

LEARNING MADE EASY



2nd Edition

Wills & Trusts Kit

for
dummies[®]
A Wiley Brand



Access the resources that
work best for your situation

Communicate your wishes
to family and loved ones

Navigate the legalese of
official documentation

Aaron Larson

Attorney-at-Law



Wills & Trusts Kit

2nd Edition

by Aaron Larson

**for
dummies®**
A Wiley Brand

Wills & Trusts Kit For Dummies®, 2nd Edition

Published by: **John Wiley & Sons, Inc.**, 111 River Street, Hoboken, NJ 07030-5774, www.wiley.com

Copyright © 2022 by John Wiley & Sons, Inc., Hoboken, New Jersey

Published simultaneously in Canada

No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, scanning or otherwise, except as permitted under Sections 107 or 108 of the 1976 United States Copyright Act, without the prior written permission of the Publisher. Requests to the Publisher for permission should be addressed to the Permissions Department, John Wiley & Sons, Inc., 111 River Street, Hoboken, NJ 07030, (201) 748-6011, fax (201) 748-6008, or online at www.wiley.com/go/permissions.

Trademarks: Wiley, For Dummies, the Dummies Man logo, Dummies.com, Making Everything Easier, and related trade dress are trademarks or registered trademarks of John Wiley & Sons, Inc. and may not be used without written permission. All other trademarks are the property of their respective owners. John Wiley & Sons, Inc. is not associated with any product or vendor mentioned in this book.

<p>LIMIT OF LIABILITY/DISCLAIMER OF WARRANTY: WHILE THE PUBLISHER AND AUTHORS HAVE USED THEIR BEST EFFORTS IN PREPARING THIS WORK, THEY MAKE NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF THE CONTENTS OF THIS WORK AND SPECIFICALLY DISCLAIM ALL WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED</p>
--

WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO WARRANTY MAY BE CREATED OR EXTENDED BY SALES REPRESENTATIVES, WRITTEN SALES MATERIALS OR PROMOTIONAL STATEMENTS FOR THIS WORK. THE FACT THAT AN ORGANIZATION, WEBSITE, OR PRODUCT IS REFERRED TO IN THIS WORK AS A CITATION AND/OR POTENTIAL SOURCE OF FURTHER INFORMATION DOES NOT MEAN THAT THE PUBLISHER AND AUTHORS ENDORSE THE INFORMATION OR SERVICES THE ORGANIZATION, WEBSITE, OR PRODUCT MAY PROVIDE OR RECOMMENDATIONS IT MAY MAKE. THIS WORK IS SOLD WITH THE UNDERSTANDING THAT THE PUBLISHER IS NOT ENGAGED IN RENDERING PROFESSIONAL SERVICES. THE ADVICE AND STRATEGIES CONTAINED HEREIN MAY NOT BE SUITABLE FOR YOUR SITUATION. YOU SHOULD CONSULT WITH A SPECIALIST WHERE APPROPRIATE. FURTHER, READERS SHOULD BE AWARE THAT WEBSITES LISTED IN THIS WORK MAY HAVE CHANGED OR DISAPPEARED BETWEEN WHEN THIS WORK WAS WRITTEN AND WHEN IT IS READ. NEITHER THE PUBLISHER NOR AUTHORS SHALL BE LIABLE FOR ANY LOSS OF PROFIT OR ANY OTHER COMMERCIAL DAMAGES, INCLUDING BUT NOT LIMITED TO SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES.

For general information on our other products and services, please contact our Customer Care Department within the U.S. at 877-762-2974, outside the U.S. at 317-572-3993, or fax 317-572-4002. For technical support, please visit <https://hub.wiley.com/community/support/dummies>.

Wiley publishes in a variety of print and electronic formats and by print-on-demand. Some material included

with standard print versions of this book may not be included in e-books or in print-on-demand. If this book refers to media such as a CD or DVD that is not included in the version you purchased, you may download this material at <http://booksupport.wiley.com>. For more information about Wiley products, visit www.wiley.com.

