

Top 3 Questions You Have About Taking Care Of Your Family After Your Death

We know your home is more than just bricks and mortar – it is many years of cherished memories and celebrations. But if something happens to you, how will your family make sure the legacy continues?

If you don't plan ahead, your family may have to go to court or pay a bond to a title company to sell or transfer your house and other assets after you pass.

A good estate plan can help you save your family time and money so that your surviving loved ones can focus on celebrating your memory and legacy and not dealing with a complicated, expensive court mess.

That's where Diamond Estate Planning comes in.

Our team of experienced Illinois estate planning lawyers has compiled this list of the most common questions on parents' minds when considering an estate plan.



DIAMOND
— ESTATE PLANNING LAW —



How Do I Choose Who Will Take Care Of My Kids?

Clearly tell the court who you want to take care of them.

When parents pass away and leave minor children behind, a guardian needs to be appointed by the court to take care of the children. You can clearly tell the court who you want to be appointed. One way to do this is by creating and properly signing a will.

A will is a formal set of instructions to your loved ones and the court telling them what to do with your kids and your stuff after you pass away.



If your will provides clear evidence of who you want to take care of your kids, it creates a strong starting point for the court to figure out who will take care of them.

When choosing who should take care of your kids, you should have at least a first, second, and third choice. You also want to make sure that some of these people are younger, in case something happens a little further down the road. For many families, picking these people is one of the hardest parts of creating an estate plan. Luckily, this doesn't have to be a permanent decision – just make your best choices for now, and we can course correct later if need be.



A second critical part of making sure your kids go to the right person is a temporary guardianship.

A temporary guardianship clearly shows the court who you want to take care of your kids.

If you are disabled, a temporary guardianship can also protect your kids from being in the custody of the State while a guardian is formally appointed.

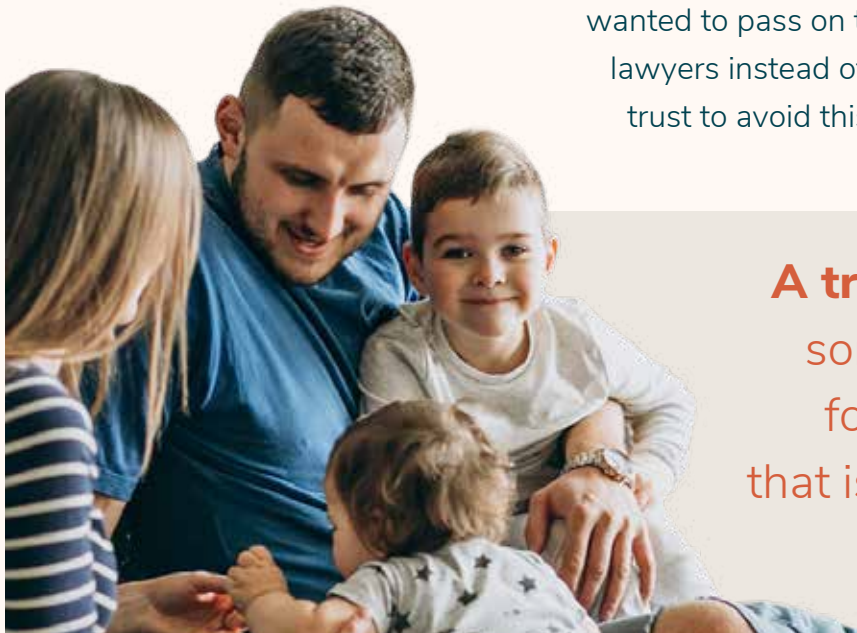
By having both clear directions in your will and a temporary guardianship form filled out, if something happens to you, the court will have very clear evidence of who you want to take care of your kids.

How do I make sure my stuff goes to the right people?

Leave clear instructions on what to do with your stuff (money, personal property, real estate, etc.).

If you don't leave instructions on what to do with your stuff, the State or a Judge gets to decide who it goes to. If you want control over who gets your stuff and/or how it is used, you need to leave clear instructions. The two most common ways of doing this are through a will or trust.

