

Preserving Your Legacy

By Genene Dunn

As an estate planning attorney, one of the questions I get the most is how can I be sure that my kids aren't going to just waste my money away once I'm gone?

Most are concerned that there is nothing they can do, and their adult children are just going to spend their inheritance away without a care for what their parents would have wanted. And we also get many clients that think their family members should be just fine on their own, but want to save their kids some of the financial burden of dealing with their affairs when they are gone. The solution for both of these clients is an easy one: get a living trust.

Establishing a living trust is the easiest and most effective way of ensuring your family is protected from the costs involved with the probate process. There are, however, many other functions of a trust aside from just saving your family money by avoiding probate. Creating a living trust is a way to best protect blended families from arguing over assets in the parents' estate, to make sure certain family members are not included as beneficiaries of your estate if they are not wanted, and it is a very effective way to obtain "control from the grave" over your assets.

We are constantly asked by our clients how they can be sure that the assets they have worked so hard to obtain their whole life do not get wasted away by their heirs. Many of our clients did not inherit their estate, and instead worked their whole lives to earn what they currently have. For many of those clients, they become fearful of the possibility that as soon as they pass away, their children are not going to be responsible with their inheritance. The biggest fear we hear of most often is that children might waste away the assets instead of preserving them for future generations. We console their fears by explaining that there is a way of obtaining some control over their assets from the grave, by structuring their trust to limit how their assets are spent over the span of their children's lives.

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A popular option for many of our clients who have concerns over preserving their estate even after they are gone is to give their children a life estate in the assets. By giving their children a life estate, the assets of the parents are held in trust for their children's entire life, with the trustee having the power and authority to pay for things on behalf of the children as well as distribute any income received by the children's trust. Many of our clients are also deciding to put a professional fiduciary in charge of these trusts to be sure that all of their children are treated equally and the assets are being properly spent for the best interest of their children. Utilizing this option in a living trust allows for the parents to adequately provide for their children during their entire lives, while still giving the best option for preserving their estate for future generations.

Living trusts are very versatile. There is almost always a way for us to customize the structure of a trust in order to accomplish each of our clients' specific goals. We are able to help our clients preserve their legacy and take comfort in the fact that their family is going to be protected as best as possible because they have a proper plan in place should tragedy strike.

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