



# WILLS TRUSTS & PROBATE

A comprehensive guide to answer common questions about wills, trusts, death, taxes, and estate planning.

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# About the Author



**TARA FRAME, Esq.**

[TaraFrame@FrameAndFrame.com](mailto:TaraFrame@FrameAndFrame.com)

410-255-0373

For as long as I remember, I wanted to be an attorney. My father and founder of the firm, Vernon Frame, was a practicing attorney for over 50+ years serving the community before he retired in 2002 at the age of 80. I grew up watching him help the residents of Anne Arundel County when they needed legal advice or representation.

I attended high school in Severna Park and subsequently moved to Baltimore where I attended the Johns Hopkins University and earned my bachelor's degree. While at Hopkins, I played for the Blue Jay's Women's lacrosse team. After graduation, I went on to attend the University of Baltimore School of Law and graduated with honors.

After working for a mid-size firm in Baltimore, where my job was to represent defendants and insurance companies, I soon realized that this was a far different type of legal work than what my father had done, and what I wanted to do for my community. So, in 1996, I came back home to Anne

Arundel County, and worked alongside my father, helping the residents of Anne Arundel County.

In recent years, I was able to expand the firm and now have a legal team dedicated to family law and personal injury, allowing me more time to focus on my passion – **estate planning, elder law, estate administration, and probate matters**. This area of law allows me to serve the needs of people in my community, in a very personal way. The relationships we develop often last a lifetime, because we are trusted for your needs today and entrusted to serve you and your family for generations to come. Most importantly, I am able to truly serve as your legal guide to take the weight off your shoulders in times of crisis.



It is so fulfilling to be able to represent not only my father's past clients, but those clients' children and grandchildren as well, who return to us whenever they need legal advice or legal representation. I am proud to carry on the family tradition of serving our community for over 65 years.



# WILLS, TRUSTS & PROBATE

Vital planning for everyone, young and old, to help prepare for life's unexpected journeys.



*Estate planning is a priceless gift that you can provide your loved ones to ensure that your wishes are carried out, that they have the important information they need, and the guidance to make wise decisions.*

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# Introduction

According to Forbes, over half of Americans do not have an estate plan in place, whether that is a simple will, a trust, or other legal provisions. While death is an unpleasant subject, beginning the conversation can save you and your family considerable anguish in the moment of grief or crisis.

Unfortunately, many people believe that having a simple will is adequate, especially if they do not have a large estate. However, nothing could be further from the truth! In addition, some people do not consider the tough decisions that must be made if you are incapacitated - such as a car accident, stroke, or dementia.

For many young families, death is “years away,” but this kind of thinking often leaves children, pets, and other loved family members with a lot of questions and turmoil, if the unexpected occurs.

Estate planning must also include considerations for taxes and probate, in the event of

one’s passing. People with the best intentions often neglect to consider the implications of these two issues, especially in Maryland.

Common misconceptions about estate planning lead many Americans to put off or avoid the topic. Some of these misconceptions include:

- They believe that working with an estate planner is expensive;
- They think that a will is adequate to meet the needs of them and their family;
- They think that their family members will behave amicably and will sort out the estate by themselves without legal guidance; and
- They believe that they do not have enough assets to make estate planning worthwhile.

These misconceptions often leave family members with difficult and sometimes, controversial decisions.



Estate planning allows you to consider these decisions, long before an illness or injury occurs, so that there is clear direction for your family, and your wishes are carried out, exactly as you intended. More importantly, estate planning ensures who will care for any younger children and that they will have access to whatever financial resources are available. These are just a few reasons estate planning is important for young and old alike.



In this guide, we'll provide answers to common questions like:

### **What's The Difference Between a Will and A Trust?**

Both a Will and a Trust are useful planning tools that can serve different purposes but there are significant advantages to a Trust vs. a Will.

- Will - A will allows you to establish who you want to serve as the Executor of your Estate and determine what will happen at the time of your death and who you want to receive your assets. A will goes into effect only *after* you die and, in Maryland, requires your loved ones to go through the probate process (explained later). Another big difference between a Will and a Trust is that a will is filed with the Court and becomes public, whereas a Trust is not filed with the Court and is private. This public process requires that your estate go through the probate process, all assets must be inventoried, appraised, and creditors, like Medicaid, may file claims against your estate for unpaid balances.
- Trust - A Trust is effective as soon as it is created (vs, after death) and passes outside of probate court, in the event of your death. The advantage to this is two-fold. First of all, a Trust can be used to allow a Trustee to manage your affairs, while you are living, such as in the event you become incompetent or incapacitated. A simple Will does not allow for this and may require your loved ones to ask the court to appoint a guardian. With a Trust, your beneficiaries can avoid the probate process, saving considerable time and money. A Trust can also provide protection against certain creditors and allow your matters to be handled discreetly.

### **What is Probate and Why Should I Care?**

Probate is a legally mandated process designed to transfer assets after a person has passed to their heirs, with or without a will. All assets owned by the person at the time of his or her death must go through this process unless there is a legal instrument in place, such as a Trust or other estate planning strategy.

Probate can be a time intensive and expensive process. It can take anywhere from six months up to several years, depending on the assets involved, and it generally costs five to ten percent of an estate's value. Probate can be avoided, however, by placing assets in a trust.

### **Summary**

If you are a young single adult, have a growing family, or are entering your golden years, planning is the key! Proper planning not only helps you and your family avoid unexpected surprises but can provide comfort, savings, and relief, especially during a time of crisis.

The most important thing to remember is that you and your family can greatly benefit from planning ahead. When your family is confronted with your incapacitation or even death, the most precious gift you can provide is the guidance they need during and after this type of family crisis.

The team at Frame & Frame has been serving the legal needs of our community for over 65 years. We have served as a trusted advisor for thoughtful planning, and as the same go-to guide, during times of crisis for generations and we can help you too!

# Who Needs Estate Planning?

## Everyone

Everyone needs estate planning regardless of age, marital status, economic bracket, good/poor health because accidents can happen to anyone. Although a will can serve some needs, there are circumstances where a trust can provide much greater benefits. Estate planning is the process of reviewing your assets, family, healthcare, goals, and wishes. Estate planning can help you determine which legal instrument will best serve your wishes and needs. Your attorney will the following options to determine the best solutions for you:

- A simple will and 4 important legal documents
- An estate plan
- A trust

In Maryland, there can be serious consequences, both financial and logistical, if these issues are not considered and properly addressed. Here are some examples:

- If you are incapacitated, your loved ones will require certain documentation to act on your behalf for financial matters,
- If medical decisions need to be made, Health Care Powers of Attorney ensure that your wishes are carried out and to help give your loved ones some direction when making important medical decisions to take the weight off their shoulders.
- After your death, the probate process, taxes, and other factors may absorb much of the inheritance you hoped to pass on to loved ones.