A will tells your family and the court what to do with your stuff. The main problem with a will is that to enforce it, a probate lawsuit needs to be filed. Probate cases take a lot of time and can be expensive. It also makes a lot of your private information publicly accessible. If you end up with a messy contested probate case, a lot of money that you wanted to pass on to your family will end up going to lawyers instead of your family. Many families create a trust to avoid this.



A trust is an agreement for someone to hold property for the benefit of another that is created and managed by a trust agreement.

Think of a trust like a suitcase – the trust agreement is the instructions on what to do with the things in the suitcase and designates a person (called the trustee) to be in control of the things in the suitcase.

And in fact, you can be the trustee and be in control of all your property while you are alive.

When you pass, your family can skip the expensive and public probate case and the person you chose picks up the suitcase and manages all of your stuff the way you instructed them to and give your stuff to the people you want on the terms you decide.

If something happens to me, what will happen to the house?

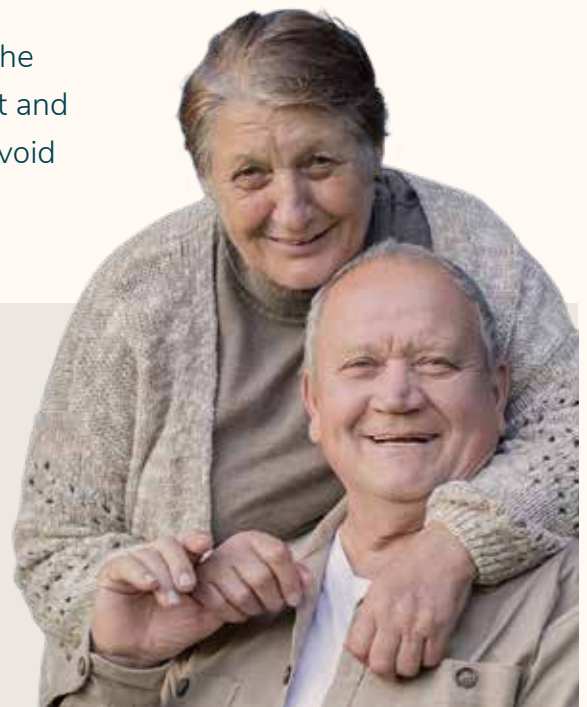
It depends on who is on the title of the home and how much control you want over who it goes to.

For most married couples, the house is owned by both you and your spouse with rights of survivorship. That means if one of you passes, the house automatically goes to the other.

The tricky question is what happens to the house if you are the only owner or both you and your spouse pass away. In this case, the state of Illinois will tell your family who gets the house (through the laws of succession). If you want to do something different, creating and properly signing a will or putting the house in a trust will allow you to decide who gets the house.

If one of you is disabled and you need to sell or refinance the home, you may not be able to do so without going to court and having a formal guardianship established. If you want to avoid having to go to court, a power of attorney can help you.

A power of attorney is a legal document that gives one or more persons the right to act on behalf of another person as their agent.



A power of attorney for property can allow another person to buy, sell, refinance or manage your property for you. If you are disabled, a properly executed power of attorney for property can allow your spouse to sell or refinance the house without having to go to court.

The good news is that many complications and costs are avoidable with a little planning ahead of time. For most families, transferring their home into a trust will allow ownership of your property to go to the people you choose – and usually avoid having to go to court.



DIAMOND

— ESTATE PLANNING LAW —

We hope this guide has given you some ideas about how to take care of your family if something happens to you or your spouse. This guide is a good start, but it's essential that you work with an experienced Illinois estate planning attorney with a team ready to chase down all these details and get the paperwork right.

Remember, an unfinished plan doesn't help at all – but a finished plan creates peace of mind and the opportunity for your family to celebrate your legacy.

If you are ready to work with our team at Diamond Estate Planning to protect your family, [call us at 779-704-5738](tel:779-704-5738) to schedule a time to chat with our team.