



# Ultimate Estate Planning Guide: What to Expect & How to Get it Done



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# Introduction

While most of us resist thinking about what will happen after we're gone, it's an unfortunate necessity. Sure, it's important to live life while you're here to enjoy it, but the last thing you want is for your family to be left sorting out your estate when you're not there to help.

How do you ensure that you don't leave your family scrambling in the event of your death? Create an estate plan.

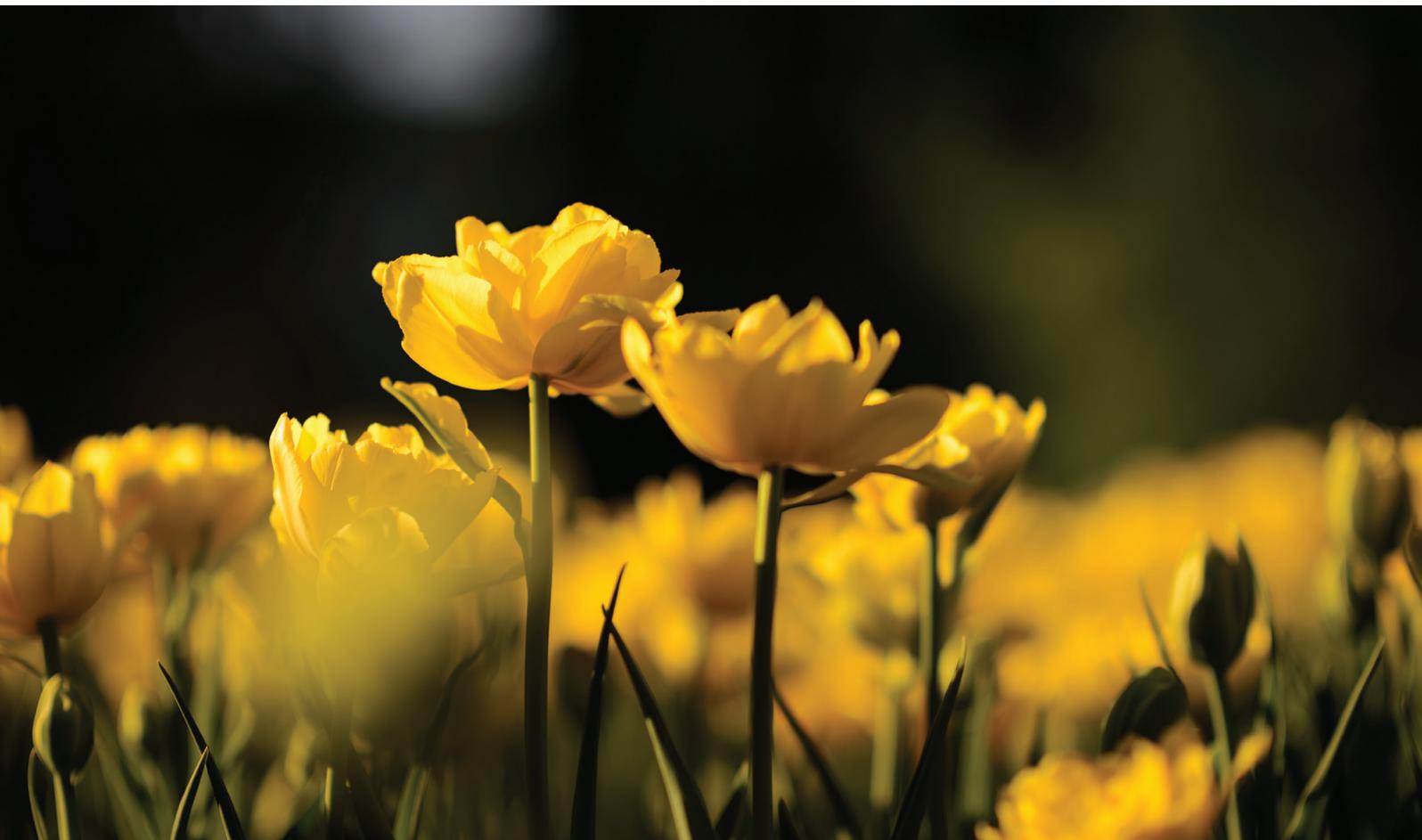
Wondering how to get started? Allow us to help. Whether you're helping a loved one make plans for the future, or if you want to make a plan of your own, consulting a knowledgeable attorney with experience in estate law will help your loved ones avoid the pain and hassle of probate.

We've created the ultimate estate planning guide to help people get the information they need to make informed decisions about their estate, ensuring that their loved ones won't be left to guess what their wishes.

Greg Port, J.D., M.B.A



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## ESTATE PLANNING: AN OVERVIEW

### **First things first: what is estate planning, and why is it so important?**

Basically, estate planning is the process in which you legally structure the future distribution of your current (and projected) assets. In other words, you decide who gets what, based on what you have now and what you believe you'll have in the future.

Whether you're sitting on a fortune or you consider yourself to be comfortable, it's important to make decisions about your money before you're no longer there to do it.