Library of Congress Control Number: 2021946587

ISBN 978-1-119-83218-8 (pbk); ISBN 978-1-119-83219-5 (ebk); ISBN 978-1-119-83220-1 (ebk)

Wills & Trusts Kit For Dummies®

To view this book's Cheat Sheet, simply go to www.dummies.com and search for “Wills & Trusts Kit For Dummies Cheat Sheet” in the Search box.

Table of Contents

[Cover](#)

[Title Page](#)

[Copyright](#)

[Introduction](#)

[About This Book](#)

[A Special Note for Residents of Louisiana](#)

[Conventions Used in This Book](#)

[Foolish Assumptions](#)

[Icons Used In This Book](#)

[Beyond the Book](#)

[Where to Go from Here](#)

[**Part 1: Getting Started with Your Will or Trust**](#)

[**Chapter 1: Ensuring That Your Last Wishes Are Honored**](#)

[The Good, the Bad, and the Ugly: What Can Happen When You Don't Plan Your Estate](#)

[Reaping the Benefits of Planning Your Estate](#)
[Looking Out for Common Pitfalls](#)
[Realizing What Happens If You Don't Have an Estate Plan](#)
[Creating Your Will or Trust](#)
[Telling Your Family about Your Estate Plan](#)

Chapter 2: Making Crucial Decisions

[Going It Alone](#)
[Choosing a Will or Trust for Your Estate](#)
[Going with a Pro](#)
[Working with a Professional](#)
[Safeguarding Your Estate Plan](#)

Chapter 3: Gathering Pertinent Information

[Asking Yourself Some Basic Questions](#)
[Identifying Your Assets](#)
[Considering Community and Jointly Owned Property](#)
[Valuing Your Property](#)

Chapter 4: Planning Your Bequests

[Calculating Your Assets](#)
[Determining Your Intended Heirs and Beneficiaries](#)
[Thinking about Your Family Circumstances](#)
[Property That Pays or Transfers on Death](#)
[Estate Planning for Second Families](#)
[Estate Planning for Your Business](#)
[Appointing the People Who Will Carry Out Your Estate Plans](#)
[Finding Professionals to Assist You](#)

Chapter 5: Providing for Your Children and Dependents

[Choosing a Guardian](#)
[Managing Your Child's Assets](#)
[Providing for Your Child's Needs](#)

Chapter 6: Dipping into Your Pocket: The Tax Man (and Others)

[Tallying Up Your Estate's Tax Liabilities](#)

[Minimizing Tax Costs and Liabilities](#)

[Seeing the Big Picture: Tax Avoidance Should Not Dictate Your Estate Plan](#)

[Paying Your Estate's Debts](#)

[Covering Administration Costs](#)

Part 2: Everything You Need to Know about Wills

Chapter 7: Writing and Signing a Will

[Deciding Whether a Will Serves Your Needs](#)

[Exploring the Types of Wills](#)

[Elements of a Will](#)

[Executing a Valid Will](#)

Chapter 8: Navigating the Land Mines

[Identifying Common Land Mines](#)

[Realizing Why You Must Update Your Will](#)

[Knowing What to Do If You Lose Your Will](#)

Chapter 9: When You Already Have a Will

[Reviewing and Updating Your Will](#)

[Changing Your Will](#)

[Revoking Your Will](#)

Chapter 10: Estate Administration: What Happens in Probate Court

[Navigating Probate Court](#)

[Discovering How Estate Size Affects Probate Procedures](#)

[Understanding the Role of the Personal Representative](#)

[Hiring a Lawyer](#)

[Overseeing Probate: The Judge](#)

[Avoiding Will Contests](#)

Part 3: Trust Me! How Trusts Work

Chapter 11: The Anatomy of a Trust

[What's a Trust and Why You Need One](#)

[Benefiting from Trusts](#)

[Selecting a Trustee](#)

[Choosing Your Beneficiaries](#)

[Transferring Assets into Your Trust](#)

[Putting Your Trust into Effect](#)

[When the Trust Ends](#)

Chapter 12: Dead or Alive: Picking Your Trust

[Why So Many Choices?](#)

[The Revocable Living Trust](#)