You can see why everyone in Maryland benefits by having an estate plan to address these issues. There are also some specific circumstances which make estate planning even more valuable such as:

### **Families with Children**

Very simply stated, families with children can benefit from estate planning by ensuring that their children are cared for by the person you choose. More importantly, a well-thought-out plan will determine how your finances can be used to support your children's' needs (delete comma) over the coming years for small expenses like clothing and camp, to larger expenses like college and weddings.

### **Families with Special Needs**

Many people want to consider the special needs of a child or other family member. Unfortunately, naming these loved as a beneficiary could be more harmful than helpful. After receiving this, potentially large, one time lump sum inheritance, the special needs individual is no longer eligible for government services like Supplemental Security Income (SSI) and Medicaid health coverage. In this case, a Trust would serve their needs much more effectively, and of course, our attorneys can help you determine what is the best plan for your situation.

### **Families with Substantial Wealth**

When a family has substantial assets, or family members are planning on passing on a large inheritance, there are a variety of tax and other implications that need to be considered. Trusts are often used to pass wealth from one generation to the next. But, in order to be effective, these Trusts must be properly funded and executed in accordance with Maryland law.

### **Blended Families**

In today's society, many families are blended which can create unique complications when it comes to inheritance. How much should the spouse receive upon your death? Should his or her children receive some or an equal portion of the assets, upon his or her death? What if you only want your assets to go to *your* biological children? Without an effective estate plan, all of these questions could be open to challenge or left up to the Maryland court system to decide.

### **Single People, Unmarried Families & LGBTQ**

More and more people are in non-traditional or non-marital relationships. If you or your partner are in a non-marital relationship and one of you dies, and you do not have a will, the deceased partner's assets will go straight to their biological family members, leaving their partner with nothing. Estate planning is key to ensuring your partner is cared for. As you can see, everyone benefits from a well-crafted and properly drafted estate plan in Maryland. We explore each of these scenarios later in this publication.

We discuss each of these estate planning scenarios in further detail in our *Free Guide to Estate Planning Essentials*. Download your free copy at [www.FrameAndFrame.com](http://www.FrameAndFrame.com) or contact us for a private consultation.



# Should You Have a Will or Trust?

Let's start with the simple fact that every person should have either a Will or Trust to ensure that your wishes are carried out, your family is taken care of, and your assets and legacy are preserved. It doesn't matter how many assets you have or how many family members you have a will can provide a lot of guidance during a time of family crisis.

A Will is a mechanism to advise a probate court about how you want your property distributed. But will your Will do its job as intended? That depends upon how the Will was prepared and executed. When a Will is deemed not valid by a probate court, the court is forced to distribute property according to the laws of the state in which the deceased lived. This often leads to big surprises among the family left behind by the deceased person.

Far too often, we have seen families with handwritten, on-line, or fill-in-the-blank forms that don't provide proper protection and often raise more questions than answers. In Maryland, if you die without a legal will, the State will determine how your assets are distributed and who gets what, during the probate process. If you have step-children, estranged or divorced partners, or even a married spouse, they may or may not be entitled to everything or anything. This is where legal guidance and a legal will can be invaluable.

Services & Strategies	Will	Trust
Last Will and Testament	✓	✓
Financial Power of Attorney	✓	✓
Appointment of Health Care Agent (Healthcare Power of Attorney)	✓	✓
Advanced Directives	✓	✓
Distribute Assets Per Clients Wishes, After Death	✓	✓
Focuses on What Happens AFTER Death	✓	✓
Limit Estate and Death Taxes		✓
Avoid the Probate Process		✓
Provisions to Handle Your Affairs, <b>While Living</b> , or in the Event of Incapacitation		✓
Provide for specific distribution of inheritance over time and for special circumstances		✓
Protect the family home or other cherished assets from creditors		✓
Protect benefits of family members with special needs & government benefits		✓
Protect life-savings or other assets, to pass on to beneficiaries		✓
Protect privacy		✓
Handle unique circumstances (i.e. blended families, etc.)		✓
Protect Assets from Creditors, Predators, and Divorce		✓

Some people *mistakenly* believe that having an attorney advise and prepare a will is expensive. However, for about the cost of a weekend get-away, you can have your personal situation evaluated, your wishes clearly outlined, and the legal documents needed to execute your wishes. This planning can serve as a truly priceless gift for your family, at a time when they need it most.

In some cases, it is determined that a trust may better serve your needs. We'll discuss those in the next section!

# What An Estate Plan Includes

Estate planning helps to ensure that your wishes are carried out in the event of **incapacitation** (accident, coma, illness) and how best to protect and dispose of money and property, in the event of **death**. Everyone needs a basic estate plan, which includes:

- Last Will and Testament and/or Revocable Trust
- Financial Power of Attorney
- Appointment of Healthcare Agent (Healthcare Power of Attorney)
- Advanced Directives (also known as a Living Will)

Your estate planning attorney can help you understand and determine if you need a will or a trust. In addition, they can provide different scenarios to help you understand the benefits of each.

For estate planning, most people have several common goals and often address concerns regarding what happens *after* death, including:

- Burial or end-of-life wishes,
- Leaving a legacy for loved one
- Distribution of assets
- Avoiding the probate process
- Limiting estate and death taxes

## Setting Clear Goals

To successfully complete and execute your estate plan, we suggest that you begin with a clear idea of what you want to accomplish. Often, when you begin the estate planning process, additional questions or scenarios will be discussed. Our attorneys are there to guide you to your goal and considerations for:

- Ensuring financial support for your family,
- Naming guardians for any minor children and determining how assets will be used for their needs,
- Determining how a business will be maintained or liquidated,
- Outlining preferences for medical emergencies or incapacitation,
- Choosing the beneficiaries and the age at which they will receive their inheritance,
- Leaving assets to a charity

# Powers of Attorney

What happens if you or your family member is suddenly incapacitated and unable to take care of routine affairs? Who will continue to pay your health care premiums, the mortgage, or other important expenses? If you own a business, who will work with your bank or payroll provider to pay your employees? Unfortunately, without certain documentation, you may be left in a lurch. Your estate plan incorporates important documents to help ensure that healthcare and financial decisions can be carried on and carried out, in accordance with your wishes.

When an adult family member is hospitalized or otherwise incapacitated, their family may not legally be able to take care of certain priorities and obligations on their behalf without Power of Attorney documents in place. There are several reasons why these documents are so important.

If you or your family member is incapacitated and needs to contact your financial or investment advisor, that advisor's hands are tied and cannot take any action on your behalf unless there is a legally valid Financial Power of Attorney in place. This could be catastrophic, especially if markets are volatile and you must urgently modify your investments. Another example, let's say that a husband and wife have separate bank accounts and the husband historically pays the mortgage from his bank account. If he becomes incapacitated, the bank is not authorized to work with anyone, on his behalf, in the event of a health crisis. Companies are prohibited from discussing your personal information, such as mortgage, insurance policies, banks accounts, credit card accounts, etc, without a Power of Attorney document.

Likewise, if medical treatment is necessary, the doctors will need to have Healthcare Power of Attorney, giving someone the power to make decisions regarding what medical treatment you will receive if you cannot make those decisions yourself. Unfortunately, the COVID-19 crisis is a classic example of why these documents are so important.

