

Observer & Eccentric

Securing children's future is best Father's Day gift

Families all around town will be getting together today to celebrate Father's Day — honoring and bestowing gifts on the men that have devoted their lives to their family and children. But as any dad will tell you, being a father often requires giving more than receiving — and one of the most important gifts a father can give his children is a secure future, whether or not he lives to be part of it.

The state of Michigan's "laws of intestacy," which apply when an individual dies without a will, dictate that a default estate plan be put in place. With little exception, the plan does not avoid probate court, does not allow you any control over who receives your estate, is completely public and, perhaps most significantly, provides that your heirs, whomever they are, are entitled to all of your assets when they turn 18. In many ways, this plan is less than ideal.



George V. Cassar Jr.

For some, the state's plan does provide for their family in the manner they would have wished. The typical distribution pattern is first to a surviving spouse, then to children or other (e.g. grandchildren, etc.), then to parents, then to siblings and so on. However, when you factor in second marriages, blended families and stepchildren/siblings, the state's plan for distributing assets quickly deviates from what many would want. And even so, rarely have I encountered a parent who wants their heirs, children or otherwise, to receive their entire inheritance when they turn 18. Even joint ownership or a beneficiary designation cannot avoid that outcome.

Fortunately, the state's plan is a default that can be overwritten at any time. To do so, parents simply need to draft and implement a set of estate plan documents, whether it's a simple will or a more involved trust that dictates the parameters of their children's inheritance. A will in and of itself will not avoid the probate process requirement. Nevertheless, it will give you more control of the disbursement of your assets.

For instance, a Revocable Living Trust allows a parent to provide that their children's inheritance first be used to provide for their education, with the remaining funds allotted for distribution at specified ages after that.

Other scenarios that parents can consider include choosing to tie the ages for distribution

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to whether a child graduates from college, gets a job, or other contingents. Some parents choose to provide that their children's inheritance is protected from the child's own creditors, from a divorcing spouse or from a child who has fallen to an addiction or other problems. The options are virtually limitless and flexible.

Implementing a will or trust does not surrender a parent's control over their assets; it just puts a mechanism into place that ensures the assets are used wisely should the parent not be able to do that himself.

The bad news is that without the proper safeguards, a parent has little to no control over when or to whom their estate is disbursed upon their death. The good news is that putting the necessary safeguards in place is not difficult. An appointment to see your family lawyer will put into motion the best gift you can give your children this Father's Day.

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