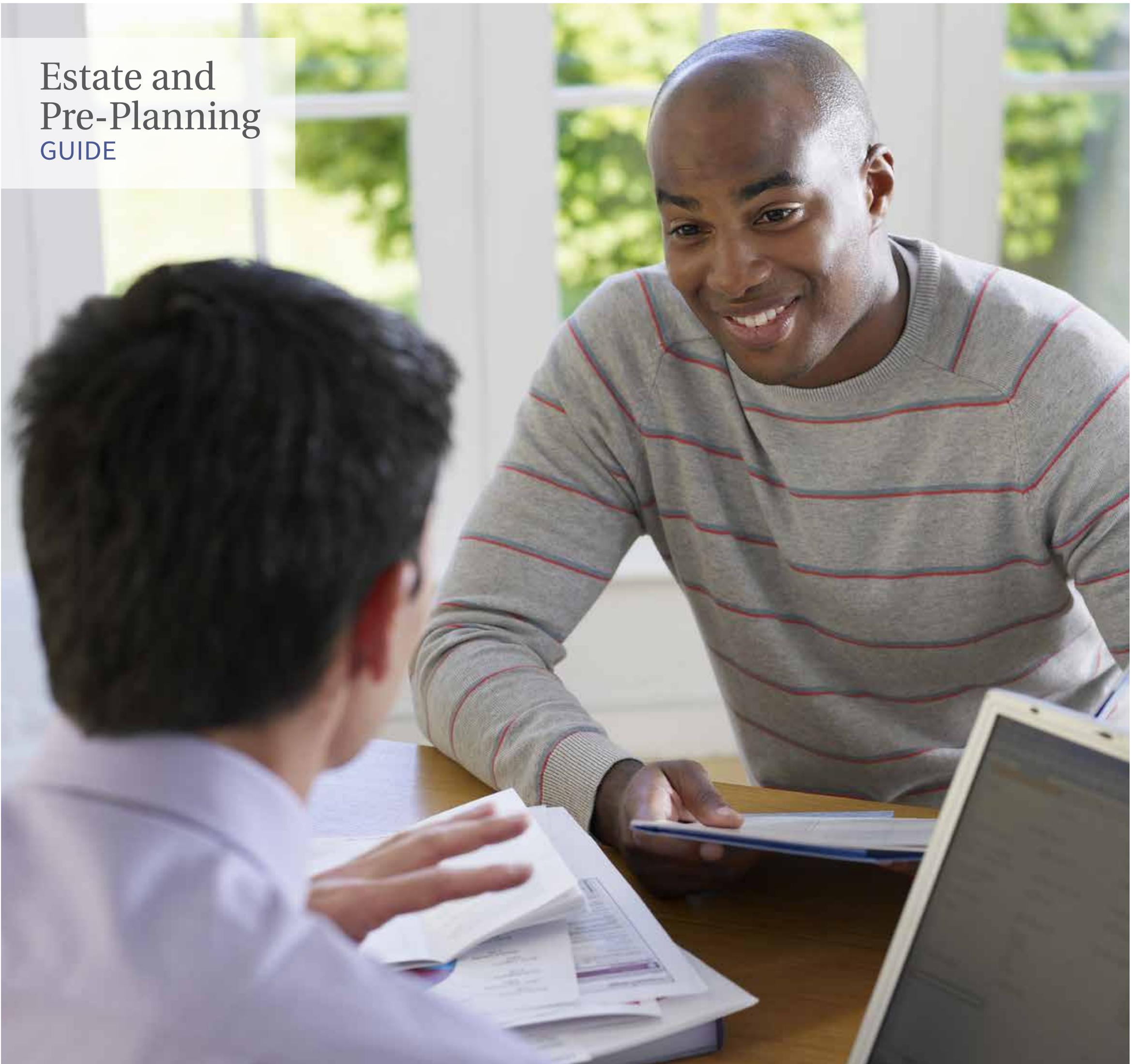


# Estate and Pre-Planning GUIDE



# Can a Will Be Contested?

Your last will is designed to express your wishes after leaving your family behind.