[Choosing from Other Trusts](#)

[Deciding Which Trust Is Right for You](#)

Chapter 13: When You Already Have a Trust

[Creating the Trust Isn't the End of the Story](#)

[Transferring Assets into Your Trust](#)

[Reviewing Your Trust](#)

[Amending Your Trust](#)

[Restating a Trust](#)

[Revoking a Trust](#)

[What Happens If You Die?](#)

Part 4: Carrying Out the Intent of Your Will and Trust

Chapter 14: Planning for Your Incapacity

[Planning for Incapacity Has Many Benefits](#)

[Drafting a Living Will](#)

[Looking into Other Advance Directives](#)

[Executing a Healthcare Proxy](#)

[Designating Your Financial Powers of Attorney](#)

Chapter 15: Those Cushy Retirement Funds

[Exploring Retirement Savings Accounts](#)

[Putting Off the Tax Man](#)

[Moving Assets from One Tax-Deferred Investment to Another](#)

[Designating a Beneficiary](#)

[Maintaining Control Over Your Accounts](#)

[The Tax Consequences of Putting Your Retirement Savings into Your Estate](#)

Chapter 16: Life Insurance: Making Sure It Doesn't Backfire

[Taking a Look at the Different Types of Life Insurance](#)

[Deciding Who Owns the Life Insurance](#)

[Designating Beneficiaries for Your Insurance Policy](#)

Chapter 17: Your Castle: How It's Owned Makes a Huge Difference

[Ownership of Your Residence](#)

[Should Ownership of Your Home Be Held by Your Trust?](#)

[The Drawbacks Of Adding Your Heirs to the Title](#)

[Leaving Real Property by Will or Trust](#)

[Remembering Other Properties](#)

Part 5: The Part of Tens

Chapter 18: Ten Common Will Mistakes

[Not Updating Your Will](#)

[Being Too Specific in Your Bequests](#)

[Forgetting to Address the Residue of Your Estate](#)

[Leaving Everything to Your Spouse](#)

[Leaving Nothing to Your Spouse](#)

[Including Items in Your Will That Pass Outside of Your Estate](#)

[Improper Witnessing of Your Will](#)

[Losing Your Will \(or Making It Impossible to Find\)](#)

[Forgetting to Leave Good Financial Records](#)

[Forgetting That Your Estate Needs Cash](#)

Chapter 19: Ten Reasons to Have a Trust

[You Avoid Probate](#)

[You're Prepared for Incapacity](#)

[You Avoid a Will Contest](#)

[You Protect Your Heirs](#)

[You Can Protect Estate Assets from Creditors and Lawsuits](#)

[You Plan for Second \(and Third, and Fourth\) Marriages](#)

[You Plan for the Future of Your Business](#)

[You Can Transfer Real Property Located in Another State](#)

[You Have Continuity of Investments](#)

[You Avoid Taxes](#)

Chapter 20: Ten Tax Traps to Avoid When Planning Your Estate

[Not Planning Your Estate](#)

[Focusing Too Much on the Estate Tax](#)

[Assuming that the Estate Tax Will Not Change](#)

[Trying to Guess How the Estate Tax Will Change](#)

[Not Taking Advantage of Your Lifetime Gift Exclusion](#)

[Not Engaging in Business Succession Planning](#)

[Hiding Property Transfers and Gifts from the IRS](#)

[Having Your Estate Be the Beneficiary of Your Life Insurance](#)

[Not Preparing Your Estate to Pay Any Estate Tax Owed](#)

[Forgetting That Your Estate Will Grow Over Time](#)

Part 6: Appendixes

Appendix A: State Signing Requirements

[Alabama](#)

[Alaska](#)

[Arizona](#)

[Arkansas](#)

[California](#)

[Colorado](#)

[Connecticut](#)

[Delaware](#)

[Florida](#)

