Tomorrow



4 Reasons Why You Can't Afford to Go Without An Estate Plan

By: Dalia Anise, Personal Family Lawyer®

When it comes to putting off or refusing to create an estate plan, your mind can concoct all sorts of rationalizations: “I won’t care because I’ll be dead,” “I’m too young,” “That won’t happen to me,” or “My family will know what to do.”

But these thoughts all come from a mix of pride, denial, and above all, a lack of real education about estate planning and the consequences to your family of not planning. Once you understand exactly how planning is designed to work and what it protects against, you’ll realize there is no acceptable excuse for not having a plan.

Indeed, the first step in creating a proper plan is to thoroughly understand the potential consequences of going without one. In the event of your death or incapacity, not having a plan could be incredibly traumatic and costly for both you and your family, who will be forced to deal with the mess you’ve left behind.

While each estate and family are unique, here are some of the things most likely to happen to you and your loved ones if you fail to create a plan.

1. Your family will have to go to court

If you don’t have a plan, or if you only have a will (yes, even with a will), you’re forcing your family to go through probate upon your death. Probate is the legal process for settling your estate, and even if you have a will, it’s notoriously slow, costly, and public. But with no plan at all, probate can be a true nightmare for your loved ones.

Depending on the complexity of your estate, probate can take months, or even years, to complete. And like most court proceedings, probate can be expensive. In fact, once all of your debts, taxes, and court fees have been paid, there might be nothing left for anyone to inherit.

And if there are any assets left, your family will likely have to pay hefty attorney's fees and court costs in order to claim them.

Yet, the most burdensome part of probate is the frustration and anxiety it can cause your loved ones. In addition to grieving your death, planning your funeral, and contacting everyone you're close with, your family will be stuck dealing with a crowded court system that can be challenging to navigate even in the best of circumstances. Plus, the entire affair is open to the public, which can make things all the more arduous for those you leave behind, especially if the wrong people take an interest in your family's affairs.

That said, the expense and drama of the court system can be almost totally avoided with proper planning. Using a trust, for example, we can ensure that your assets pass directly to your family upon your death, without the need for any court intervention. As long as you have planned properly, just about everything can happen in the privacy of our office and on your family's time.

2. You have no control over who inherits your assets

If you die without a plan, the court will decide who inherits your assets, and this can lead to all sorts of problems. Who is entitled to your property is determined by our state's intestate succession laws, which hinge largely upon whether you are married and if you have children.

Spouses and children are given top priority, followed by your other closest living family members. If you're single with no children, your assets typically go to your parents and siblings, and then more distant relatives if you have no living parents or siblings. If no living relatives can be located, your assets go to the state.

But you can change all of this with a plan and ensure your assets pass the way you want.

It's important to note that state intestacy laws only apply to blood relatives, so unmarried partners and/or close friends would get nothing. If you want someone outside of your family to inherit your property, having a plan is an absolute must.

If you're married with children and die with no plan, it might seem like things would go fairly smoothly, but that's not always the case. If you're married but have children from a previous relationship, for example, the court could give everything to your spouse and leave your children out. In another instance, you might be estranged from your kids or not trust them with money, but without a plan, state law controls who gets your assets, not you.

Moreover, dying without a plan could also cause your surviving family members to get into an ugly court battle over who has the most right to your property. Or if you become incapacitated, your loved ones could even get into conflict over your medical care. You may think this would never happen to your loved ones, but we see families torn apart by it all the time, even when there's little financial wealth involved.

We can help you create a plan that handles your assets and your care in the exact manner you wish, taking into account all of your family dynamics, so your death or incapacity won't be any more painful or expensive for your family than it needs to be.



3. You have no control over your medical, financial, or legal decisions in the event of your incapacity

Most people assume estate planning only comes into play when they die, but that's dead wrong—pun fully intended. Although planning for your eventual death is a big part of the process, it's just as important—if not more so—to plan for your potential incapacity due to accident or illness.

If you become incapacitated and have no plan in place, your family would have to petition the court to appoint a guardian or conservator to manage your affairs. This process can be extremely costly, time consuming, and traumatic for everyone involved. In fact, incapacity can be a much greater burden for your loved ones than your death.

We, as your Personal Family Lawyer®, can help you put planning vehicles in place that grant the person(s) of your choice the immediate authority to make your medical, financial, and legal decisions for you in the event of your incapacity. We can also implement planning strategies that provide specific guidelines detailing how you want your medical care to be managed, including critical end-of-life decisions.

4. You have no control over who will raise your children

If you're the parent of minor children, the most devastating consequence of having no estate plan is what could happen to your kids in the event of your death or incapacity. Without a plan in place naming legal guardians for your kids, it will be left for a judge to decide who cares for your children. And this could cause major heartbreak not only for your children, but for your entire family.

You'd like to think that a judge would select the best person to care for your kids, but it doesn't always work out that way. Indeed, the judge could pick someone from your family you'd never want to raise them to adulthood. And if you don't have any family, or the family you do have is deemed unfit, your children could be raised by total strangers.

What's more, if you have several relatives who want to care for your kids, they could end up fighting one another in court over who gets custody. This can get extremely ugly, as otherwise well-meaning family

members fight one another for years, making their lawyers wealthy, while your kids are stuck in the middle.

With this in mind, if you have minor children, your number-one planning priority should be naming legal guardians to care for your children if anything should happen to you. This is so critical, we've developed a comprehensive system called the Kids Protection Plan® that guides you step-by-step through the process of creating the legal documents naming these guardians.

Naming legal guardians won't keep your family out of court, as a judge is always required to finalize the legal naming of guardians in the event of death or incapacity of parents. But if it's important to you who raises your kids if you can't, you need to give the judge clear direction.

On top of that, you need to take action to keep your kids out of the care of strangers over the immediate term, while the authorities figure out what to do if you're incapacitated or dead. We handle that in a Kids Protection Plan®, too.

No more excuses

Given the potentially dire consequences for both you and your family, you can't afford to put off creating your estate plan any longer. As your Personal Family Lawyer®, we will guide you step-by-step through the planning process to ensure you've taken all the proper precautions to spare your loved ones from needless frustration, conflict, and expense.

That said, the biggest benefit you stand to gain from putting a plan in place is the peace of mind that comes from knowing your loved ones will be provided and cared for no matter what happens to you. Don't wait another day—contact us, as your Personal Family Lawyer®, to schedule an appointment, so you can finally check this urgent task off your to-do list.