
PLANNING INFORMATION

I. THINKING ABOUT YOUR WILL

A. Disposition. Who should get what? You should also think about backup dispositions, in case somebody you name dies before you do. If you are leaving anything in a trust, consider what should happen if the beneficiary dies before the trust ends.

B. Executors. The executor's job is to gather your assets and distribute them according to the will. The executor should be somebody close to you, so you feel comfortable about him or her going through your things; somebody whom you trust to carry out the spirit as well as the letter of the will; and somebody with enough business experience to handle the estate's bank accounts efficiently. You may want to name several people as co-executors, and should name successors in case the person you name cannot serve. Remember, the executor will hire a lawyer to take care of the legal end.

C. Trustee. It may make sense to leave part of your estate in a trust, particularly if you have children who are not adults. Sometimes a trust can reduce taxes. In case this makes sense for you, you should think about trustees.

The trustee's job is to administer the trust according to your instructions. In naming a trustee, you should think about the same things as in naming an executor. One difference is that the executor's job is usually finished in a year or two, while the trustee's job can continue for years or decades. Depending on the rules you write for the trust, the trustee may also have to make important decisions about how the trust assets are to be used. So look for somebody with sound personal judgment, fairness, and understanding of the long-term needs of the beneficiaries.

Here, too, you should choose successors in case your first choice cannot serve.

D. If There Are Children. So long as there is a living parent, that person will have primary responsibility. If there is no living parent, the court may appoint a guardian. The court's choice will be based on what the court thinks is best for the children. What the will says is only advisory. However, the wishes of the parents are always treated with respect and almost always followed.

You will probably want to leave most of your property in trust for the children until the children are adult and get full control. However, something possibly could happen to them first. You should have some ideas about what should happen to the money in the trust if the children die before they reach adulthood.

II. OTHER ESTATE PLANNING QUESTIONS

A. Anatomical Gifts. A will does not have to say anything about anatomical gifts. Besides, an anatomical gift can be made at any time. Even so, this is a good time to think about it. You may want to help medical study or research, save a life with a heart transplant, or let somebody lead a more normal life with a kidney or eye transplant.

B. Burial Provisions. You do not need to say anything about funeral, cremation, or burial arrangements in your will. Whatever you say in your will is only advisory, and the funeral may be over before anybody even looks at the will.

There are things you can do outside of the will. For example, if you want to keep the cost down and avoid a fancy funeral, you might want to make arrangements in advance. I can give you some advertising, names, and phones of people I respect. You could also discuss your ideas with people around you or leave them letters.

Illinois residents can designate who will have control of their burial, cremation, or funeral, and give legally binding instructions using a health care power of attorney.

C. Your Virtual World. Your executors or trustees will need to monitor your e-mail inbox just as surely as they will need to monitor your physical mailbox. After all, if your bills and statements are delivered by e-mail, checking your physical mailbox will be useless. Your representative will also probably want to close out your e-mail and social networking accounts so that they are not pirated or abused in ways that cause issues with your assets, embarrass your family and friends, and make the closing of your estate more difficult. Last but not least, you or your representatives may feel that friends who aren't notified of your death and who try to contact you by e-mail deserve a reply.

In our wills and trusts, we include special provisions to give your representatives the legal right to deal with your electronic accounts. But having the legal right to be informed of your password sooner or later is not the same as having the password on file. We recommend giving your representatives as much help as you can to find their way around your computer. To start with, we recommend that you list your passwords and similar information in our Planning Questionnaire for your file. We think this information is the emerging equivalent

of information like bank statements, investment records, and Social Security numbers - information which responsible lawyers have been requesting for years.

III. FILE MAINTENANCE

When all your papers are signed, we'll discuss storage of original documents and circulation of copies. We recommend that you leave the original documents with us for safekeeping. While this arrangement has some benefits for us, we are also confident that it is the best overall arrangement for most clients. We keep the documents in a special fire-resistant cabinet. Besides protecting the documents from loss (we have never lost an executed document committed to us for safekeeping), we also protect you from the temptation to make notes in the margins or to revise the documents by marking them up. Marks on the original documents invite litigation. If you choose to leave the documents in our care, we will provide copies for you, and your friends or family members as you decide.

Client files don't usually include important original documents. They include our notes, correspondence, lapsed papers which might (but probably won't) have some use while the matter is pending, information you provide, and drafts and copies of documents. There may be copies of insurance policies, court records, deeds, or tax papers, but the copies can generally be recreated if necessary from other sources. We usually throw away client files ten years after the matter is permanently closed. Although the formal attorney-client relationship ends when the documents are signed and the follow up is completed, we will not consider your planning matter to be permanently closed and we won't destroy your file until we lose contact with you, until you get a new lawyer, until you die and your affairs are completely wrapped up, or until we and all of our professional successors die.

Kurt and I hope to coordinate our work well enough so that either of us can complete work begun by the other. If you lose touch, the Attorney Registration and Disciplinary Commission of the Illinois Supreme Court can help you locate either of us or any other Illinois attorney.

IV. WORKING TOGETHER

We have a unique practice. We hope that you will notice some of its advantages and will not be inconvenienced by the disadvantages. We do not have a receptionist, so we may be interrupted by a knock on the door during meetings. There is nobody to answer the phone when we are out but we try to return messages promptly. And finally, we won't answer incoming calls when we are in a meeting or on the phone. That's a disadvantage if you're calling in, but an

advantage if you're the person we're speaking with. Please be patient and let us know if our practices are not working well for you.

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