Powers of Attorney documentation vary, so don't rely on a standard template to ensure your specific needs are covered. Sometimes you may need enhanced provisions to give your Power of Attorney additional powers to act for you, which the Maryland statutory forms may not include. In many states, real estate transactions can not occur without a specific Power of Attorney.

## A Power of Attorney Dies With You

A Power of Attorney is designed to help a loved one take care of certain medical and financial decisions while you are living and either unavailable, incompetent or otherwise incapacitated. After a person dies, the power of attorney is no longer valid; it dies with you and can no longer be used to manage your affairs. After you pass, your Will then takes effect and determines who will manage your estate and how assets should be distributed, All assets (cars, houses, bank accounts, etc.) owned by you are subject to the probate process, which can be lengthy and expensive. The probate process can be avoided with a Trust.



# Healthcare Directives

As part of your estate planning process, Healthcare Directives will be discussed and documents provided for you and those you designate. Advanced healthcare directives go by many names: living wills, medical directives, advance directives, personal directives, and advance decisions. These instruments provide legal instructions for your medical care if you are rendered incapable of giving instructions yourself. These legal instruments provide clear direction for your wishes in the event of an unexpected illness or long-term diagnosis.

Since Covid-19, more and more people are ensuring they have the documents necessary in case an **unexpected** crisis occurs. Pre-planning relieves your family of much of the burden associated with making decisions, during a crisis such as if you suffer from:

- Car Accident
- Sudden Illness
- Stroke
- Unconsciousness or coma
- Severe injury
- Complicated or failed surgeries

An advanced healthcare directive is also important for someone who has a terminal illness such as cancer or Alzheimer's but, as you can imagine, it's certainly not the best time or place for these discussions. That is why pre-planning is so important. You can carefully consider all the options, without time constraints and other stress factors.

## **What Does an Advanced Healthcare Directive Do?**

Advanced healthcare directives provide your family and physicians with the following types of information so that there is no guess work if you become incapable of making decisions for your-



self. According to the National Healthcare Decisions Day organization, studies have shown that less than half of severely or terminally ill patient participants had an advanced healthcare directive, which makes them subject to decisions that may or may not be aligned with their wishes, including:

- Do not resuscitate orders
- Use of breathing machines (ventilators), dialysis machines, and other life-supportive medical equipment
- Use of fluid IV or nutrition via stomach tube
- Palliative or comfort care
- Tissue or organ donation upon death

### **I (or a Family Member) Have Dementia. Can I Still Create an Advanced Healthcare Directive?**

A person with dementia or Alzheimer's may be able to create an advanced healthcare directive provided it is created while they still have legal capacity. However, it is important to begin estate planning *before* you become terminally ill or lose your legal decision making capacity.

At Frame & Frame, we include healthcare powers of attorney and/or healthcare directives as part of our estate planning process.



# Avoid Estate Planning Mistakes

## 1. Not Updating your Plan

Our lives change daily and your will, trust, or estate plan should be updated with any life changes - marriage, divorce, new child or grandchild, death, etc. As we age, our wishes change, as do our relationships, careers, finances, health and marriages, and these changes should be reviewed on a regular basis as they relate to your estate plan.

## 2. Failing to Take Minors or Young Adult Children Into Account

Will your 18-year-old child know what to do with a lump sum \$100,000 inheritance? If, after you pass, your 12-year-old child's other parent passes away, do you have a plan for guardianship? If your child is enrolled in college, will the funds you leave be enough to cover the rest of their tuition and living expenses? Parents and grandparents with minor or young adult children have all the more reason to update their wills regularly and work with experienced estate planners to ensure that they do not omit important aspects of their wishes.

## 3. Failing to Provide for Asset Protection

Having a revocable living trust is a great way to ensure that the assets you leave to your loved ones avoid the probate process, avoid possible excessive taxation, and are used for your intended purposes. In addition, it is important to properly fund the living so that it can provide the most benefit to your heirs. Trusts can also provide important asset protection for beneficiaries, by protecting the monies in trust from future divorce, bankruptcy, judgments and creditors, as well as for special needs beneficiaries, to preserve their rights to receive essential government benefits.

## 4. Understanding Tax Implications in Maryland

Maryland is one of the only states in the country that has an inheritance tax plus an estate tax. With a good estate planning process, there are legal strategies that can help you minimize these tax burdens on your family.



# Why Trusts Can Be So Beneficial

There are many types of estate planning trusts. You and your loved ones do not need to be rich to benefit from a trust. Trusts are used by all socioeconomic classes of people to suit you and your family's specific circumstances.

A Trust is effective as soon as it is created and passes outside of probate court, in the event of your death. The advantage to this is two-fold. First of all, a Trust can be used to allow a Trustee to manage your affairs, while you are living, such as in the event you become incompetent or incapacitated. A simple Will does not allow for this and may require your loved ones to ask the court to appoint a guardian. With a Trust, after your death, your beneficiaries can avoid the probate process, saving considerable time and money. A Trust can also provide protection against certain creditors, like Medicaid, as well as asset protection for your beneficiaries' inheritance from future divorce, bankruptcy and their creditors. A Trust is also private, which is a great benefit to those who want to handle their financial matters discreetly. Listed below are some of the types of trusts that are commonly utilized.



## Charitable Trust

If your estate is subject to estate taxes, there are many ways to reduce the tax burden. One of these is to set up a charitable trust, which can also help avoid the lifetime gift tax and can benefit your favorite charities, while minimizing your taxable estate.

## Generation-Skipping Trust

Another way to reduce estate taxes is to set up a generation-skipping trust. Instead of leaving your property to your children, a generation-skipping trust passes down some or all of your assets property to your grandchildren, keeping the wealth in the family.

## Irrevocable Trust

An irrevocable trust cannot be modified. An irrevocable trust can be used by a grantor with a taxable estate as a tax-reduction strategy. Assets in an irrevocable trust are no longer the grantor's property, although the grantor still has access to the funds in an irrevocable trust.

### **Living Trust aka Revocable Trust**

A revocable trust is the most common type of trust for avoiding probate. A revocable trust, sometimes called a living trust, can be modified during your lifetime. A revocable trust will help you leave your property to your loved ones in the manner you best see fit, in a private manner outside the probate process. You can even leave property to be held in trust for several generations.

### **Marital Trust**

When a spouse dies, co-owned assets can be moved into a marital trust. The income created by these assets is then transferred to the surviving spouse. When the surviving spouse dies, the property is then distributed to the couple's heirs.

### **Medicaid or Long-Term Care Planning Trust**

This type of trust is for those concerned about paying for senior living, assisted living or nursing home care. The average cost of a one-bedroom assisted living apartment is \$3,900 per month in Maryland, not including other related costs such as meals and nursing. One might deplete their lifelong savings or the value of a family home paying for such care. A Medicaid trust or a long-term care trust allows you to put your assets in a trust while still qualifying for long-term care benefits.

