

# Are Your Assets Protected in an Ohio or Kentucky Estate Plan?

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## When should you start an estate plan? As soon as possible.

Everyone should have an estate plan that fits their needs – from something simple for a 30-year-old to a fully-funded trust-based estate plan for a 65-year-old. Estate planning is essential for everyone, but a few significant life events can trigger the need to start one. Those events include:

- Marriage or divorce
- The birth of a child
- Adoption of a child
- Death of a spouse or child
- The purchase or sale of a home or property
- A move to another state

If you have experienced any of these life events, it's time to start a new estate plan or update your old one. Without an estate plan, it can be difficult to carry out a person's wishes, and it may involve a lengthy probate case that can be very expensive and emotionally draining. Having an estate plan in place provides peace of mind for you and your family.



## START WITH OUR OHIO OR KENTUCKY ESTATE PLANNING CHECKLIST

Olivia K. Smith, Attorney at Law, is licensed to help clients in Ohio and Kentucky build estate plans to fit their needs. We make comprehensive and customized estate planning easier for you.

Use this checklist to get started and see what a proper estate plan will look like for you.

# HERE ARE THE PRIMARY THINGS YOU SHOULD CONSIDER WHEN DRAFTING YOUR ESTATE PLAN:

## Decide which estate planning documents are right for you.

### Do you need a Last Will and Testament?

This document details:

- What will happen to your assets upon your death.
- Who will be in charge of your estate.
- Who will take care of your minor children.
- What happens to your remains.

### Do you want to avoid Probate Court?

- A common misconception that people have is that a Last Will and Testament will allow your estate to avoid probate. This is not accurate.
- Create a trust, instead of a Last Will and Testament, to avoid probate court fees, attorneys' fees, and delays administrating your estate. This will lessen the stress on your loved ones.

### Do you need a trust?

- A trust is a contract between you (the Grantor/ Settlor) and the Trustee (you may be Trustee, and in some cases, it must be another person).
- This document can help to avoid probate in Ohio and Kentucky as well as in other states as long as you properly fund your trust. Funding your trust is another important part of the trust creation process.
- If you have minor children, setting up a trust will allow the person taking care of your child to avoid the costly and cumbersome process of guardianship.

### Which type of trust do you want?

Each type of trust has particular purposes and advantages, depending on your situation.

- A Revocable Trust** can be modified after creation. Revocable Trusts are commonly used for estate planning purposes. They don't offer asset protection from creditors like Medicaid.
- An Irrevocable Trust** can't be easily modified after creation. Irrevocable Trusts are often used for asset protection against the costs of long term care.



## Choose Your Beneficiaries.

### Who will inherit your property after your death?

- Family members
- Close friends or loved ones
- Charities

## Determine who will take care of your minor children.

### Do you know who will be your minor's guardian?

- The court ultimately determines this decision, but more significant consideration is given to the person you elect for guardianship.

### Questions to ask yourself when selecting a future guardian.

- Who does the minor already have a relationship with?
- Do you and the potential guardian have similar parenting styles and values?
- Does the potential guardian have other minor children?
- Do you have religious concerns or preferences?
- Would your minor child have to relocate far away?
- Would the minor child still have access to other family members?



## Decide how you want your remains handled.

How will your remains be disposed of?

- Cremation
- Burial
- Other

What other instructions do you want for your funeral arrangements?

- Where do you want to be buried?
- Where do you want your ashes to remain?
- What do you want your funeral to look like?

## Set your Financial Power of Attorney and Advance Healthcare Directive.

Do you have documents to plan for your incapacity?

- A Financial or General Power of Attorney** names a trusted person to handle your financial and property matters if you are unable to do so.
- A Healthcare Power of Attorney or Advance Directive** provides instructions about your healthcare wishes when you are unable to do so. Your Healthcare Powers of Attorney or Advance Directive may include your preferences on life-sustaining treatment, organ donation. It will designate an agent or agents to make decisions on your behalf.
  - You might see the word "Durable" in your Powers of Attorney. This means that the document survives your incapacity.
  - Your Powers of Attorney expire when you do. Your loved ones can't use a Power of Attorney after you die, which is why it's important to plan for life and death.

What is the outcome of not having these documents in your estate plan?

- Without establishing these documents, your loved ones would have to go through a court process (guardianship) to appoint someone to these roles. This process is time-consuming and costly.

## Ensure you have proper trust funding, asset ownership, and beneficiary designations in your estate plan.

How are your assets titled?

- Sole ownership
- Joint tenancy
- Tenancy in common
- Other

If you have a trust, is it properly funded?

- An unfunded trust is not helpful to your loved ones
- You can't fund your trust until you have designed the terms and signed the document.
- After you create your trust, you will have to direct all of your assets to the trust either immediately or upon death, depending on the type of asset.

**For example:** Real Estate is funded to a trust by deed. Life insurance is funded to a trust by a change in beneficiary designation.

- Your trust will have a name and birthdate, which is used for funding purposes.

## Consider your insurance options.

Are insurance documents part of your estate plan?

- Disability insurance
- Long-term insurance
- Life insurance

## Draft instructions for your Executor/Trustee.

What information should you include in your instructions?

- List of assets with account numbers
- Logins and passwords
- Personal artifacts to specific loved ones



You are unique, and so is your family. Your estate plan should be unique as well. Olivia K. Smith, Attorney at Law, will create a customized estate plan that addresses your family's needs and bring peace of mind and security to you and your family.

Visit Olivia K. Smith, Attorney at Law, for more information and schedule an appointment with us.

You can also reach us by phone at [\(513\) 771-2444](tel:5137712444) or by email at [oksmith@cmrs-law.com](mailto:oksmith@cmrs-law.com).

**We look forward to hearing from you.**

**HELPING FAMILIES CREATE A CUSTOMIZED  
AND COMPLETE ESTATE PLAN FOR PEACE OF MIND**

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