**What are some of the primary advantages of estate planning? Here are just a few:**

- **Provide for your family**— In the event of your death, your estate will provide the money needed by your spouse to care for your family; if you and your spouse should both pass, your plan will name the person you wish to care for your children, if they're underage.
- **Get your assets to the proper people**— Without an estate plan, you won't have control over who receives your assets. If there are questions, it's possible that a court battle could ensue, which could permanently damage relationships within your family.
- **Reduce the potential expenses and taxes**— Transferring property to beneficiaries without an estate plan is a potentially expensive proposition, not to mention the taxes that could be collected on your estate. Relieve your beneficiaries of this burden by creating an estate plan.
- **Ease the burden for your mourners**— Planning the funeral of a loved one is a challenge for the people left behind. Your estate plan can encompass your funeral arrangements and set aside the necessary funds to execute the plans, too.
- **Plan for potential incapacity**— If you have strong opinions about what should or should not happen to you in the event you're physically or mentally incapacitated, you can specify your preferences within your estate plan.



Planning an estate is complex; here are some of the most pressing questions you should consider.

### **Who should be your children's legal guardian?**

Though most parents dread thinking about who will raise their children when they are gone, if they don't have a guardian named in their estate plan, the court system will make that decision for you. Do you really want to leave their lives up to the court?

### **Who do you want to end up with your things?**

While most people are quick to talk about their parents, spouse, and children, are there others that you have forgotten?

Is there a part of your estate that you would like to go to charity so you can help others?

### **Are you forgetting anyone else?**

Is there anyone who formed a part of your life at some point, which you would like to include in your will and testament?

### **What about your pets?**

If you really care for your pets, not only should you designate someone to care for them, you should also set aside money in order to pay for their care.

If you have expensive animals or ones expected to live for a very long time, you might want to think about setting up a trust for your pets.

### **Do you have a prenuptial agreement?**

After being married for many years, these documents often become forgotten. However, they may play a part in your estate planning so be sure to dig them out when you go to see a lawyer.

### **What about your business?**

It's important to decide if you want to pass your business on to your children. If you have a business partner, there are other items to consider.

Perhaps, you may plan to sell it or simply dissolve it upon your passing?

### **Are you planning on gifting money?**

Though most people would be happy to support a family member or friend who is struggling without thinking about it, there are tax implications, which need to be addressed when planning your estate.

For this reason, you should talk to a professional about this issue.

### **What about a living will?**

It is important that you talk about a living will prior to needing one. You should really think about what you want. Do you want extraordinary measures to be taken to save your life or prefer to pass?



If you don't decide, your family may struggle with the decision. By writing a living will, you are taking over the decision so your family doesn't have to.

### **What are your usernames and passwords for your online accounts?**

The Internet is our access point for most of our accounts. It is important that, when you are gone, your family and friends will be able to access your account information.

### **Do you really need a lawyer to help you through this process?**

Yes, you really do. An experienced lawyer will know the right questions to ask to ensure that your estate is managed the way you would like. You won't have to worry about any mistakes that may occur if you try to do it yourself.

To ensure that your wishes are carried out as intended, speak to a lawyer. Though it can be hard, going through this process will ensure that your family and your business are taken care of after you are gone.

There are so many different components to planning your estate, it's easy to become overwhelmed. How do you decide what will best suit your unique needs? A good place to start is our free estate planning tool.



## WHAT ELEMENTS CAN GO INTO YOUR ESTATE PLAN?

An estate plan might sound extremely complicated, but for the average person, there are just a few components. Here are some of the pieces that could make up an estate plan.

### Component 1: Will

You've got a few options for your will. Here are two of the different types of wills available when you create an estate plan.

- **Simple Will**— A simple will is, well, simple. It can be completed in minutes using an online simple will form that details your wishes about the distribution of your assets. Additionally, the simple will names your executor, or the person

## What does your estate plan need?

Use our free app to find out. Answer a few questions and our app can tell you if you need a living trust or if a final will and testament will suffice.

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who will be responsible for carrying out your wishes for your estate upon your death. If your children are underage, a simple will can also appoint a guardian for to care for them. The simple will is most appropriate for people who don't have a lot of wealth or property to distribute.

- **Pour-Over Will**— This type of will is appropriate for people who create living trusts to avoid probate. Pour-over wills ensure that any assets that are passed through the will at the time of death should be transferred, or poured over, into a trust. Then, the beneficiaries of the trust receive the assets per the terms of the trust.

## Component 2: Trusts

A trust is an arrangement that enables a third party to hold assets on behalf of a predetermined beneficiary. There are a variety of trusts available to you— here are a few of them.