[Georgia](#)
[Hawaii](#)
[Idaho](#)
[Illinois](#)
[Indiana](#)
[Iowa](#)
[Kansas](#)
[Kentucky](#)
[Louisiana](#)
[Maine](#)
[Maryland](#)
[Massachusetts](#)
[Michigan](#)
[Minnesota](#)
[Mississippi](#)
[Missouri](#)
[Montana](#)
[Nebraska](#)
[Nevada](#)
[New Hampshire](#)
[New Jersey](#)
[New Mexico](#)
[New York](#)
[North Carolina](#)
[North Dakota](#)
[Ohio](#)
[Oklahoma](#)
[Oregon](#)
[Pennsylvania](#)
[Rhode Island](#)
[South Carolina](#)
[South Dakota](#)
[Tennessee](#)

[Texas](#)

[Utah](#)

[Vermont](#)

[Virginia](#)

[Washington](#)

[West Virginia](#)

[Wisconsin](#)

[Wyoming](#)

Appendix B: State Inheritance Taxes

[The Impact of Federal Estate Tax Reform](#)

[States That Don't Tax Estates](#)

[States That Impose Only Inheritance Taxes](#)

[States That Impose Only Estate Taxes](#)

[States That Impose Both Estate and Inheritance Taxes](#)

Appendix C: Estate Planning Worksheet

[Estate Plan](#)

[Will](#)

[Living Trust](#)

[Durable Power of Attorney](#)

[Healthcare Proxy](#)

[Living Will](#)

Index

About the Author

Advertisement Page

Connect with Dummies

End User License Agreement

Introduction

Congratulations. Simply by opening this book you have put yourself a step ahead of most people. Yes, it's tough to think about what will happen to your family after you die, but confronting these issues is part of taking care of your family.

My goal in writing this book is to give you the information and resources you need to create an estate plan. This book includes do-it-yourself tools to help you draft your own key estate planning documents.

I am of the strong opinion that everybody needs an estate plan, and especially a will. With this book, anybody can create a simple will, even if it serves just as a stopgap before hiring a professional.

But don't go thinking that this book will help you only if you want to create your own will and trust. It's much broader in focus. I want you to become comfortable with estate planning documents, but also to recognize when and why you may benefit from professional estate planning services.

About This Book

Wills and Trusts Kit For Dummies is written in language that is easy to understand. It covers the basic issues in planning your estate, but also delves into the details and complications you can encounter in choosing your estate plan and creating a will or trust.

You probably won't read this book and conclude, "This is easy," but you'll probably conclude, "I can do this." If not, or if you realize that you simply don't want to plan your own estate, that's fine, too. You'll be an educated

consumer when you hire a professional to draft your estate plan.

Everybody needs an estate plan, so I'll immodestly claim that anybody who doesn't have an estate plan will benefit from reading this book. You'll also benefit if your estate plan is out-of-date, and if you're not sure whether or how to update your plan.

A Special Note for Residents of Louisiana

If you've been shopping around for books on drafting your own will, you've probably found that most of them say, "This book is valid for all states except Louisiana." You see this warning for two reasons:

- » Louisiana's laws governing the execution of a will are more complicated than those of other states, and a mistake can invalidate your will.
- » More importantly, Louisiana's unique forced heirship laws will trump inconsistent bequests in your will, and you're severely limited in your ability to deviate from the state's mandatory bequests.

Even if you create an otherwise valid will, without a good understanding of forced heirship laws, a court may end up largely disregarding your will or allocating your estate in a way that bears little resemblance to what you directed.

It's beyond the scope of this book to give you the state-specific understanding you need to be sure that a Louisiana court will uphold your will. I thus reluctantly urge residents of Louisiana to have their wills drafted by a legal professional.

Conventions Used in This Book

Whenever you see a word in *italics*, I'm either introducing a new term or using it for emphasis. Likewise, all web addresses appear in monofont type.

Throughout the book, I include sidebars that contain information and anecdotes that expand on the topics discussed in the chapters. You'll easily spot the sidebars by their gray background color. The sidebars can be amusing and informative, but there's nothing in them that you have to read to understand the material in this book. If you're pressed for time, skip over the sidebars. If you find the time to read them later, they'll still be there.