### **Pet Trust**

A pet trust details the care that should legally be given to a pet. It can also establish funds that can be used to take care of the animal after the owner's death. Another benefit of a pet trust over a will is that it can be used to keep an owner who is declining in health together with their pet, so that they do not get separated during a move to a nursing home or other health facility.

### **Special Needs Trust**

If you leave a child or other relative with special needs a large sum of money (even as little as \$10,000 or so), you could ruin that person's ability to collect public benefits this person depends upon. A special needs trust allows your loved one to continue receiving these benefits, while at the same time, have access to the financial resources that you leave to him or her.

### **Spendthrift Trust**

Assets in a spendthrift trust are protected from creditors while being managed by a trustee working in the beneficiary's best interests. This type of trust may be useful for a beneficiary who is unable to manage money properly since the trustee is in control of all of the assets.

There are many different types of trusts that offer advantages for long term care planning, estate planning, and to maximize what you leave behind for your loved ones. Each of these is explored further in our Estate Planning Essentials guide. Download your free guide at [www.FrameAndFrame.com](http://www.FrameAndFrame.com). Our experienced trust attorneys can help you establish the best trust for each situation.

# Estate Planning Vs. Long-Term Care Planning

Creating an estate plan is not the same as long-term care or Medicaid planning. It's important to realize that estate planning attorneys provide estate plans, while elder law attorney's specialize in long term care and Medicaid planning. At Frame & Frame, our experienced estate planning and elder law attorneys can provide guidance and consideration for both of these needs, but it's important to understand that not all firms provide this dual approach. Be sure your estate plan is created and/or reviewed by an elder law attorney to ensure your long term care needs are considered.

## Estate Planning

Very simply stated, estate planning helps to ensure that your wishes are carried out and plan for how best to protect and dispose of money and property, **after death**. Estate planning attorneys can help you create an estate plan but, unless they have received legal certification as an elder law attorney, they may not be qualified to ensure that your estate plan includes some type of long term care or Medicaid planning.

## Long Term Care or Medicaid Planning

While estate planning reviews your wishes, **after passing**, long-term care planning reviews your wishes, **as you age, before passing**. This is an important additional step that some families choose to explore, as part of the estate planning process. This type of planning helps clients plan ahead, in case of incapacity or the need for long-term or nursing home costs.

This is such an important component, since 7 out of 10 people will require some type of long term care in their lives. With the costs of long term care averaging \$6,000-\$10,000 per month you can see how these services can quickly exhaust an elderly person's life savings. More importantly, most long-term care costs are not covered by Medicare. Some of the objectives of long-term planning include:

- Plan for incapacity and nursing home costs,
- Avoid spending entire life savings for nursing home care,
- Save the family home,
- Preserve assets to pass on to beneficiaries,
- Focus on care and costs while a person is alive, **before death**.

An estate planning attorney with elder law experience allows you to have one person guiding you through the planning process and serving as your family's trusted advisor in times of crisis.

Many people don't realize, until long after they have completed the estate planning process, that their estate plan lacks consideration for how the costs of long term care may impact their life savings or protect their legacy. It's important to have an estate planning attorney who also practices elder law.



# After A Loved One Dies

At Frame & Frame, we have been helping families with the probate and the legal issues you need to be aware of, after a loved one dies, for over 65 years. This guide provides an overview of the resources and materials we have found most helpful to assist you with the estate and probate processes in Maryland.

## **Emotional Support Comes First**

After a loved one dies, there are many emotional, financial, and logistical considerations. First and foremost, you and your family may need emotional support as you go through the grieving



process. It's important to understand that, although there are many different theories about grieving, everyone approaches the grieving process differently. It's important to talk with your friends and family about how you are genuinely feeling.

The death of a loved one can be overwhelming, so many seek out professional help when struggling with the loss. There are a wide variety of resources available to assist you with emotional support. You can start with your own doctor, the hospital, a therapist, or even a support group to find the help you need.

It's so important to get the emotional support you need because there are many important legal and financial issues that will need to be considered in the coming days, weeks, and months ahead. If you need additional guidance, please don't hesitate to ask us.

# The Probate Process

When an individual dies in Maryland, unless they have a trust, their assets first have to pass through probate before they can be transferred to beneficiaries. **Probate is the legal process of validating a person's will and making distribution pursuant to the terms of the will.** Our probate attorneys can assist you with some or all of these legal processes while being sensitive and compassionate to your needs. After a loved one dies, there are a wide array of emotional, financial, and family decisions to be made. In some cases, with proper pre-planning, the probate process may be avoided or at least simplified.

During probate, the Personal Representative of the estate (or their Probate attorney) is tasked with locating assets, paying debts and taxes, and, lastly, distributing assets to beneficiaries. Probate, which is implemented to combat fraud, can be a time intensive and expensive process. It can take anywhere from six months up to several years, depending on the assets involved. Probate can be avoided, however, by placing assets in a trust ahead of time. By doing so, you ensure that your family and children have access to these assets without waiting for them to pass through probate.

Without proper planning, probate may be required to transfer a deceased person's assets to the beneficiaries. How complicated the estate administration process is, depends on:

- Did the deceased person leave a Will?
- Who is the Executor named in the Will?
- What is the nature of the deceased person's assets?
- Are there creditor claims?
- Do any tax elections need to be made?
- Were any trusts created in the Will?

Dying without a will can lead to unique challenges or surprises, when it comes to the probate process. A probate attorney can be immensely helpful in diffusing these family challenges and proceeding in a logical and legal manner.

## **Does Every Estate Have to Go Through Probate?**

There are estates of all sizes that can benefit from probate services. A regular estate is valued at \$50,000 or *more* (\$100,000 or more if there is a surviving spouse) and typically is required to go through the probate process. If the property of the decedent subject to administration in Maryland is established to have a value of \$50,000 or *less* (or \$100,000 if the spouse is the sole legatee or heir) the estate may be administered as a small estate.

In establishing the value of an estate only the assets held in the name of a decedent alone and/or an interest held as tenants in common are considered. The value is determined by the fair market value of property less debts of record secured by the property as of the date of death, to the extent that insurance benefits are not payable to the lien holder or secured party for the

secured debt. A probate attorney can help you determine if the estate needs to go through the probate process.

- **Regular Estate** - property of the decedent subject to administration in Maryland is established to have a value in excess of \$50,000 (in excess of \$100,000 if spouse is sole heir).
- **Small Estate** - property of the decedent subject to administration in Maryland is established to have a value of \$50,000 or less (\$100,000 or less if the spouse is the sole heir).

### **Do I Need Probate If I Have a Copy of the Will?**

The outcome of probate, that is, the inheritance and to whom it goes, depends upon the legal documents put into place by the deceased person before death. If there was a will, the probate court first

decides its validity and names an executor. The deceased's assets may pass to the heirs by beneficiary designations on life insurance policies and retirement plans but if the designations are to people who have already passed on, those assets may have to go through the probate process and distributions must be approved by the court. It's vitally important that you consider all of the legal implications and the probate process, before distributing any assets.