Given its importance and long-lasting impact, experts recommend that you consider every detail, including how your belongings are distributed, who controls your finances and which family members are included in your final plans.

When creating the document, it's essential to ensure it's ironclad. There are specific circumstances that may result in someone contesting its validity.

Fortunately, your desires can't be contested simply because someone is unsatisfied with its terms. However, most states recognize a few legal reasons that can land your last wishes in a courtroom. If a contest is successful, not only is the questionable provision corrected, but the entire estate is also managed as if the document never existed.

Since state laws can vary, it's imperative to work with a law expert to ensure your desires are honored. Here are a few reasons the document may be considered void.

## THE WILL IS SIGNED INCORRECTLY

One of the most significant reasons a will is refused is due to improper signatures after



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its creation. This can be a common occurrence, especially if there is tension within the family. First, the testator, or person leaving the document, must sign the form with a certain number of witnesses present. In most cases, both parties must be in the same room and perform the signing while everyone is watching.

## THE TESTATOR LACKED CAPACITY

The term testamentary capacity refers to a testator understanding the nature and worth of their assets and who should rightfully inherit the assets.

This clause typically comes into effect if a will creator faces dementia or another mind-inhibiting disease while

the document is being formed.

If the will is contested for this reason, many cases end with doctor testimony's relating to the patient's state of health.

## THE TESTATOR WAS WRONGFULLY INFLUENCED

Another reason to create a

will and testament while you're healthy is that being unduly influenced while your mind isn't sharp can cause significant issues for those you are leaving behind.

If it is deemed that a testator was wrongfully influenced to pass on their possessions to undeserving parties, judgment may approve the contest.

# Avoid Estate Planning Scams

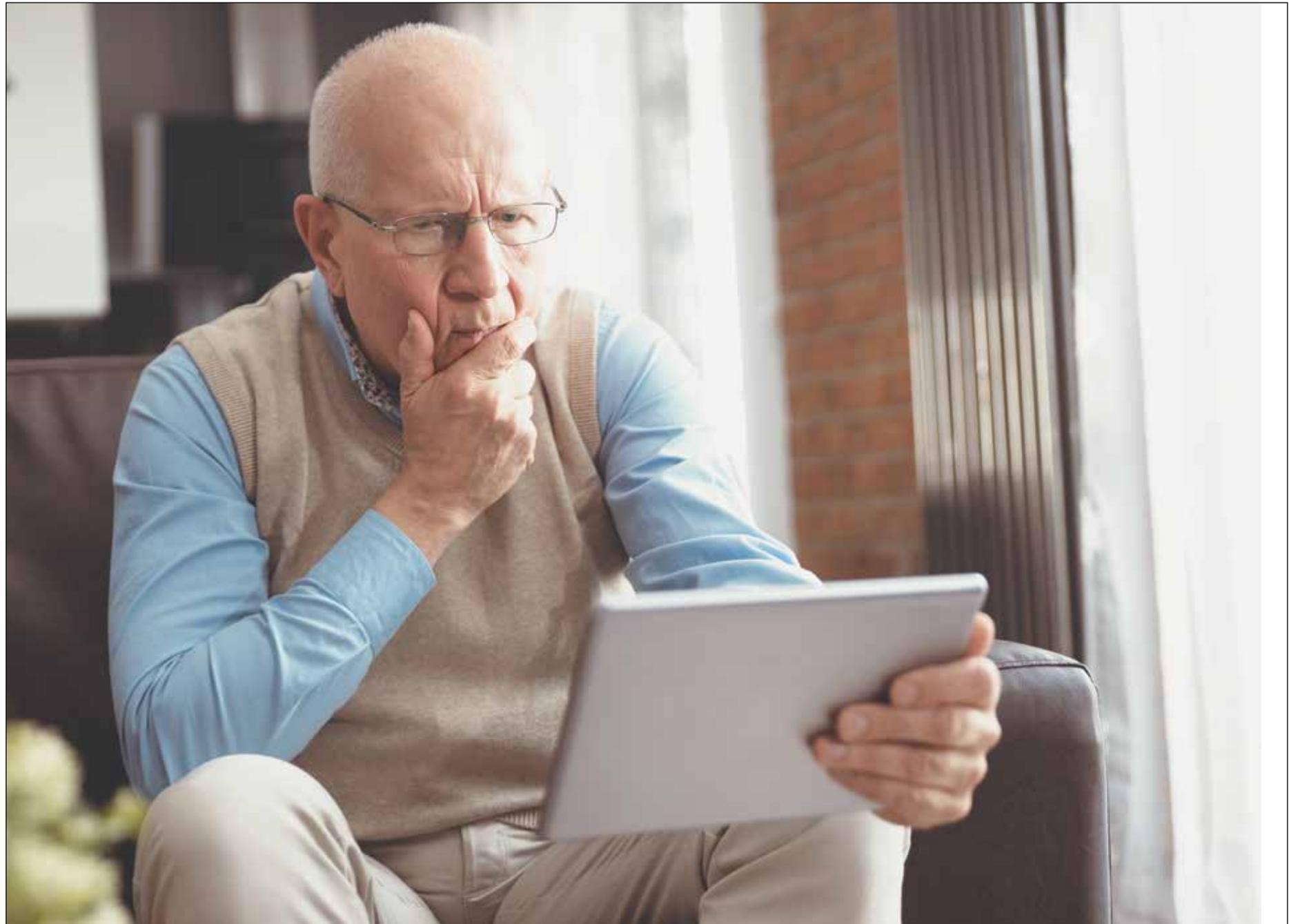
Unscrupulous actors sometimes try to entice unaware victims into financially crippling scams. One of the most common types of scam deals relates to living trusts.

