

OHIO AND KENTUCKY ESTATE PLANNING 101

OLIVIA K. SMITH, ATTORNEY AT LAW



Olivia K. Smith
OKS
Attorney at Law

Of all the questions we hear at Olivia K. Smith, Attorney at Law, “Why do I need an estate plan?” is far and away the most common. Many misconceptions about estate planning influence people to make rash and dangerous decisions. We see people walk away from the table, putting themselves and loved ones at risk for these four big reasons:

- My estate is too small
- I don’t have time
- Creating an estate plan is too complicated and expensive
- I don’t need an estate plan



Everybody needs an estate plan, regardless of what or how much you have. It’s often hard to know where to start. Contacting an estate planning law firm is the first step. It can feel intimidating, but within a few weeks of your consultation, your plan can be put into action, protecting your loved ones and things you own from risk, delay, conflict, and costs that could easily be avoided. And your estate plan is not just about what happens after you die.

None of us can predict when we will have an accident or become ill. An estate plan addresses who can make health and financial decisions when you can’t, long-term health care services, end-of-life care, and financial decisions in the event of incapacity while you are still alive.

If you don’t have an estate plan, then state laws and courts will make these important decisions for you.

Planning is an essential part of a successful life, especially in our later years. A proper estate plan ensures your wishes are carried out, protects your loved ones, provides optimal tax and fee avoidance, and makes things easy for your family during difficult times. Doing so will ensure your legacy lives on in the way that you want.

A plan ensures you have control over your quality

of life, your home and valuables, how you age, and offers privacy and peace of mind about the future.

Olivia K. Smith, Attorney at Law, is here to help estate planning and elder law clients living in Ohio and Kentucky. In this e-book, we will outline who needs an estate plan, what is included in an estate plan, why an estate plan is important, when to create an estate plan, and establishing an estate plan.

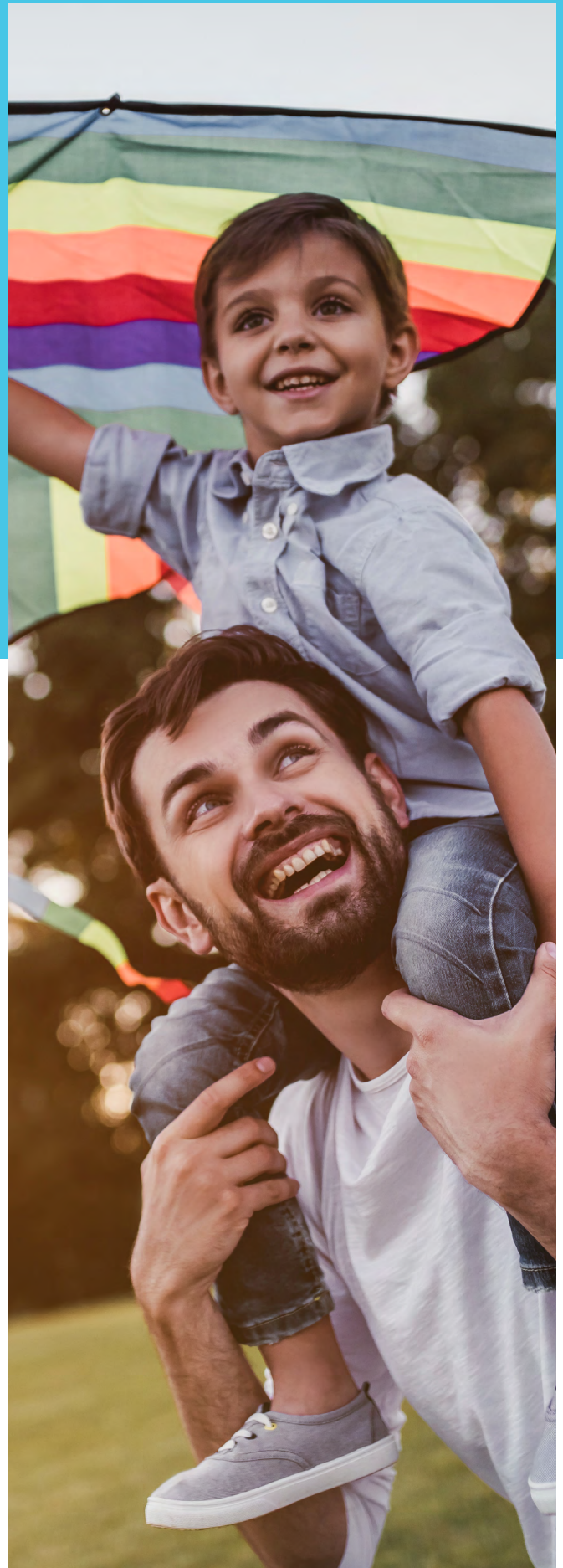
WHO NEEDS ESTATE PLANNING?