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### **What are Considered Non-Probate Assets?**

Maryland has specific guidelines to determine which assets must go through probate and which assets can be distributed outside of probate. These might include a family home that is owned as Joint Tenants or Tenancy by the Entirety, retirement accounts, life insurance policies, annuities, or certificates of deposit. These assets may pass by operation of law to the beneficiary named by the owner prior to death. Finally, Payable (or Transfer) on Death Accounts usually do not pass through probate. It's important to have an attorney review any and all accounts to ensure the law is complied with and to avoid penalties.

# Duties of a Personal Representative

In Maryland, after a person passes, a Personal Representative is appointed by the court. The Personal Representative is responsible for identifying probate assets, filing forms and tax returns required by law, paying administrative expenses from the estate assets, responding to creditor claims, filing final taxes, and overseeing the distribution of assets under the will. The Personal Representative is often named as part of the will, but if there is no will, a Personal Representative may be assigned by the state and all assets will be distributed according to Maryland Law. If a Personal Representative is not included in the will, the Register of Wills may admit the will to probate and appoint a personal representative.

## **What are the Duties of the Personal Representative?**

In addition to opening the estate, the Personal Representative is responsible for a variety of other duties, including but not limited to, filing an information report, reporting assets on inventories, submitting appraisals, and filing accounts.

## **Opening the Estate**

If you are the Personal Representative of an estate, you must open the estate promptly, after death, according to Maryland Law. Generally, the Personal Representative will petition the court for probate and this person is often named in the Last Will and Testament. However, it's important to note that the estate can also be opened by creditors of a decedent's estate, so it's important for the Personal Representative to be aware of the legal implications and obligations associated with the estate and probate process. Many Personal Representatives seek the assistance of a probate attorney to assist with this process and to reduce the burden and liability associated with probate in Maryland.

## **Do You Have a Valid Will?**

If the decedent died with a valid will, the distribution of assets will likely be stated in the will and the Maryland Orphans' Court will supervise the estate through the probate process. In Maryland, a will must be signed by the person making the will and attested to and signed by two credible independent witnesses in the presence of the person making the will. The person executing the Will or Codicil must be at least eighteen years old and legally competent. The Will or Codicil should be dated. There must be conformity with all the requirements under Maryland Law and it is advisable to have a Will or Codicil prepared by an attorney.

## **What is a Codicil?**

A codicil is an amendment to a will. There can be more than one codicil. After death, all codicils must be presented to the Register of Wills along with all original wills.





### **What If There Is No Will?**

If there is no will, Maryland Law will determine the distribution of assets. This can be a complicated process and may not necessarily align with the decedent's last wishes, so having a valid will is always best. However, if there is no will, distribution of assets will be determined according to Maryland Law, which changes from time to time.

According to the most recent guidelines [as of 09/21], "distribution is determined by the relationship of the surviving heirs of the decedent. If a spouse and minor child/children survive, the spouse receives only one-half of the probate assets and the child/children receive the other one-half."

Further, "If there are no surviving minor children but other surviving children or parents, the spouse receives the first \$40,000.00 plus one-half of the balance of the estate; the remainder passes to the decedent's children, if any, otherwise to his or her parents. If a spouse but no children or parents survive, the spouse receives the entire probate estate."

These matters are handled by the court in accordance with applicable laws so it's wise to have a probate attorney working on your behalf.

### **What If Property Is Designated to be Passed On to Minors?**

If property passes to a minor (a person under the age of 18) and no provisions have been made in the will for a trust or custodian, the Orphans' Court may appoint someone to serve as Guardian for the *property* of the minor and/or as Guardian of the *person* of the minor wherein they are responsible for caring for the minor and making important decisions regarding health care, education, or provisions for the minor.



## Begin Gathering Information

Regardless of whether or not you have a will, it is helpful to begin gathering the following information. Your probate attorney specializes in assisting with this time-consuming process and will often have additional resources to help locate important information and documentation that may be required. Your attorney can save you considerable time and resources by helping gather:

### Personal information about the deceased:

- Full name (including maiden or previous names)
- Social security number
- Date of birth
- Date of death
- Age
- Gender
- Race
- Marital Status
- Spouse's first and last name
- Highest level of education completed
- Occupation
- Place of birth
- Fathers first and last name
- Mothers first and maiden name
- Resume or work history
- Veteran status
- Motor Vehicle License
- Life Insurance Policies



### Information you should gather to review with your attorney:

- Family members, ages, and addresses;
- Any 'interested parties' who are named in the will or who may be an heir;
- All known assets;
- All known income;
- All known bills, debts, or creditors;
- All email, social, and on-line accounts.

## How Long Does the Probate Process Take?

The length of the probate process is completely contingent on the value of the estate, whether or not the person had a will, if there are any contests to the will, whether real property needs to be sold and a variety of other factors. In very general terms, the average probate process is 6-12 months.

## **Determining The Value of the Estate**

In Maryland, if the estate is worth more than \$50,000, you'll want to immediately engage a Probate attorney to begin the probate process. The value of the estate is determined by evaluating:

- Real Estate
- Vehicles
- Bank Accounts
- Life Insurance Policies (if there are no beneficiaries named)
- Stocks, Investments, Retirement Accounts, Pensions, 401k's
- Any and all other assets or properties owned by the deceased person

## **Additional Legal Items:**

The probate process can be challenging to navigate, especially while you are grieving the loss of your loved one. The documentation and legal filings can be overwhelming and time-consuming. However, the attorneys at Frame & Frame have been assisting clients with this process for over 65 years and provide sound legal guidance to take the weight off your shoulders. Below is a list of items that Frame & Frame can assist with, as part of the probate and estate closing process.

- Assist Executors and Trustees
- Order and Distribute Death Certificates to Creditors
- Open the Estate & Obtain Letters of Administration
- Deal with Creditors, Employees and Others
- Locating Heirs
- Bond Requirements for an Estate
- Arrange for an Appraisal and Sale of Property
- Arrange for Donation/Sale of Household Items
- Obtain and File Probate Pleadings and Documentation
- Defend Will Contests
- Assist with Estate Tax Returns
- Preparation and filing of the Petition for Regular Estate and all pleadings required by the Register of Wills to open the Estate;
- Obtain Estate Bond;
- Obtain Letters of Administration;
- Obtain EIN and assist with opening of estate bank account;
- Arrange for and obtain appraisal of all real properties and all personal property (if necessary);
- Prepare Inventory (due within 90 days of estate opening);
- Assist client with clean out of real properties and sale, distribution or donation of personal property;
- Provide client with list of referrals if needed (e.g. real property appraiser, personal property appraiser, real estate agent, auctioneer, financial planner/advisor, accountant/tax advisor)
- Obtain copies of documentation for each asset (with client's assistance)
- Prepare and submit documentation to liquidate or transfer stocks or stock accounts;

- Review all documents provided by client re: all income and expenses of the estate;
- Review estate account statements;
- Negotiate any outstanding claims;
- Prepare and file Administration Accounts
- Arrange for preparation of U.S. Fiduciary Form 1040 tax return.
- Finalize and close Estate

If there are family dynamics that further complicate your situation, our probate attorneys can provide legal guidance and assist with the various items required to ensure that the estate is closed in accordance with Maryland law.



