

COMMON ESTATE PLANNING MISTAKES AND HOW TO AVOID THEM

BY SHANE JASMINE YOUNG, ESQ.

“You can’t go back and change the beginning, but you can start where you are and change the ending.”

– C.S. Lewis

Since estate planning involves thinking about death, many people, attorneys included, put it off until their senior years or simply ignore it altogether until it becomes too late. This kind of unwillingness to face reality can create major hardship, expense and mess for the loved ones and assets you leave behind.

While not having any estate plan is the biggest blunder you can make, even those who do create a plan can run into trouble if they do not understand exactly

how estate plans function. Unfortunately, people often have a false sense of security thinking that things are or will be taken care of, only for their loved ones to discover otherwise.

Here are some of the most common mistakes people make with estate planning and tips for how to avoid them:

Not Creating a Will

While wills are not the ultimate estate planning tool, they are one of the bare minimum requirements. A will lets you designate who will receive your property upon your death, and it also allows you to name specific guardians for your minor children.¹ Without a will, your property will be distributed based on our state’s intestate laws (which

are probably not in alignment with your wishes), and a judge will choose a guardian for any of your children who are under 18. And, your kids will get whatever you own outright, with no guidance, direction or intention, as long as they are over 18 years of age. In addition, many fail to have a pour-over will that accompanies their trust and related documents, and then their loved ones end up having to probate assets that were left out and not properly titled. Having a pour-over will allows any assets that may be sitting outside of your trust at the time of your death to be properly transferred to your trust and distributed according to your wishes.

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Not Updating Beneficiary Designations

Oftentimes, people forget to change their beneficiary designations to match their estate planning desires. Check with your life insurance company and retirement-account holders to find out who would receive those assets in the event of your death.

If you have a trust, you will likely want the trust to be the beneficiary. This designation does not happen automatically upon creating a trust. You actually have to make the change. See the section below for more on funding your trust.

You never want to name a minor as a beneficiary of your life insurance or retirement accounts, even as a secondary beneficiary. If the minor were to inherit these assets, the assets become subject to control of the court until he or she turns 18.

Not Funding Your Trust

Many people assume that simply listing assets in a trust is enough to ensure they will be distributed properly. This isn't true. Some assets — real estate, bank accounts, securities, brokerage accounts — must be "funded" to the trust for them to be actually transferred without having to go through court. Funding involves changing the name on the title of the property or account to list the trust as the owner.

Unfortunately, many people — including lawyers — create trusts but are not properly trained or informed as to how assets are actually transferred into the trust. And of course, when you acquire new assets after your trust is created, you must make sure those assets are also titled into your trust. This is another common issue: not keeping an accurate inventory and tracking assets throughout life.

It is critical to make sure your assets are inventoried and titled properly, and the inventory must be maintained throughout your lifetime, so your assets aren't lost and do not get stuck in court upon your incapacity or death.

Not Reviewing Documents

Estate plans are not a one-and-done deal. As time passes, your life changes, the laws change and your assets change.

Given this situation, you must update your plan to reflect these changes — that is, if you want it to actually work for your loved ones, keeping them out of court and out of conflict.

I recommend reviewing your plan annually to make sure its terms are up to date. And be sure to immediately update your estate plan following major life events like divorce, births, deaths and inheritances. Estate planning attorneys have built-in processes to make sure this review happens — ask about them.

Moreover, it provides true peace of mind. An annual life review can be a beautiful ritual that puts you at ease, knowing you have everything handled and updated each year.

Not Leaving an Inventory of Assets

Even if you have properly funded your assets into your trust, your estate plan will not be worth much if heirs cannot find your assets. Indeed, there's more than \$58 billion worth of lost assets in U.S. coffers right now. There are more than \$650 million in Nevada's Department of Unclaimed Property alone. And it happens because someone dies or becomes incapacitated, but his or her family is not aware of these assets, or the assets cannot be found.

That's why it is important to create a detailed inventory of assets, indicating exactly where to find each asset, such as your cemetery plot deed, bank and credit statements, mortgages, securities documents and safe deposit box/keys. And remember digital assets like social media accounts and cryptocurrency, along with their passwords and security keys.

Not Considering Your Non-Financial Family Wealth

Estate planning is often focused on protecting your financial wealth and assets. But your valuable family wealth, like your insights, stories, experiences and traditions are often overlooked. These are truly priceless.

As a mother, my greatest legacy is my five daughters. If I

were not here tomorrow, I would miss their high school graduations, college graduations, weddings, the births of their children ... these are all experiences that I hope to be able to share with them, but even if I am not, there are things I can do today to intentionally show my love, support and guidance for them and future generations. Including a family legacy component in your planning is key and just as important as protecting your monetary assets.

Beyond these common errors, there are many additional pitfalls that can impact your estate planning. Beware of form documents or document preparers who do not customize your planning and advise you of your options. You will want to work with someone who will ensure you make informed and empowered decisions about life and death, for yourself and the people you love. Receiving proper guidance through the process will help you to not only avoid mistakes, but also implement strategies to ensure your true family wealth and legacy will continue to grow long after you are gone. **NL**

1. Although there are better ways to name guardians for your minor children, such as short-term and long-term stand-alone guardianship nominations. For more information on Kids Protection Planning, visit <https://younglawnv.com/planning-for-your-children/>.



SHANE JASMINE YOUNG is the founder of Young Law Group and has been practicing in Nevada since 2005. Her firm's main practice areas are estate planning, kids protection planning, business and personal injury.