It's a common myth that estate planning is only for the wealthy. It's simply not true. Estate planning is something everyone needs to think about regardless of age, the size of their estate, or marital status. You have an estate if you have a:

- Bank account
- Retirement fund
- Vehicle
- Home or other property
- Spouse
- Minor children or other dependents

An estate plan protects your family's interests and future needs. At Olivia K. Smith, Attorney at Law, we begin by determining your priorities and outlining specific instructions on how you want your money, property, and other valued assets dispersed after your death. We help you make decisions about your medical care (in case you can't make them for yourself in the future) and final arrangements, as well. Many estate planning documents are used throughout life to provide a roadmap for you and your loved ones in case of emergencies.

We consider all the property owned both individually and jointly and what is owed. We talk about the reality of your situation, potential problems to avoid, and opportunities you might not know about yet. Without an estate plan, your family will experience a lengthy, drawn-out probate court process that can be very expensive. A comprehensive plan reduces the stress of uncertainty, avoids probate, and protects you and your family for years to come.



WHAT IS INCLUDED IN AN ESTATE PLAN



Last Will and Testament (Will)

A will is an instruction to the probate court on who you want to be in charge of your estate and how you want your assets divided. Once appointed, your executor will manage the estate, pay debts, and distribute property for those assets that require probate, all under the oversight of the probate court. How assets are distributed can be outlined broadly or detailed according to your wishes. You can also assign guardians for minor children, special needs individuals, or elderly adults. You may describe funeral and burial arrangements as well.



Trusts

Setting up a trust can be beneficial for distributing specific assets or pieces of property. The benefit of a trust is that it doesn't go through probate as a will does. Property is still distributed at the trust maker's death, but it is done without the need for a public court and ensures privacy.

A **revocable living trust** is a common trust type. The person creating and funding the trust is the grantor and usually acts as the trustee during their lifetime. They may undo the trust, change its terms, and move property and assets in and out of the trust as much as they like. Revocable living trusts are designed to switch to an irrevocable trust upon their death.

An **irrevocable living trust** is legally binding and difficult to change. The trust grantor funds the irrevocable living trust with property and assets, and a designated trustee controls everything. The grantor gives up control in return for unique tax implications and other benefits, including protecting their home and savings from the high costs of long-term care — the single biggest drain on your legacy since Medicaid gets paid first. Creating an irrevocable trust protects assets from being counted against Medicaid's income eligibility requirements and, if used correctly, can prevent them from recovering long-term health care expenses after you are gone.

A **special needs trust (SNT)** protects the assets of a loved one who receives benefits due to a mental or physical disability or payments arising from an injury that needs to be specially distributed. It allows your loved one to qualify for public benefits while providing additional support.



Living Will and Healthcare Power of Attorney

A living will outlines your wishes for end-of-life medical care and treatments you would have in specific situations. Family members won't have to argue over making the right decision on your behalf during difficult and emotional times. A healthcare power of attorney designates a trusted person to follow your instructions and pass them along to healthcare professionals. It remains in effect as long as you are unable to make decisions yourself. Together these documents make up an advance directive that can also include do not resuscitate orders, organ donation, and details regarding terminal illness and end-of-life care.



Financial Power of Attorney

A financial or general power of attorney names a person to act on financial matters. It also remains in effect as long as you are unable to handle your affairs. It's a great way to avoid the need for a guardianship hearing for someone whose health is in decline. Half of today's seniors will need some sort of in-home or skilled nursing care later in life. Wills, trusts, and powers of attorney are an easy and responsible way to plan for it.

