

# ESTATE PLANNING FOR YOUNG ADULTS

WHY PARENTS SHOULD CARE

By Robert Prior



**"NO YOUNG MAN BELIEVES  
HE SHALL EVER DIE...  
TO BE YOUNG IS TO BE AS ONE  
OF THE IMMORTALS."**

~ WILL HAZLITT  
"ON THE FEELING OF IMMORTALITY IN YOUNG"  
1827

It is a fact of the human condition that the young generally believe they are immortal. Planning for disability or death is not a high priority for them and is often ignored. In spite of this natural resistance, estate planning is important for young adults and, maybe more importantly, their parents. The following items should be part of every young person's estate plan:

**DISABILITY PLANNING.** Once a child reaches the age of majority, the child's parents lose their status as natural guardians for the child. In the event of the child's permanent or temporary incapacity, the parents have no legal authority to make medical decisions on the child's behalf or to handle financial matters for the child. Many unfortunate parents learn this for the first time when they arrive at a hospital for a child's surgery, or worse, in an emergency. Most issues involving an adult child's disability can be resolved through the following properly drafted legal documents:

- **Durable Financial Power of Attorney.** This document appoints an agent to handle financial matters for the adult child. Buying or selling property, paying bills, managing checking accounts, and dealing with the IRS are typically handled through a financial power of attorney.

- **Health Care Power of Attorney.** A power of attorney for health care appoints an agent to act on the child's behalf in matters relating to the adult child's health care, medical treatment or hospitalization.
- **Living Will.** A living will states the adult child's wishes regarding whether life-sustaining or death-delaying procedures, including food and water, should be withheld or withdrawn in certain limited circumstances.

**DEATH PLANNING.** In Georgia, a Will may be drafted once a child attains the age of 14. Often young adults have not accumulated significant assets, so the need for a Will may not be apparent to the young adult or their parents. There are very good legal reasons for young adults to have a Will, however. The following are a few:

- **Avoids Estate Administration.** If your young adult owns any assets at his or her death, in order to transfer those assets to heirs, an estate "administration" must be opened in the local probate court. Instead of leaving those assets to the persons your child may have desired, they are left as Georgia law directs. While this might not be a big concern if the child owns few assets, a premature death often results from a catastrophic event like an automobile accident. If a lawsuit follows such an accident, the child's "estate" will be the plaintiff. Without a Will, a large judgment would be paid out under Georgia's intestacy laws and not as the child may have desired.
- **Makes Clear Who is in Charge.** Unlike an administration, where any interested person can petition the probate court to be in charge of the estate, a Will

appoints an Executor to be in charge of the young adult's estate.

▪ **Complements Parents' Estate Plan.**

Parents may have very specific ideas about how their estates should be left among their children. For example, it may be their desire that if one adult child has no children and dies, any property they inherited from the parents should be left to the parent's grandchildren. If the adult child is in agreement, but does not have a Will that directs such a distribution, that intent would not be carried out.

▪ **Avoids Unintended Tax Consequences.**

Under Georgia's laws of intestacy, if the deceased child is unmarried and has no children, property under an administration first goes back to the deceased child's parents if either is living. If parents have made significant gifts in connection with their own estate plan, property coming back into the parents' taxable estate can be an unforeseen and very costly consequence.

The documents discussed above are generally not complex. Taking the time to handle these matters now can save your family chaos and uncertainty if these documents are ever needed. Consult with an estate planning attorney to ensure your adult child has an appropriate plan.



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