Fortunately, by doing your research and ensuring you are entering a valuable contract, most scams are easy to see through and avoid.

A living trust is a written legal document into which you place some or all of your assets. The belongings are managed by yourself or by someone whom you dedicate the responsibility to at the time of death or until a specific date. According to the Federal Deposit Insurance Corporation, you can choose from two types of trusts.

A revocable trust is an adaptive deposit account managed by one or more people designated as a beneficiary who receives the assets upon an owner's death. It can be revoked, terminated or changed at any time, at the discretion of the owner. An irrevocable trust is when the owner contributes deposits or properties to the trust but gives up power to cancel or change the account.

When determining the right plan, keep an eye out for common types of scams, as report-



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ed by the attorney general of Pennsylvania.

## FRAUDULENT ACTIVITY

Typically, the beginnings of a dishonest living trust begin with a phone call. Unsuspecting people, often elderly, are solicited to attend seminars or receive an in-home visit to discuss living trusts.

Once the meeting starts, trustors are often put under extreme pressure to secure their assets through pushy sale pitches. In most cases, a con artist will play on the worry that your beneficiaries will be unprepared to deal with your death or that a court will decide what happens to your belongings.

In most cases, these sales-

people are merely attempting to access your sensitive financial information. They will often make illegal withdrawals from your accounts or sell your data to other con artists to pursue more fraudulent sales.

## WAYS TO AVOID A SCAM

Keep these tips in mind to avoid falling victim to an

unruly financial trust.

- Recruit your own trusted attorney or reputable estate planner.
- Never sign documents that you don't fully understand.
- Ensure you have the option to update your trust periodically.
- Verify any affiliation or endorsement by a government agency or senior association.

# What to Leave out of a Will

While you want to be as detailed as possible when creating your last will, there are numerous factors you should avoid.

The most efficient way to decide what to include is by working with a trusted attorney. Of course, they will charge for their services, but hiring an expert gains valuable knowledge that you won't find with free drafting software that many companies offer.

Mistakes like entering your funeral instructions into the document can cause family members problems and lead to your last wishes being missed. In most states, the settling of the estate occurs after someone is laid to rest.