WHY IS AN ESTATE PLAN IMPORTANT?

Many people avoid estate planning because they don't want to think about the end of life, failing health, or disability. Accidents and illnesses can lead to incapacity, and family members need guidance to get through it and provide for your care. You don't want to burden them with caretaking, risk running out of money, or lose the family home. While these are undoubtedly difficult topics, not having the discussion and implementing the right plan has far worse implications.

Having an estate plan is necessary if you or your family member wish to control what happens at the end of life and with assets after death. Estate planning and elder law attorneys help you explore every option to find the best possible solution. At Olivia K. Smith, Attorney at Law, we walk you through all of the necessary parts of the estate plan, provide an explanation, and prepare the paperwork. Once we're done, you won't have to wonder what to do in a medical crisis, whether your instructions are being followed by someone you know and trust, or if your family has been provided for.

WHEN DO YOU START CREATING YOUR ESTATE PLAN?

Many advisors recommend starting an estate plan when you become a legal adult responsible for your finances, then updating it every three to five years. Most people have yet to learn what kind of impact planning (and not planning) can have on their friends and loved ones. At Olivia K. Smith, Attorney at Law, we have seen plenty of examples:

- Older generations who own considerable land and assets without understanding the size of their estate until they have it evaluated to pass on to their children or during a divorce settlement in their later years.
- Young families buying their first home, unaware of how much probate court can take from their children's future.
- Individuals in their 30s or 40s with typical middle-aged concerns about supporting their growing families should something happen to them.
- People that are concerned about their aging parent's health. How can they help protect parents and prepare for long-term health care costs that could impact the entire family?

As you can see, estate planning spans a lifetime. Our firm has clients in all stages of life. We focus on preserving your home and assets when preparing for long-term care needs, including in-home health services and skilled nursing care options. We look at government programs like Medicaid and trusts to offset long-term care costs and maximize your loved one's quality of life. Knowing you've avoided a potential financial crisis can be life-changing.

No matter your age, these major life events should be a reason to start or update your estate plan:

- Home or other property ownership
- Marriage, divorce, or remarriage
- Birth of each child, and addition of each stepchild or adopted child
- Inheritance of money or other assets
- A new business venture
- Grandchildren



Without an established estate plan, your assets are not protected. Ohio or Kentucky law controls what happens to your assets instead, which usually does not align with your intentions for your family's future.

HOW DO YOU ESTABLISH AN ESTATE PLAN IN OHIO OR KENTUCKY?

At Olivia K. Smith, Attorney at Law, we can help you build an estate plan to fit your needs and protect your legacy. We make a comprehensive and customized estate plan to safeguard your estate for every shift in life.

The most successful estate planning strategies are built when our clients are healthy, mentally present, and ready to protect themselves and their families. Time allows us to prepare documents and have frank discussions about problems likely to occur in the future, and set up an ideal plan to solve them. We are thorough and only recommend the best options we know will pay for themselves many times over when families successfully meet health challenges, avoid probate, and save on future legal fees.

QUESTIONS TO PROMPT FAMILY DISCUSSIONS:

- Do you want to be in control of who has custody and the future of your children?
- Do you want you or your parents to age with dignity?
- Do you want to pick long-term care options ahead of time or leave that to loved ones when the need arises?
- Would you choose an individual you trust to make critical health and financial decisions when you are unable?
- Are you preserving wealth to leave to your loved ones?
- What events could threaten your hard-earned wealth?

We help families create a customized and complete estate plan for peace of mind.

Visit Olivia K. Smith, Attorney at Law, for more information and schedule an appointment. You can also reach us by phone at **(513) 771-2444** or by email at **oksmith@cmrs-law.com**.

We look forward to hearing from you.

Olivia K. Smith, Attorney at Law
Cornetet, Meyer, Rush & Stapleton
Co., L.P.A.

123 Boggs Lane
Cincinnati, Ohio 45246

Tel: (513) 771-2444

Fax: (877) 483-2119

Email: oksmith@cmrs-law.com

Website: oksmithlaw.com