*While family and friends may be well-intentioned, it's important to seek legal guidance to ensure that you are complying with Maryland probate laws and to avoid common mistakes.*

# 15 Probate Mistakes To Avoid

As the executor of an estate, also called the Personal Representative in Maryland (hereinafter referred to a PR), you have certain legal obligations and a fiduciary duty to take certain actions, or inactions, on behalf of the estate. Otherwise, you may be held personally liable to the beneficiaries of the estate. Below are common mistakes to avoid when acting as Executor or Personal Representative for probate purposes. Remember, that estate planning prior to passing can help you and your family avoid many of these issues.

## **MISTAKE #1 - Using a Power of Attorney After Death**

A power of attorney is no longer valid after a loved one dies. According to the Maryland Attorney General, once a person dies, any power of attorney, either financial or medical, becomes invalid, and the will or trust becomes the legal document that controls all decision making regarding the burial, funeral, last wishes, and finances. As such, it is vital that everyone have an updated will and that it is kept in a place that is easy to locate. A power of attorney cannot be used to access or close bank accounts, etc. so seek legal advice if there is no will.

## **MISTAKE #2 - Waiting to Long to Open the Estate.**

This happens much too often and often at a cost to the estate and ultimate beneficiaries or heirs. Part of your job as the personal representative is to open the estate within a reasonable time after the person's death. You either do not know that you are required to open an estate or figure that it will all go away if you do nothing. It will ultimately catch up to you. As time goes by, bills and taxes continue to accrue, creditors start calling and heirs become impatient. Waiting too long can cost the estate money, which losses are ultimately passed on to the heirs. Your role is to administer the estate, such that it moves forward, the assets are distributed and the estate is eventually closed. If you feel that you cannot effectively manage the estate or are not a well-organized person, then you may want to think twice about agreeing to be the executor to begin with. The loss of a loved one can be devastating but delaying the probate process just adds another layer of stress and pressure to your grieving process. Take time to mourn and take care of your family and then take action. The longer you wait, the greater the demands.

### **A Power of Attorney Is No Longer Valid After Death**

A Power of Attorney is designed to help a loved one take care of certain medical and financial decisions while a person is living and either unavailable, incompetent or otherwise incapacitated.

After a person dies, the power of attorney is no longer valid; it can no longer be used to manage a person's affairs. After a person passes, the Will takes effect and determines who will manage the estate and how assets should be distributed. All assets (cars, houses, bank accounts, etc.) are subject to the probate process unless there is a Trust already established. Your attorney can help you navigate these issues.

### **MISTAKE #3 - Failing to Advise the Heirs or Beneficiaries**

As an Executor or Personal Representative, you have a fiduciary duty under the law. You must notify and update the heirs at various stages of the estate. The heirs will receive a notice from the Register of Wills that an estate has been opened, but very often a PR will start the probate process without communicating with the heirs, so that the first time that they are hearing about the estate is when they receive the notice from the Court. This can lead to mistrust and the misconception that you are doing something wrong. It is always best to be transparent and to keep the heirs reasonably informed and up to date throughout the process. Even if you ignore them, they will not go away. If an heir does suspect improper actions, even if not true, they have the right to file a petition to ask that you be removed as Personal Representative and replaced with someone else, either the successor named in the will or an independent person chosen by the Court.

### **MISTAKE #4 - Distributing Assets of the Estate *Prematurely***

Often a PR will begin making distribution of assets of the estate before the estate is even open. This is prohibited. The Will may state that a vehicle should go to a certain relative or antique furniture to a friend. If the asset is distributed prematurely, this could be a huge problem. Depending on the instructions in the Will, the estate may be responsible for paying the inheritance taxes or the person inheriting the asset may be responsible for those taxes. If the asset is distributed before the tax or expense is collected from the heir, the estate may not be able to recover it later on. Additionally, creditors have a specific amount of time to file claims against the estate. If the estate has limited cash or insufficient funds to pay those claims, they may be disallowed or they must be prorated. Time for filing claims expire, there may not be enough to cover the claims and the PR may become personally liable for those debts.

### **MISTAKE #5 - Failing to Take Proper Control and Protection of Assets**

This is especially critical for real estate. As part of your job as PR, you must immediately secure the real property against break-ins and trespassers, maintain property insurance, and protect against loss for nonpayment of taxes and mortgages. If you do not live near the city or state where the property is located, this may be challenging for you, especially if the curb appeal suffers and squatters take over. You should work with a good Realtor that is experienced in selling probate and estate properties and can help you maintain the property and keep it in good repair pending sale. The agent should have a wide array of resources that they can recommend to help you with the repair and maintenance of the real property if needed. You must also take exclusive control of the estate's cash and financial accounts and close out all credit cards. Any person who had access to accounts through ATM cards, debit cards or credit cards, must be denied further access to those accounts.

### **MISTAKE #6 - Confusing Probate and Non-Probate Assets**

When handling an estate, the PR must differentiate between the probate assets and the non-probate assets. Probate assets are assets that were owned by the decedent in his or her sole name at the time of death or owned as tenants in common, if it is real property. To determine the legal ownership of real property, you must read the deed which conveyed the proper-



ty to the decedent. There are several ways that real property can be titled and it will determine if the property passes through the estate or not. Assets that are titled jointly with another person, as joint tenants with rights of survivorship, will generally become the property of the surviving owner according to the multi-party account statute. Other assets that have beneficiaries named, such as life insurance policies, retirement accounts, CDs and payable on death or transfer on death accounts. It is important to refer to the account documents to determine the ownership as of the date of death to decide whether the assets will be subject to the probate process or is automatically distributed by operation of law or by contract.

#### **MISTAKE #7 - Not Knowing How to Properly Value the Assets**

It is imperative that the estate assets are properly valued. This, in itself, can be a complex process. For personal property, generally you will need a certified or court accepted appraiser to appraise the value of the property. That can include the furniture, household items and all the “stuff” in the home. It can also include vehicles. Regarding real property, a decision has to be made as to whether an appraisal is appropriate or whether a comparative market analysis or the state tax assessment should be used as the basis for the value as reported on the inventory. This decision will involve a discussion of the potential tax liabilities and the best way to avoid paying unnecessary taxes.



#### **MISTAKE #8 - Failing to Prepare an Accurate Inventory of Assets**

If the decedent owned any assets in his or her sole name, including real property, vehicles, bank accounts, stocks or personal property, the only method to transfer or convey the asset to the heir is through the probate or estate administration process. When filing an Inventory, it is important to accurately report the assets that are properly included in the estate. The Inventory is a snapshot that tells the Court what assets the decedent owned as of his or her date of death and how much those assets were worth as of that date. The PR is required to report all assets in the name of the decedent, no matter what type of asset it is, with a few exceptions. The PR needs to understand which assets pass through the estate and which assets do not (non-probate assets). Once appointed, the PR may be obligated to investigate and locate assets of the decedent, as it is not always that clear what the estate assets are. Is there real property, specific items to be passed to specific people, oil, gas or mineral rights that need to be disposed of, or rental income to collect? This can be a daunting process but still necessary. Our attorneys can simplify this process too.