Foolish Assumptions

When writing this book, I had to make a few assumptions about you, the reader. If you meet any of these qualifications, you can find what you need in this book:

- » You don't know much about estate planning and want to get a comprehensive understanding of what is involved.
- » You have a small to average estate and want to create your own estate plan composed of a will and possibly a living trust.
- » You have a large estate and want to do the basics of your estate plan yourself while getting professional assistance with specialized trusts and tax planning.
- » You have absolutely no desire to plan your own estate, but want to know how the estate planning and probate processes work and want to know what you're doing

when you hire an estate planning professional to create your estate plan.

I also assumed that you have a computer and can use it to download and print the worksheets available with this book to create your own estate planning documents. (You don't have a computer? Then I'm assuming you have a friend who can print the forms for you.)

Icons Used In This Book

In the margins of the pages of this book, you'll find little pictures, called icons. These icons call your attention to important points about estate planning and help you avoid mistakes:



TIP

When you see the Tip icon, you find hints and suggestions to help you with your estate plan.



WARNING

The Warning icon flags a potential trap or pitfall that you may encounter and helps you avoid costly mistakes.



REMEMBER

The Remember icon highlights important actions to take and elements of your estate plan that you truly should not forget.

Beyond the Book

You can find a little more helpful related information at <https://www.dummies.com>, where you can peruse this book's Cheat Sheet. To get this handy resource, go to the website and type *Wills & Trusts Kit For Dummies Cheat Sheet* in the Search box.

Additionally, at

<http://www.dummies.com/go/willsandtrustskitfd2e>, you'll find a number of files and forms to create a will, living trust, living will, durable power of attorney, and healthcare proxy. The forms you can find there are

- » **Worksheets:** Estate Planning Worksheet; Trusts Worksheet; and Wills Worksheet.
- » **Trusts:** Revocable Living Trust – Individual; Revocable Living Trust – Married Couple; Revocable Living Trust – Individual with A-B Trust; Pet Trust; Assignment of Property to Trust; Reversal of Assignment of Property to Trust; and Revocation of Trust.
- » **Incapacity planning:** Living Will; Healthcare Proxy; and Durable Power of Attorney.
- » **Wills:** Married with Children; Married without Children; Single with Children; Single without Children; Domestic Partnership with Children; Domestic Partnership without Children; and Self-Proving Affidavits.

General instructions that apply to all forms are included as well.

Where to Go from Here

You don't have to start at the beginning of this book and read straight through if you don't want to. This book is designed so that you can look at a topic you're interested in and flip straight to that discussion. However, if you're

new to estate planning, consider reading through this book to get an overview of what's involved.

- » If you're about to do something dangerous and need an estate plan "yesterday," you need a will so start with [Chapter 7](#).
- » If you're concerned about how much of your estate will get eaten up by taxes, the news (good and bad) is in [Chapter 6](#).
- » If you have young children and want to be sure that they're taken care of, proceed to [Chapter 5](#) for some quick guidance.
- » If you have a will or trust already, [Chapters 9](#) and [13](#) cover how to update your estate plan and amend or replace wills and trusts.

Part 1

Getting Started with Your Will or Trust

IN THIS PART ...

Learn why you need an estate plan and the dangers of not having one

Find out how to plan your estate

Discover how to plan for special family and personal circumstances, including the care of your dependent children

Decide whether you should plan your own estate or get help from a professional estate planner

Chapter 1

Ensuring That Your Last Wishes Are Honored

IN THIS CHAPTER

- » Understanding the estate planning process
 - » Creating your estate plan
 - » Getting help when you need it
 - » Making your wishes known
 - » Avoiding common estate planning pitfalls
-

You've worked hard all your life, have accumulated some assets, and have bought a copy of this book. You're ready to plan your estate.

My best guess? You're not excited about planning your estate. You have already figured out that you have a lot of work to do. You must also think about unpleasant things, including your death, the possibility of your incapacity, and how your family will cope without you.

What's the primary purpose of an estate plan? Taking care of your loved ones after you're gone. Why plan your estate now? Because the sooner you start, the more certain you can be that your plan will take care of your family's needs in the way that you want.