Your loved ones may not even see your desires until after the funeral. Instead of documenting them into your will, hold a conversation with your family to explain your vision. Or you can create a separate document with the chosen executor of your estate, so they have a recording to follow.

Here are other factors that should be handled individually rather than documented in your last will.

## **DO NOT ARRANGE CARE FOR SPECIAL NEEDS PERSON**

Another misconception that



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many err in is designating care instructions for a special needs person in their lives. Rather than directing the information into your will, consider opening a type of trust that directly benefits a specific loved one at the time of your death. Find out more about the options in your area

by meeting with a trusted expert or your lawyer.

## **JOINT ACCOUNTS**

If you share a joint account with someone else, typically at the time of one's death, the funds are solely taken over by the survivor. The transfer is generally seamless and rarely

goes through probate.

However, you can leave an account of your own by including a recipient as a payable-on-death beneficiary. After death, the person must visit the bank and present a death certificate and identification to receive the account you contributed.

## **LIFE INSURANCE INFORMATION**

Life insurance benefits are automatically distributed to the beneficiary listed on the policy. Make sure to update the plan during life events like divorce, the death of a spouse or other situations that require changing the recipient.

# Planning Tips For Newlyweds

Making estate or end-of-life planning is likely the last thing on your mind after beginning life as a married couple.

However, with the new unity, the responsibility of protecting your spouse in case of an untimely death is critical. Experts say that thinking about estate planning early in the marriage process can actually be a bonding experience.

Discussing estate planning isn't always easy. However, the journey must be traveled together. If your spouse is hesitant to approach the subject, share the importance of its meaning and the peace of mind gained once it is achieved. Begin your life together by following these tips to secure the future for both parties and any children involved.

## COMBINE YOUR DOCUMENTS

After your marriage, you will receive a certificate that shows the legality of your union. Take this opportunity to combine it with other vital documents and keep them in a secure, fireproof safe. It's also a good idea to make separate copies and store them in an off-site location like a deposit box.

A few forms you should include are birth certificates, social security cards, passports and documents that rep-



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resent your children. You will also need to be honest about financial information like bank accounts, life insurance policies and retirement plans.

## SET A LIST OF GOALS

Writing a list of goals for your estate can help you meet milestones and make more

significant attempts to save to meet your vision. Consider deciding on a set amount that will benefit your loved ones and a sum that goes to a chosen charity.

Work together to make a plan, set achievements and reach your accomplishments. One significant advantage is to

work with an expert estate planning attorney who can provide the right steps you should take.

## CREATE A WILL AND TRUST

A secure will or trust is an excellent place to begin when drafting your estate plans. The

documents or accounts can express your desires for distributing your assets or finances without loved ones facing drawn-out probate processes.

Of course, remember to update your final wishes as you welcome children into the world or life situations change.

# Planning for your Timeshare

As part of your estate planning process, have you ever considered a timeshare or additional property?

A timeshare is typically a vacation property that multiple owners share a right to use at their discretion. Have you considered what happens to your portion of the facility at the time of your death? Since most people choose to distribute their share to loved ones or children, incorporating it into our final wishes is imperative.

Whether you are the owner of a timeshare or considering acquiring one, you should reflect it into your estate planning strategy.

Since the occupancy is generally regarded as a real property interest, you should include it in plans along with your home and other lands that you own. Failing to add it to your will or trust can mean that it winds up in probate, which can cost the intended beneficiary expensive charges in court and attorney fees.

As a timeshare owner, you have multiple options to add it to your estate planning wishes.

## **RIGHTS OF SURVIVORSHIP**

If you own a vacation home as a married couple, take advantage of the rights of survivorship or joint tenancy.



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It means that if one spouse perishes, the other automatically takes sole ownership. However, once this occurs, the surviving spouse must ensure the beneficiary can secure it after their death.

## **DEED INTO A TRUST**

Positioning the property

into a revocable trust is an efficient way to manage a timeshare. The owner has full rights to the home during their lifetime and can adjust the trust at their discretion.