### **MISTAKE #9 - Failing to Keep Accurate Accounting Records**

As the PR, it is extremely important to keep accurate records as to what is deposited into the estate account and what is disbursed from the account. You will be required to file administration accounts, which report to the court all additions or losses of the estate and all expenses of the estate. If you fail to keep accurate records, it will be very difficult to prepare the accountings and be able to itemize the expenses, account for any gains or losses, dividends and interest on investments. Your estate attorney will handle all of this for you but you will still need to provide the attorney with all of the records and ledgers relating to the estate account in order to properly prepare the administration accounts and make final distributions. Sometimes ac-



countants can also assist you with the preparation of the administration accounts. When the estate is ready to close, a final account is filed with the Court, which the Court must review and approve prior to final distribution. The numbers must be accurate to the penny or the final account will not be approved. In cases where the records were not properly kept, the beneficiaries have the right to file objections to the final account. If this happens, the court will set the case in for a hearing to determine whether the account is correct and order corrections or modifica-

tions. This can delay the probate process for many months when it should have taken half that time or less.

### **MISTAKE #10 - Not Forwarding or Picking Up Mail From Decedents Property**

As soon as you are appointed as the PR of the estate, you should contact the local post office and request that all mail be forwards to your address or to another address or Post Office box that you have access to. The reason for this is so that you don't miss important notices and claims from creditors and/or lenders. Additionally, it can help to locate assets that you may not be aware of. Unless statements and documents are sent electronically, you will receive bank statements, credit card statements and 1099s, which can help locate other estate assets. Lastly, if the mail piles up at the property, it could give burglars or squatters an indication that the property is vacant.

### **MISTAKE #11 - Paying Debts & Bills Of Decedent In the Wrong Order**

When an estate is opened, a creditor has 6 months to file a timely claim in the estate requesting payment of the balance due. If the claim is valid, not barred by the applicable statute of

limitations and filed in a timely manner, then it may have to be paid. Per Maryland law, there is an order of priority when paying the expenses, final bills and debts of the decedent. If bills or debts are erroneously paid from the estate or paid in the incorrect order, the PR may be held personally liable to the creditors or to the beneficiaries or heirs for those monies paid out incorrectly.

#### **MISTAKE #12 - Failing to Take Final Steps to Conclude the Estate**

Once the real property is sold, the bank accounts liquidated, tax returns are filed and all claims and expenses are paid, it is time to close out the estate. In order to close a regular estate, which is an estate that has more than \$100,000 in assets (or more than \$50,000 in assets if the spouse is the sole heir) a final administration account must be filed which shows additions to and losses from the estate, the final expenses of the estate and the final distributions as directed in the Last Will and Testament or, if there is not Will, per the Maryland laws of intestacy. The account has to be reviewed and approved by the Orphan's Court. Once the Court approves the final account, the PR must wait an additional 20 days in order to allow exceptions to be filed. Once that period expires, then distributions may be made. It is strongly advised to mail distribution checks to the beneficiaries by certified mail so that you have a record that they actually received the distribution, or else have them actually sign a receipt for the property or money that they receive. If real property is not sold but is conveyed to a beneficiary in kind, the PR must make sure that a deed of distribution is prepared and recorded with the local land records office. If this final step is not taken, then there could be serious problems in the future when the real property is ultimately sold, which may cost the estate significant legal fees and court costs in order to remedy. The PR may be personally responsible for these additional costs and expenses.

#### **MISTAKE #13 - Taking Actions That Potentially Create Personal Liability**

Take caution to fulfill your legal obligations and duties as the PR. If you mishandle the estate funds, use them for your own benefit or fail to properly protect and account for the estate assets, you could be personally liable to the beneficiaries or heirs of the estate. Many people are not aware of this and the fact that your personal assets and money can be at risk if you make mistakes or mismanage the estate. The court could hit you with penalties and sanctions in order to fix any damage that was caused.

#### **MISTAKE #14 - Being Mis-informed by Family & Friends**

Just because your best friend or cousin has been through probate or may even be an attorney does not mean they are qualified to represent you in matters of probate and estate. Estates can be complicated and this area of law is very specific. Seek legal guidance from an experienced probate attorney such as Frame & Frame Attorneys at Law.

#### **MISTAKE #15 - Not Using Trusted Resources**

Our experienced estate administration and probate attorneys can guide you through the probate process and have trusted resources you may need such as a Realtor, CPA tax advisor, and/or a financial planner that can help. The experienced probate attorneys at Frame & Frame can literally help take the weight off your shoulders.

# ePlan365™

Puts The

# Plan in Your Hand™



If an unexpected crisis or tragedy occurs, your loved ones will be focused on solving the challenges, making decisions, and dealing with the family's emotions.

There will likely be many questions and decisions to be made, depending upon the circumstances. The biggest question of all... "What's the plan?"

At Frame & Frame, we've helped people, for over 65 years, face the challenges and questions that arise. Today, we are one of the only estate planning firms that offers our clients a proprietary platform so that every decision, document, and resource is available to your loved ones **instantly**. Our ePlan365™ gives you the Plan in Your Hand™.

The ePlan365™ is a unique service we provide to clients that securely stores all of your documents and information in one easy place that you (or your loved ones) can access anytime, anywhere. The platform can store:

- Your will, trust, or estate documents,
- Your powers of attorney and health care

directives,

- Your medical history, doctors, prescriptions, allergies, and medical images,
- Passwords and logins for all of your critical financial information so that your bills can be paid,
- Personal notes and letters to family members.

All of this important information is encrypted and protected with industry-leading technology and security and can only be accessed by the people you choose, for the crisis or events you choose.

Your family will only access the information you pre-determine. Most importantly, they won't have to spend time searching for or wondering what the plan is, because your ePlan365™ provides all the answers.

ePlan365™ gives you the Plan in your Hand™ and provides all of the information, in an easy to access platform that can be made available, to those you choose ahead of time, in the event of any crisis. It's an easy way to keep vital information securely stored in one place, with the ability to share it with friends or family members, on an *as-needed* basis.



### Consider this Young Family's Situation:

Kim and Mike are a young couple. Kim became suddenly ill and was hospitalized. As a mom, she serves as the family's bookkeeper, education provider, medication dispenser, child and pet car-pooler, and Grandma's caretaker! So, when Kim became incapacitated, there were a lot of pieces to put together. Fortunately, she and her husband Mike had ePlan365™ so Mike was quickly able to find information on:

- Powers of attorney allowing Mike to communicate with the doctors, on Kim's behalf,
- Kim's primary care provider, medication information, and other health-related documents,
- Kim's health-care directives and wishes,
- Information needed to take care of Grandma while Kim was incapacitated,
- Logins for bank accounts and bill pay,
- Pets veterinarian and dietary issues,
- Logins for the kid's educational portal.