As you proceed with this process, you'll probably find out your estate planning needs aren't as complicated as you thought. You may discover that all you need is a will, perhaps backed up by a simple living trust. You may instead discover that your needs are more complicated

than you realized and enlist the help of an estate planning professional. Yet even then, your understanding of the estate planning process and tools will help you communicate your needs and choose your best options.

Having an estate plan also provides a great deal of comfort. You'll be able to plan for your family's financial needs. And after your death or incapacity, your loved ones won't have to fret about what you would have wanted them to do. They'll know your actual wishes.

The Good, the Bad, and the Ugly: What Can Happen When You Don't Plan Your Estate

Simply put, if you don't plan your estate, the government has an estate plan in store for you. Your state's laws of *intestate succession* will apply, and the state will decide who inherits your assets, usually your spouse and children. But that's not all:

- » In the event of your incapacity, a court may appoint people to make decisions for you regarding your personal and medical care and the management of your money. A stranger may end up deciding where you live, what medical treatment you receive, and perhaps even whether you really need \$20 for a haircut.
- » If you have minor children, a court will have to decide who will care for them but will not have the benefit of your input.

- » The business you spent a lifetime building may end up failing or in the hands of a court-appointed receiver.

Planning your estate isn't a one-time task. Changes in your life circumstances can dramatically alter both your wishes for your estate and whether your original estate plan even remains viable.

Sometimes it seems like your life doesn't change much, so you may be wondering what sort of changes I am talking about. Consider the following:

- » Your estate will probably grow substantially over the course of your life, although it may also shrink.
- » You may marry, divorce, separate, have or adopt a child, or experience a death in your family.
- » Your children will grow up and establish their own households.
- » You may move between states, buy and sell property, or start your own business.
- » Your designated trustee or personal representative may no longer be available, or your relationship with that person may change.
- » Laws may change. In fact, they will. You never know when Congress will change estate tax laws, but give it time and it will happen.

In all probability, you'll update your estate plan several times during your life, and on occasion you may even start over from scratch.



WARNING

If you don't update your estate, over time your estate plan may become largely ineffective. When that happens, you're not much better off than you were before you created the outdated estate plan.

Reaping the Benefits of Planning Your Estate

The biggest advantage of planning your estate is that your wishes will be respected, both while you're alive and after your death.

Your estate plan helps you in several ways:

- » Incapacity planning helps ensure that you receive the type of medical care and treatment you want, that your assets are managed according to your own wishes, and that your end-of-life decisions are respected.
- » Your will and trust ensure that your assets are distributed to the heirs you choose, under terms and conditions you define.
- » Your business succession plan helps ensure that your business doesn't fail following your incapacity or death, and that control of your business passes to a suitable successor.

When you don't plan your estate, your incapacity plan will be defined by a court, and your estate will be carved up according to state law. The result may be far different from what you desire.

Planning for your care while you're alive

In addition to planning for the distribution of your assets after you die, a complete estate plan looks at what will happen to your estate if an accident or illness leaves you unable to properly care for yourself.

Your incapacity plan includes your durable power of attorney, healthcare proxy, and living will:

- » Your durable power of attorney appoints an attorney-in-fact who can make financial decisions for you if you become incapacitated.
- » Your healthcare proxy appoints a healthcare advocate who can help you make medical decisions if you're unable to make or communicate those decisions yourself.
- » Your living will describes what care you want to receive and don't want to receive during the final days of your life.

If you don't appoint people to help with your medical and financial needs, your family may have to go to court to have somebody appointed to make decisions for you. Your loved ones will face unnecessary burdens and confusion:

- » Your family will have to go to court to have somebody appointed to manage your personal and financial needs, at a time when they're already under stress due to your incapacity.
- » The court won't know who you'd prefer to assist with your medical and financial decisions, and may appoint somebody who you would find unacceptable.

- » Your helpers won't know your wishes or the limits you'd impose on their choices if you were able to communicate them. They'll have to try to guess what you would have wanted.



WARNING The impact of these choices may be profound.

Whatever your plans, with a court-appointed guardian supervising your medical care, you're more likely to undergo more intrusive medical care than you might choose for yourself and to spend your last days in a hospital or nursing home. ([Chapter 14](#) discusses incapacity planning in more detail.)

