



CHICAGO POLICE DEPARTMENT

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## ESTATE PLANNING

Some may view estate planning as something that is only necessary for wealthy people. However, everyone should be aware that if they don't plan their estate, the State has already planned it for them.

If a person has not formally planned for incapacity or death, family members may have to look to the courts for authorization to manage the person's affairs. In many cases, this can be a costly and/or time-consuming process. In some instances, the court could appoint a representative who would not have been otherwise chosen to manage property or administer an estate. If one has not provided for the disposition of property upon death, that property will be distributed pursuant to state laws, which may not reflect a person's actual expectations.

In order to be certain that one's family and property are protected in the event of illness or death, one should consider organizing and planning the estate. The following are a few examples of elements that might be included in an estate plan.

### Durable Power of Attorney

A ***Durable Power of Attorney for Property*** is an instrument that can be used by an individual to grant authority to another person to make financial/legal decisions on the individual's behalf. An individual can draft a power of attorney to go into effect as soon as the instrument is signed, or can draft the power of attorney to "spring" into effect in the event the individual becomes incapacitated. One may give the representative as little or as broad a power as one wishes. A durable power of attorney does not give a representative the legal authority to make medical decisions for an individual, and it ends at the grantor's death. Therefore, it cannot be used to handle affairs after death.

A ***Durable Power of Attorney for Healthcare*** is an instrument by which a person appoints an agent to make healthcare decisions in the event the person can no longer make those decisions. A power of attorney for healthcare may grant broad authority to an agent, including the authority to authorize an autopsy, make anatomical gifts, or make a disposition of remains. The grantor may also limit the scope of the agent's powers under the power of attorney for healthcare.

## **Living Will**

A **Living Will** is a document by which a person directs doctors to refrain from utilizing death-delaying procedures to prolong the person's life if the person is suffering from a terminal condition, and can no longer make those decisions independently. By executing a living will, one can communicate one's wishes to physicians in advance if unable to do so at the time when the decisions must be made.

## **Living Trust**

A **Living Trust** is an estate-planning tool in which a person controls assets while alive, provides for management of assets in the event of incapacitation, and allows for distribution of assets after death without automatic court supervision or probate.

When creating a living trust, grantors transfer assets into the trust and name themselves as trustees. The trust documents name the individuals who will inherit the trust property after the grantor's death. A living trust may also provide for a successor trustee to take over management of trust property if the grantor becomes incapacitated. A trust provides only for property that has been transferred into the trust. Any property that is not a part of the living trust may be subject to probate administration.

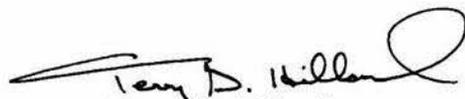
## **Will**

A **Will** is an instrument by which one makes a disposition of one's property, to take effect after death. A will governs the disposition of property that does not otherwise pass to another person after death. One may also use a will to nominate a personal guardian for the children in the event of one's death. In most cases, the judge will appoint the decedent's nominee as personal guardian of the children.

## **Miscellaneous Instruments**

In addition to the estate-planning tools discussed above, an individual may decide to hold some assets in a manner so that they automatically pass to another person upon death. Payable-on-death bank accounts, retirement accounts, property held in joint tenancy with right of survivorship, and properties held in tenancy by the entirety are examples of assets which may automatically pass to another upon death. One should also consider life and disability insurance policies in planning for future emergencies. Whichever methods one chooses to protect assets, one should be certain to conform to state legal requirements to ensure that the desired goals are achieved. In addition, everyone should periodically review and update insurance policies and documents contained in an estate plan to make certain the documents reflect one's current wishes.

*The information contained in this bulletin is for informational purposes only. This information is not offered as legal advice and does not constitute legal advice. Any questions regarding estate planning should be referred to one's personal attorney.*

  
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