However, once death occurs, the timeshare stays in the account and can be accessed by the trust's benefi-

ciaries. The trust will still have to pay applicable fees and any taxes that are associated with the property.

## **TRANSFER ON DEATH AFFIDAVIT**

Avoiding probate is achievable with a transfer on death affidavit. The shift of owner-

ship automatically moves to a listed beneficiary at the time of the owner's demise.

Make sure to ask your attorney if this applies to your situation.

Some jurisdictions dismiss this affidavit and require the recipient's responsibility for the timeshare's expenses.

# What Is a Lady Bird Deed?

Lady Bird deeds, or an enhanced life estate deed, are critical planning strategies for Medicaid recipients.

The program simply guarantees that a homeowner continues control of their property until his or her death. Once the owner dies,

the household is automatically transferred to the specified beneficiary without going through probate.

The deed got its nickname when Lyndon B. Johnson used it to transfer property to his wife, “Lady Bird Johnson.” There are minor differences between this specialized strategy and a traditional life estate deed. However, the changes can benefit those in specific situations.

According to the American Council on Aging, a traditional deed limits a homeowner’s power over the property. Once the plan is approved, the life tenant cannot sell or mortgage the building without approval from the beneficiary.

With a lady bird deed, the recipient will automatically receive the title at the time of the trustor’s death but has no rights to the home until the death occurs.

## WHAT IT MEANS FOR MEDICAID MEMBERS

At the time of death of a Medicaid recipient, the states



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typically try to recover some accrued expenses while covering long-term care for the person. Since a home is often someone’s most expensive asset, it is often the subject of interest.

The process is called estate recovery and typically occurs during probate.

Since lady bird deeds don’t

require the court process after death, the home is automatically transferred at the time of death. Residencies protected under this clause cannot be subject to an attempted reimbursement from Medicaid.

## SHOULD YOU HIRE AN ATTORNEY?

Absolutely. Ensuring your

estate is secure after perishing offers peace of mind and guarantees that your chosen loved ones will inherit the property.

Since lady bird deeds are not permitted in all states, some jurisdictions use more extensive tactics to obtain reimbursement, like extended estate recovery, protection

may be disqualified. If you live in an area that does not allow the specialized deed, ask your attorney for other measures to keep your home in your family’s possession.

Sit down with a local attorney to discuss how, when and why you should consider this unique type of deed as part of your estate planning process.

# Leaving an Inheritance to Minors

While it's not easy to think about, estate planning to provide for your children in case of an untimely death is vital.

The consideration of who will raise them is only one factor to consider. You should also delegate what happens with any money or property you leave behind and who will manage the inheritance until they become adults.

If you have young children, you may not think you are old enough to worry about making end-of-life plans. However, it's never too early to begin making plans to secure your family's future. When planning an inheritance and custody plan, hire a professional attorney to ensure your last will and trust are legally certified and uncontestable.

## PROPERTY GUARDIAN

Unless you directly appoint a guardian for your children, the process will be settled in probate. The court process occurs when there is no legal will that expresses your wishes and the state handles your estate.

While in most cases, the surviving parent will manage the property or inheritance until the child reaches adult age, this isn't always the desired result. It's essential to document your choice for your children's property



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guardian legally.

## SET UP TRUSTS

Another strategic option is to set up a trust for each of your children. Within your will or living trust, appoint a trustee to oversee the minor's inheritance until a specific

age of your choosing.

The trusted family member or friend is required to act in the beneficiary's best interests while following your written instructions. Typically, a financial inheritance can be used to cover costs such as those for the

child's health, education and living expenses.

Make sure to ask your chosen trustee if they are up for it, as the role requires regular challenges. For instance, they must file annual income tax returns for the trust. They are also limited to what's allowed

in the will, except for the section that outlines their authority.

For this reason, they may be asked to bring the physical document to banks or other facilities when they attempt to perform business on behalf of the beneficiaries.