Ensuring that your assets go where you want

When you plan your estate, you pick your heirs and decide how much you want to leave to them. Although state laws do restrict your ability to disinherit certain heirs, especially your spouse, for the most part you can leave your money to family, friends, schools and charities, or anybody else you choose.

In defining your bequests, you may choose to simply distribute your assets to your heirs upon your death. But you may also choose to be very creative in how you distribute your assets.

- » You can defer your bequests to a later date (for example, "When my son turns 25").
- » You can mete out your gifts in installments (for example, "\$20,000 to my daughter upon her 18th birthday, \$20,000 on her 23rd birthday, and \$60,000 upon her 30th birthday").

- » You can impose conditions on your bequests, requiring your heirs to satisfy those conditions before they receive the inheritance (for example, “\$50,000 to my son upon his graduation from college”).

If you don't plan your estate, the state will make all those choices for you. Your estate will go to your heirs according to your state's laws of intestate succession, described later in this chapter in the section [“Realizing What Happens If You Don't Have an Estate Plan.”](#) If you have minor children, the probate court may appoint a conservator to look after their assets until they turn 18. But any adult heir will immediately receive their legally defined inheritance. Your wish to support your alma mater or to give to charity? Forget it.



REMEMBER The only way to be sure that your assets are distributed the way you want is to plan your estate. ([Chapters 3](#) and [4](#) detail the process of collecting information about your assets and planning your bequests.)

Making things easier for your family

Most families want to carry out the wishes of an incapacitated or deceased relative, but to do that they must know what those wishes are. If you become unable to make your own medical decisions, your family may choose a treatment plan that you would not like. After your passing, your family will want to celebrate your life in the way you prefer, but they can only do that if you tell them what you want. They will want a good home for your minor children, but they need to know what home you think would be best. They will find a way to divide

cherished items of property and heirlooms, but they may prefer to divide them in accord with your wishes.

When you create an estate plan and communicate your wishes to your family, you keep them from having to make difficult choices about your estate and assets. You significantly reduce the chances of disagreement or argument among your heirs, and make it much more likely that your wishes will be carried out. ([Chapter 4](#) explains the benefits of discussing your estate plan with your helpers.)

Looking Out for Common Pitfalls

Everybody makes mistakes, but some mistakes get made a lot. Actions that may seem like they'll simplify your estate may in fact make it more complicated, burden your ability to use and enjoy your own assets, or increase the tax burden to your estate and heirs.

At the same time, once you understand the common pitfalls, most are pretty easy to avoid. You can avoid some mistakes simply by planning your estate now, rather than putting it off until your health starts to fail. (For more discussion of common estate planning mistakes, see [Chapters 8](#) and [18](#).)

Benefits and dangers of jointly titling real estate, property, and bank accounts

A common shortcut to estate planning involves adding your desired heir to the title of your real estate, financial account, or other titled asset. You can choose between a number of different types of joint ownership, discussed

in [Chapter 17](#). In all likelihood, when you add somebody as an owner, you'll create a *joint tenancy with right of survivorship*, meaning that they automatically inherit your share if you die before them.

Some huge risks can arise from joint ownership of a home. Take a common example, where you add your child to the deed as a joint tenant:

- » Your son gets divorced, and his wife asks the divorce court to award her half of "his share" of your house.
- » Your daughter may decide that the home is "more than you can handle" and ask a court to force the sale of the property.
- » Your son decides to move in. It's his home, too, isn't it?
- » Your daughter suffers financial problems or doesn't pay her taxes, and her creditors or the IRS try to collect against "her share."

Also, adding a joint owner can increase that person's capital gains tax exposure when the property is eventually sold.

Other issues may also arise:

- » What happens if you no longer can afford to support your home, or are no longer physically able to care for it, but your child won't agree to a sale?
- » What happens if you want to refinance your mortgage to improve the property, get a better interest rate, or withdraw equity from your home, but your child refuses to cooperate?
- » What if you want to sell your house and move into a smaller home or condo, but your child wants to keep "the family home?"