LEGACY LAW CENTER

TELEPHONE: (636) 887-5297 | **WEBSITE: www.legacylawmissouri.com**

FREE ESTATE PLANNING GUIDE

Legacy Law Center wants to be your estate planning lawyer in St. Charles County.

We assists individuals and families with their estate planning.

Please read this **complimentary estate planning guide** and contact us so we can help you protect your legacy.

Inside....

- **What are the FIVE cornerstones of an estate plan in Missouri?**
- **What are FIVE estate planning myths?**
- **How do you get started planning your estate?**
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* The choice of a lawyer is an important decision and should not be made solely on advertisements. The information contained in this advertisement is not, nor is it intended to be, legal advice. Please contact us to obtain advice pertaining to your individual circumstances and needs.

WHAT ARE THE FIVE CORNERSTONES OF AN ESTATE PLAN IN MISSOURI?

There are **<u>five cornerstones</u>** of an estate plan in Missouri:

1. **FINANCIAL POWER OF ATTORNEY.** In this document you are naming someone or a list of people to be in charge of generally every decision in your life, other than health related issues (more in a second) if you become incapacitated. That person is called your "agent". They come in two varieties: durable and springing. A durable power of attorney remains in effect even if your spouse is not able to make decisions for you. It is active the moment you sign it. A spring power of attorney goes into effect once a doctor certifies you are incapacitated. Additionally, you can sign an authorization to have the document go into effect whenever you want.
2. **HEALTHCARE POWER OF ATTORNEY.** This is a separate power of attorney that deals solely with healthcare related decisions, including which healthcare provider, whether you should be moved to a nursing home, reviewing medical records, conferring with doctors. In Missouri, this document only goes into effect once one or two doctors (your choice) certify you are incapacitated. You can also lay out burial / cremation / funeral wishes in this document and elect or not elect to donate your organs once you pass away.
3. **HEALTHCARE DIRECTIVE.** This document deals with healthcare decisions beyond your just being incapacitated. This is a document dealing with decisions to be made if you are terminally ill / persistently unconscious or are near death. It's called a "directive" because it's your choices as to which treatments to have withdrawn or withheld, including chemotherapy, invasive surgery, artificially supplied nutrition and hydration, antibiotics and CPR. The main objective of this document is to leave clear instructions to your healthcare power of attorney as to what your wishes are in these situations, so they are not left to guess. This document is also sometimes referred to as a **LIVING WILL.**
4. **LIVING TRUST AND A WILL.** A living trust (AKA a revocable living trust / revocable trust) is ordinarily the easiest way for a person to avoid probate. In the simplest of terms, a living trust is a document and an agreement by which you can transfer your assets during your life (and the life of your spouse) to the trust. Everything you currently own is owned by you. With a trust, everything you own will be owned by the trust and you manage all of the assets as trustee. You name beneficiaries to receive the trust assets when you pass away. Trusts not only help you avoid probate, but they are private documents and never filed with the court, unlike a will. You will still need a will in case you don't leave all of your assets to the trust. If you do, your will never gets filed because no probate is ever opened. If you have minimal assets, a simple distribution plan and no issues with control of what assets you have, a will by itself might take the place of a living trust. However, you would still need to want to avoid probate. For a small number of people, this can still be achieved.
5. **BENEFICIARY DEED(S).** This document names your trust or individuals as beneficiaries of your home when you pass away. This is a document which has been authorized by Missouri law to make avoiding probate with your home much easier and Missouri is one of 23 states that allow these deeds to be recorded, you should take advantage. If you own more than one property, you'll need one for each.

Legacy Law Center can help you create any or all of these documents. Set up your appointment today!

