Why Blended Families Need Estate Planning

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Estate planning is important for all families. For parents in blended families, however, it is an absolute necessity. The complexities of the modern blended family require thoughtful estate planning to ensure that every member of the family is protected, provided for, and recognized properly.

Creating a will with a lawyer or through an online estate planning service like FindLaw Legal Forms & Services ensures that all of the children you and your spouse have will have their unique needs met when you are no longer alive.

Personalized Approach for Unique Families

When you and your spouse create wills, you are able to customize how to pass on all of your assets to your children (mine, yours, and ours). Boilerplate wills for married people simply leave all of their assets to each other. Then when the surviving spouse dies, the children inherit everything. This scenario can be problematic for blended families.

Look Out for All of the Children

For example, imagine that Josh and Amara come to the marriage each with a child of their own. If their wills leave everything to each other and Josh dies first, all of his assets go to Amara. When she dies, that means her own child will inherit everything of hers and Josh's. That also means that Josh's child then gets nothing. Careful estate planning ensures that children from previous relationships as well as children from the new marriage receive fair treatment.

Blended families are definitely not a one-size-fits-all situation. For example, your wife's children may have a wealthy father, who will ensure their support if anything happens to her. The children you have together, however, have only the resources you and your wife own to rely on, so it might make sense for them to receive a larger inheritance.

Make Sense of Separate and Blended Assets

Another concern in blended families is that both parents often come to the marriage with significant, separate assets of their own. A carefully crafted will ensures that your own children will receive the assets you brought into a marriage, as well as sentimental items like family heirlooms.

The wording in a will can be very important. If your will says you leave everything to "my children" but you have legal children and stepchildren, it will be difficult to determine who you mean. If you do intend to include stepchildren, they may be left out unless you write a will carefully to include them.

A well-designed will takes all of your family's individual circumstances into account, ensures that you and your spouse inherit the assets you need, and protects all of your children's interests.

Intestacy and Blended Families

Intestacy is the term for the situation when a person dies and does not have a will. In this situation, state intestacy laws determine who will inherit that person's assets. Generally, these laws divide the assets between your spouse and your legal children. Stepchildren who you did not adopt are not legal children for the purposes of inheritance. No matter how close your relationship with them is, they would not inherit anything under intestacy laws. If you and your spouse want stepchildren to inherit anything, a will is absolutely essential.

Guardianship for Your Children

In addition to distributing assets, a will allows you to name a guardian who will care for your minor children if you die before they become adults. There are a few key things to understand about this. First, if your child has another legal parent who is alive (such as your spouse from a previous marriage or partner from a previous relationship), they will automatically get custody of your child if you die. If there are unique circumstances involving abuse and neglect, it is extremely important that you detail these in your will and ask to award guardianship to someone else (presumably your current spouse, who is your child's stepparent).

If your child does not have another living legal parent (or the other living parent lost or surrendered their parental rights), it is essential that you name a guardian so the court knows who you want to raise your child.

The second key thing to understand is that while you can name a guardian in your will, the court will consider your wishes, but it has the final say over what is in your child's best interests. This makes sense because you cannot see the future when you write your will. You might name your current spouse as guardian, but if you get divorced or they die before you do, they either can't be the guardian or may not be appropriate. That is why it is crucial that you name a guardian (and give some reasons for why you chose them) and also name an alternate guardian in case your first choice is not available.

Related Resources:

- Find an Estate Planning Lawyer Near You (FindLaw's Lawyer Directory)
- When Should You Start Estate Planning? (FindLaw's Law and Daily Life)
- How Much Does It Cost to Create a Will? (FindLaw's Law and Daily Life)
- How to Get Help With an Estate Plan (FindLaw's Law and Daily Life)

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