- **Living Trust**— A legal document created within your lifetime, a living trust explicitly details how you wish to distribute your assets. So what's the difference between a living trust and a will? The living trust circumnavigates the time-consuming and expensive probate process; instead, your successor trustee (who serves the same function as the executor of a will) carries out your directions in the event of your death or should you become incapacitated.
- **Special Needs Trust**— If you have a beneficiary who has special needs, you might consider setting up a special needs trust to supplement the benefits that the person might receive from any government programs.
- **Pet Trust**— This trust ensures that the care and maintenance of your pet is continued in the event of your death or incapacitation. A trustee is appointed to hold assets in trust for the benefit of the pet for the duration of its life.

### **Component 3: Living Will**

A living will, or a health care directive, instructs your loved ones whether or not you prefer to be kept on life support should you become terminally ill and require life support to survive. It also addresses your preferences regarding artificial hydration, tube feeding, or even pain medications. If you're unable to express a preference for your treatment on your own, a living will can effectively communicate your desires.

### **Component 4: Power of Attorney**

A power of attorney gives a trusted person or organization the ability to make medical or financial decisions on your behalf if you're incapacitated or deceased. It's vital that the person or organization you choose is someone you would literally trust with your life, as they'll have a great deal of power over you or your estate.

### **Component 5: Life Insurance Beneficiary Forms**

Life insurance allows you to provide for your loved ones after your death, making it an invaluable tool in your estate planning process. Ensure that you avoid naming your estate as a beneficiary in your policy, as this will cause the proceeds bestowed upon your death to become an asset of the probate estate—this could be tied up in court for months, leaving your loved ones high and dry as they attempt to pay for medical or funeral expenses.

To determine which of these elements should be considered as you create your estate plan, it's smart to consult an experienced attorney. But how do you decide which attorney is best for you?



## HOW TO CHOOSE AN ATTORNEY

Choosing an estate lawyer is a big part of creating your estate plan. It's vital that you work with someone with whom you're comfortable and in whom you have absolute trust. Additionally, your estate attorney is someone that you'll be meeting periodically for the rest of your life— it's important that you have a good rapport with him or her. Finding the right lawyer for you will be a process, very much like an interview.

With that in mind, here are some of the questions you should ask your prospective estate planning lawyer.

### **What is a “Trust,” “Will,” “Guardianship,” “Conservatorship,” etc?**

Estate planning is a complicated area of the law, and people typically don't like to think about it. This means that when you're ready start the estate planning process, you probably don't know very much about the terminology and the different options available to you.

If you have questions on a particular aspect, you need to know that when you ask your attorney, it will be well explained. Better yet, they'll explain it before you even think to ask, even if it is a quick overview or definition.

### **How Long Does the Estate Planning Process Take?**

There is no set answer for this question— and that should be what your estate planning attorney of choice will tell you. Some people can hammer out their last wishes in a few hours, but others will take a few weeks.

You want to create a plan that clearly spells out your wishes and keeps the estate as whole as possible for your beneficiaries. This means that you want to avoid probate and as many estate taxes as possible.

### **What is Your Experience with Estate Law?**

For personal injury lawyers, it is okay if they handle a wide variety of accidents and injuries; while worker's compensation and a bus accident may have some differences, legally, they are still pretty similar.

However, when choosing an estate planning attorney, you want them to be experienced in estate planning law. Ideally, it should be one of their few areas of practice and they should be able to detail their previous experience in the area of estate law.

### **How Do I Make Adjustments to My Estate?**

This question is more of a way of testing the waters in how your lawyer operates. Some attorneys will offer an annual review of the estate to keep it up to date.

You want to create a plan that clearly spells out your wishes and keeps the estate as whole as possible for your beneficiaries. This means that you want to avoid probate and as many estate taxes as possible.

This is important because law and tax changes can happen. However, if your lawyer doesn't schedule these updates, it may not be a deal breaker for you. You will just have to remember to make an appointment to update your estate.

### **How Can I Avoid Probate?**

This final question is one you should ask every estate planning attorney. The way the attorney answers this question will give you a pretty clear picture of whether they have your best interests in mind or they just want their paycheck.

So what is the answer you are looking for? The best answer would be to steer you towards a living trust that would allow most assets to bypass probate. If they simply suggest a will, then that will still need to go through probate, this means they're most interested in collecting the associated lawyer fees for representing it.

**Are you considering the future of your estate and ready to begin the estate planning process?**

**Contact us today.** As estate and trust lawyers, we are ready to answer each and every one of your pressing questions confidently and in a way that you feel comfortable having us craft an estate plan with you.



# Conclusion

At Port Legal, we know this is not a comforting subject. However, we also understand the importance of learning about this challenging time so that we know what to expect and ensure we don't miss something important.

In this comprehensive guide, we break down important tasks and to-dos, complete with tips and other helpful information, to help guide you through the tough terrain of losing a loved one.

However, this material is not intended to replace the advice of a qualified attorney, tax advisor, investment professional, or insurance agent. Before making any commitment regarding the issues discussed here, please consult with the appropriate professional.

If you have recently lost a loved one and need advice specific to your situation, please call me at 614-641-7399 or visit [portlegal.com](http://portlegal.com) to setup a free consultation. Our initial exploratory consultations are completely free of charge and intended to equip you to make the best decision for you, your family and your business.



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