

Who Is More Important, Your Spouse or Your Children?

If asked to choose "Who is more important, your spouse or your children?" most happily married people with children would choose instead to object to unfairness of the question. The choice is not one they would want to make. Their spouse and their children are of great and essentially equal importance to them

However, this choice is one that many people make when they sign a "simple Will." If you are married and sign a typical simple Will that declares "I leave everything to my spouse, or if my spouse dies before me, then I leave everything to my children in equal shares," what your Will really says is this: "If I die first, I leave everything to my spouse, and I don't care what happens after that."

Some people truly feel that way, and for them, that can be an appropriate estate plan. For many others, it is a plan arrived at, in part, because no one has called upon them to consider its possible ramifications or informed them of other choices they may wish to consider. Here are some of the important issues you should consider in planning your estate if you are married.

If I die first and my spouse ends up in a nursing home, will there be anything left for our children?

Many married people with modest estates believe ... or perhaps have been told, even by a lawyer ... that simple "everything to each other, then to the children" Wills are "good enough" for them. But what happens if one spouse dies and the other ends up in a nursing home, or needs professional nursing care at home? If you don't think that will ever happen, think again. Recent studies indicate that if you make it to age 65, there is about a 45% chance you will eventually need long-term care. If you have modest means, it is much more likely than not that you do not have, and likely cannot afford, long term care insurance to protect against that risk.

The typical "simple Will" structure exposes a married couple's estate to the maximum risk of being completely lost to pay for the cost of long-term care. Alternative planning structures are available that can protect your home and at least half (and in some cases more) of a married couple's assets against that risk while still permitting those assets to be available toward meeting the needs of the surviving spouse. They cost a little more to put in place, but isn't it worth something to know that your children will be able to inherit something from you, and that a lifetime of hard work and savings will not go to waste?

If I die first and my spouse remarries, will our children inherit anything?

It may be hard to admit this to yourself, but the fact is, if you die first, there is a chance that your spouse may later remarry. If you're married to the most wonderful man or woman in the world, somebody else may discover that after you're gone. Your spouse will miss you, and it is often human nature for lonely people to find comfort in each other's arms. Naturally, the

Missouri:

1001 Craig Road, Suite 224
St. Louis, MO 63146
(314) 567-9292
(314) 567-9294 (Fax)

The Coulson Law Group



www.coulsonlawgroup.com
info@coulsonlawgroup.com (email)
© 2004, Wesley J. Coulson

Illinois:

107 Southpointe Drive, Suite 2
Edwardsville, IL 62025
(618) 659-9292
(618) 659-9207 (Fax)

younger you are, the greater the chances of that happening. But people can fall in love at any age. And, of course, there are "gold-diggers" out there who court the affections of widowed seniors for the very purpose of separating them from their money. Moreover, financial exploitation of a lonely older adult can occur even in the absence of a marital or other intimate relationship.

Beyond the risk of a gold-digger, the loss of your children's inheritance if your surviving spouse remarries can occur in several ways. The "new couple" might sign simple Wills, and the spouse who survived you may fail to survive his or her new spouse, who would then inherit everything. The new spouse may later need long-term care, and your children's projected inheritance may have to be spent down to pay for such care. One or more of your children may be resentful of, or simply uncomfortable being around, their step-parent (after all, that person's not *you*, right?). That could cause a strain in the relationship between your surviving spouse and one or more of your children, which could cause your surviving spouse to reduce or eliminate their share of the estate. In many cases, it is the child or children emotionally closest to you who are at greatest risk of that occurring.

So, what do these considerations mean for your estate plan?

We hope that the discussion in this article will cause you to begin thinking about *your* situation ... what may happen after you die, and how those circumstances can best be addressed in your estate plan. We trust you will realize that what might work best for someone else may not work as well in your situation.

One of the core concepts of **Better Estate Planning** is that every client will be best served by an estate plan structured to meet that client's individual needs and goals. It's the best way to achieve the **peace of mind** that a well-structured and comprehensive estate plan can bring.

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