

# do it now: estate planning

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Alice Mills Morrow

You have a house with a mortgage, a life insurance policy, and a couple of kids. Is it possible that you need to do estate planning? It not only is possible, it's extremely important.

Too often, the parents of young children neglect or postpone estate planning. The excuses given for this lack of planning include: "I'm too young." "I'm in excellent health." "It's too expensive." "I don't have enough money to worry about."

## Your Feelings and Attitudes

These are probably not the real reasons for neglecting estate planning. The real reasons may well be that estate planning deals with feelings and attitudes we don't often admit even to ourselves. Estate planning is a mixture of feelings about death, property, and marriage and family relationships. These feelings must be explored for your estate planning to reflect your desires and needs.

### *Reason for Fear*

*Estate planning assures that certain things happen at death. Planning is sometimes ignored because of a fear of death. What are the reasons for this fear? The fear may be caused by worry about the care of dependents. It may result from the knowledge that personal plans and projects will come to an end. If such fears are identified, estate planning may be a way of minimizing them.*

### *Property Attitudes*

Attitudes toward property may need clarification. Some people see property as power and want to retain this power after death. Others see the passing of property at death as the way to immortality. You need to be realistic about your resources. For example, when discussing the care of children, parents often say they want the estate used for college education without thought of how the children will be supported until they're of college age and without thought of whether the children will be college bound.

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*Alice Mills Morrow: Associate Professor, Department of Consumer Sciences and Housing, Colorado State University—Fort Collins, and member of the Colorado Bar Association.*

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Parents need to think first in terms of support for young children. While not very glamorous, this is essential.

Every couple needs to ask questions about their feelings toward marriage and family relationships. How should family property be owned? Is each parent equally able to plan for and support the children? How does each parent feel about the possible remarriage of the surviving parent? How should children be raised if both parents die? Discussing these questions may locate some sensitive feelings. That shouldn't be a reason for neglecting estate planning.

## Your Planning

For parents, the primary objectives of estate planning are to:

1. Ensure that at death property will be transferred to the desired individuals.
2. Determine who should handle the business affairs of the estate.
3. Plan for the care of the children.

## Transferring Property

Who will receive your property when you die? Who will receive the property if you and your spouse die at the same time? Some property is transferred automatically at death to the person with survivorship rights. This property—called nonprobate property—consists of property such as most life insurance policies and property held in joint tenancy. Even if all your property is nonprobate property, you still need wills to transfer the property in the event that the person with survivorship rights doesn't survive and to provide for the care of children.

Probate property—property with no survivorship rights—is transferred according to a will or by state intestacy law when there's no will. Laws vary from state to state. Most state intestacy laws direct that one-third to one-half of the estate be given to the surviving spouse and that the remainder be divided equally among the children.

The division of property between the parent and children may not always be desirable. The children's share of the estate will be supervised by the court until the children become of age. If you have a small or modest estate, you may prefer to have the entire estate go to the surviving parent, thus allowing the surviving parent to make the decisions concerning the use of the money for the care of the children. If a will is written, it can indicate that all of the property is to go to the surviving parent.

If both parents die and there's no will, state intestacy laws would direct that the property be distributed to the

children in equal shares. This may sound desirable. However, the financial needs of the children aren't usually equal. The cost of caring for each of your children will vary due to differences in such things as age, medical needs, and career choice. You can, with estate planning, have all assets go into a trust fund to be used in any manner that you indicate, rather than having assets divided equally.

*Appointing  
Executor*

Another concern, in addition to the transfer of property, is the appointment of someone to handle the business affairs of your estate. This person is called either an executor or a personal representative. Whatever the title, the duties consist of performing routine functions such as paying the bills of the estate, collecting assets, distributing assets, and hiring an attorney and other necessary advisors. The personal representative should be someone who will carry out your wishes.

If you die without nominating a personal representative, the court must appoint one it feels suitable. In a will, you can nominate your personal representative, ensuring that the job will be done by someone who knows and cares about your desires. This nomination may also save your estate time and money. Directions in your will can eliminate the necessity for bonding the personal representative . . . which saves money. A will can also expand the powers of the personal representative enabling your estate to be settled more quickly and with less court supervision.

*Appointing  
Guardian*

Perhaps the most important benefit of your will is that it allows you to determine who will provide for the social training and physical needs of your children if there's no surviving parent. If there's no will nominating a guardian, the court must appoint a guardian, even though it can't possibly know the values, lifestyle, and the child-rearing philosophy of the parents.

When nominating a guardian, consider carefully lifestyle and values. Consider the physical ability of the person to raise your children. A small child may be too much for a grandparent. Don't ignore the possibility that the person you're nominating might at some time divorce and remarry. Don't ignore the possibility that the person you're nominating might move to another part of the country. Under what conditions would you want this person as guardian? Indicate an alternate choice in case your first choice is unable to accept the responsibility. Most important, discuss your plans with the person you're nominating.

*Developing  
Financial Plans*

You need to develop financial plans for the care of your children. Review your life insurance program. How much money would be available? Is this adequate or is additional coverage needed until your children are grown? Someone must handle this money you'll leave to the children. This should be someone who will spend money as you would under the same circumstances. You know best who this is. If you don't make this known in your wills, the court will have to make the appointment with no information from you.

*Start Now*

The time to start estate planning is *now*. Make a list of the property you own, how it's titled, its fair market value, and indebtedness against the property. Make a list of insurance policies and their owners and beneficiaries. Think about the present and future needs of your family. No plans can be made without this homework.

*Get Legal Help*

Regardless of how simple your situation, legal help is necessary. If you don't have a regular attorney, talk to your friends. They may be able to suggest attorneys they feel are trustworthy. Consult your banker for information. Look for a lawyer referral service or check with the state or county bar association.

When you've located an attorney, call for an initial appointment. Ask if there's a fee for this initial appointment. Often there isn't. Bring the information that you have about your family needs and your property to this first visit. Before hiring the attorney to do your estate planning, ask about fees. As you and the attorney are developing your plans, don't let the legal jargon scare you. Ask questions. Insist on understanding the plan and its implications.

**Change Plans As  
Family Changes**

For the young family, estate planning may be as simple as two wills with testamentary trusts. Each time property or life insurance is acquired, consider estate planning in determining how the property should be titled. Keep careful records of all property acquired. Review the estate plan periodically to make sure that the plan continues to reflect your family's needs. As the family changes, children grow up, and the size of your estate increases, your goals will change. Changes in estate planning will be needed.