FIVE COMMON ESTATE PLANNING MYTHS

1. **YOU CAN AVOID PROBATE BY HAVING A WILL.** This is absolutely not true and a common misconception among many. A will is a document which is used IN PROBATE to assist in the administration of your assets and which names the person (the "executor") to handle that after your death. A living trust is ordinarily the best way to avoid the cost and headaches of the probate process. If you have a will, without more planning (and often very little more), you are headed to probate.
2. **ONLY WEALTHY PEOPLE NEED ESTATE PLANNING.** If you own a home, a car, a bank account, an investment account or all of the above, then you have an "estate" and those assets will be part of it when you pass away. Thus, you need a plan for that estate, i.e. an "estate plan". Additionally, you will want to have someone in charge, your spouse, for example, if you become incapacitated, which might be through disability or just over time as you age or both. The documents you need to name someone for that are called powers of attorney. The good news? If you have less assets then your estate plan is generally simpler.
3. **I CAN JUST PUT ONE OF MY CHILDREN AS A JOINT HOLDER ON MY ACCOUNT AND WHEN I PASS AWAY, THEY WILL DIVIDE EVERYTHING EQUALLY.** Many estate fights in court start over this myth. Example: Mom is a widow and names oldest daughter as joint tenant on all of her accounts. She tells oldest daughter to divide everything equally when she is gone. Mom dies and oldest daughter decides she'd rather keep all of the money to herself. There is nothing illegal about this. She is a joint tenant and even if you have a will that divides everything equally, under the law, she does not have to do so. Again, your child can be a power of attorney which means they control the accounts if you cannot, but they are not owners. Big difference but you need to draft a power of attorney.
4. **IT'S HARD TO AVOID PROBATE WITH YOUR HOME.** Not in Missouri (and not in general if you do some planning). Missouri has what is called a beneficiary deed, which is a deed you record acts names beneficiaries to own your home, subject to any mortgages, when you pass away. It works in practice very similarly to an insurance policy. When you pass away, if you own the home, it passes to those named in the deed. If you move, it's a void document and you will need a new deed for the new home. They are inexpensive to create and we can record the deed for you to make sure that is done properly.
5. **I CAN AVOID PROBATE SIMPLY BY CREATING A LIVING TRUST.** This is a myth only because a living trust can actually easily help you avoid probate but only if it is properly **FUNDED**. What does that mean? Think of your living trust (and by the way, terms like revocable trust / revocable living trust / living trust all mean the same thing) as a box. You must place all of your assets in the box during life so that when you pass away there is nothing to be administered in probate...because the trust (the box) holds everything. When the trust holds every asset, it is FULLY FUNDED. When it does not it is PARTIALLY FUNDED. A partially funded trust requires that the asset that is unfunded be administered in probate. This is a huge black hole in the world of trusts and many people are unaware when they create a living trust that it is mostly unfunded. The reason for this is that most attorneys do a poor job of explaining funding and the client does not know they have to take extra steps after creating their trust to make sure all of their assets avoid probate.

DID YOU KNOW?

- Approximately 55 percent of American adults do not have a will or other estate plan in place, according to Lexis Nexis. This number has stayed relatively steady during the 2000s, even as the number of other estate planning documents Americans have -- like medical directives -- has increased. Among minorities, the numbers are higher than in the general population: 68 percent of black adults and 74 percent of Hispanic adults do not have one.
- Missouri does not have an estate or inheritance tax. The federal government, however, does have an estate tax. For more on this topic, check out my blog at http://legacylawmissouri.com/estate-taxes-and-inheritance-taxes
- Probate costs are estimated to cost American families up to $2 billion per year, of which up to $1.5 billion is paid in attorneys' fees. (Source: Morris, Hall & Kinghorn, PLLC)

"Mr. Frosty, it's March.
Time to talk estate planning."

HOW DO I GET STARTED PLANNING MY ESTATE WITH LEGACY LAW CENTER?

The estate planning process at Legacy Law Center is designed to be convenient for clients.

The first step is to contact our office at (636) 887-5297 to set up a FREE CONSULTATION. We will send you a questionnaire to complete a we'll have our initial meeting.

During the free consultation, we will review your goals and ask about your family, assets, income and health status.

At the end of the consultation, I can ordinarily recommend an exact estate plan that fits your needs, what that includes and tell you how much that costs.

If you already have an existing estate plan, we still offer a FREE CONSULTATION and during the initial meeting, we will discuss what changes to your existing documents need to be made and whether other documents should be added. We will also quote you a price to complete that work.

From there, we will put together a draft of the documents and then review them with you. Depending on the circumstances, you will usually have finalized and signed documents within thirty (30) days.

Call today to set up your free consultation.

ABOUT LEGACY LAW CENTER

I founded Legacy Law Center in 2012 to give individuals and families, regardless of age and circumstances, a one-stop law firm to handle their estate planning needs. The needs for a particular estate plan are as varied as people themselves. That is why you need to have a law firm that focuses almost exclusively on estate planning to handle it for you. That's Legacy Law Center. Everything we do is centered around estate planning or estate related matters.

In addition to estate planning, we also handle probate filings, guardianship / conservatorships for seniors, minors and adults with disabilities, special needs trusts, NFA Gun Trusts, VA and Medicaid benefit filing / planning and estate litigation. We take enormous pride in educating and assisting our clients. To that end, for more information, please visit our website at

www.legacylawmissouri.com.

Thank you for your time and consideration

Charles J. Moore, Esq.
Owner and Founder

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We meet with clients on Mondays, Wednesdays and Fridays from 10 a.m. to 5 p.m. We can make exception if necessary.

Unable to come to us?

We can come to you if necessary.