More importantly, when medical decisions had to be made quickly on Kim's behalf, Mike had everything he needed to provide to the doctors and caregivers, including a copy of the Healthcare Power of Attorney, list of Kim's allergies, her medical history, and more!

Before long, Kim was on the mend and back home to her family, making a full recovery. During her illness, Mike was able to access all of the information he needed. During her recovery, Kim didn't have to worry about anything because Frame & Frame's ePlan365™ was there to guide the way. Of course, Frame & Frame was also there to serve as Mike's legal guide, in any way. Make sure your estate plan is available to your loved ones, at a time when they need it most!



# Glossary

Below are some of the terms used in estate planning. This list is by no means all-inclusive, but provides insight into the various strategies and terms used throughout the process.

**Annuity** - An annuity is an insurance contract that provides regular income to the owner, in exchange for a lump sum investment.

**Beneficiary** - A person who derives advantage from something, especially a trust, will or life insurance policy.

**Codicil** - A codicil is an amendment to a will. There can be more than one codicil. After death, all codicils must be presented to the Register of Wills along with all original wills.

**Community Spouse** - The spouse who remains at home or in an assisted living community and does not require Medicaid benefits.

**Community Spouse Resource Allowance (CSRA)** - The amount of countable assets the spouse is entitled to retain, in order for their spouse to obtain Medicaid benefits.

**Decedent** - A person who has died.

**ePlan365™** - Access to a proprietary platform that allows the people you choose to access your estate plan and all the documents they need in a moment of crisis.

**Estate Plan** - the process of reviewing your specific goals and situation with an experienced Estate Planning attorney to determine what type of legal instrument you require to disburse your assets with the fewest tax implications while carrying out your wishes in the most efficient manner.

**Fiduciary Responsibility** - Where one person places complete confidence in another in regard to a particular transaction or one's general affairs or business.

**Gift** - A gift is when any money, property, items, or other assets are conveyed to another person for less than they are worth.

**Gift Tax Exclusion** - An IRS regulation that allows an individual to give away a certain amount of money each year, without incurring a tax. This exclusion is NOT applicable when planning for Medicaid benefits.

**Guardian** - a person who has been appointed by a judge to take care of a minor child or incompetent adult (both called "ward") personally and/or manage that person's affairs.

**Grantor** - the party who transfers title in real property (seller, giver) to another (buyer, recipient, donee) by grant deed or quitclaim deed.

**Individual Resource Allowance** - The amount of assets a Medicaid applicant can retain and still qualify for benefits, typically used for discretionary spending.

**Institutionalized Spouse** - The spouse who is in or requires nursing home facilities and is seeking Medicaid benefits.

**Intestate** - referring to a situation where a person dies without leaving a valid will.

**Last Will and Testament** - a legal document that states in writing how the testator (the person preparing the documents) would like to have their estate distributed upon their death and who will carry out those duties. It must be by two (2) or more credible witnesses in the presence of the testator.

**Long Term Care** (aka Long Term Care Planning) - The care provided to an individual who is in need of daily assistance with



# Glossary

basic functions of daily life. It includes eating, bathing, dressing, transferring, toileting, medication management, and assistance with prosthetic devices. 70% of individuals over the age of 65 will require some type of long-term care during their lifetime.

**Medicaid** - A state and federal government program intended for people with low income or limited resources. Provides payment for the majority of long-term care services required by elderly citizens.

**Medicare** - A program directed by the federal government that functions primarily as a health insurance program for people over age 65. Medicare benefits are intended for short-term services, when the medical condition is expected to improve, and acute care. In most cases, Medicare does not pay for long-term care services.

**Mirror Wills** - the wills of a husband and wife which are identical except that each leaves the same gifts to the other, and each names the other as executor.

**Personal Representative**- A personal representative is the executor or administrator for the estate of a deceased person and serves as a fiduciary of the estate's beneficiaries.

**Power of Attorney** (aka Durable Power of Attorney)- A legal document that is executed when a person is of sound mind, that designates an individual to carry out legal and financial responsibilities, on behalf of another. This document is no longer valid, after death.

**Pre-Planning** - When someone plans for long-term care costs and/or their estate is structured to allow them to qualify for Medicaid benefits with consideration for assets, income, gifts, look-back period, etc.

**Probate** - the entire process of administering a deceased person's estate. This involves organizing their money, assets and possessions and distributing them as inheritance, after paying any taxes and debts.

**Testator** - a person who has died leaving a will.

**Trust** - a legal instrument that holds property as its nominal owner for the good of one or more beneficiaries and may be used to pass assets outside of probate.

**Trustee** - a person or entity who holds the assets (corpus) of a trustee for the benefit of the beneficiaries and manages the trust and its assets under the terms of the trust stated in the declaration of trust which created it.

**Trustor** - the creator of a trust (who normally places the original assets into the trust), called a "settlor" or "donor" in many states.

**Will** - a legal document that coordinates the distribution of assets after death and may appoint guardians for minor children.

For more resources, visit [www.FrameAndFrame.com](http://www.FrameAndFrame.com) or schedule a private consultation.

## 4 SIMPLE STEPS TO **YOUR** CUSTOMIZED ESTATE PLAN!

STEP **01**

### DISCOVERY

Understand Your Needs

Identify Goals & Objectives

Analyze What-If Scenarios

Answer Questions



STEP **02**

### STRATEGY

Interactive Process

Review Strategies/  
Recommendations

Agree on Plan Design

We Begin Creating Your Customized Plan



STEP **03**

### DELIVERY

Review & Sign Documentation

Present Family Binder

Set Up Access to **ePlan365™**



STEP **04**

### ONGOING SUPPORT

Trust Funding

Annual Review of Life Events

Ongoing Access to **ePlan365™**



**FrameAndFrame.com**

# Summary



It is clear that everyone has unique needs and there are many legal strategies that can ensure your wishes, your future needs, and your family's needs, are considered and cared for, if an unexpected crisis occurs.

The most important thing to remember is that every strategy involves planning ahead. When your family is confronted with your incapacitation or even death, the most precious gift you can provide is the guidance they need during and after this type of family crisis.

The team at Frame & Frame has been serv-

ing the legal needs of our community for over 65 years. We have served as a trusted advisor for thoughtful planning, and as the same go-to guide, during times of crisis. We have literally helped families pass down precious memories, wealth, and even provide guidance for children and grandchildren.

We are honored to continue this tradition today and are here to take the weight off your shoulders and make the process easy.

To learn more or to schedule a private consultation, please visit us at:  
[www.FrameAndFrame.com](http://www.FrameAndFrame.com)

*Creating a will, trust or estate plan, along with navigating the Maryland probate process is not an easy DIY task. Frame & Frame provides legal guidance for thoughtful planning to protect you, your family, and your legacy.*



# Plan Ahead Now!

Estate planning requires careful consideration and a trusted guide to protect you, your family, and your legacy.

Contact the experienced attorneys at Frame & Frame today. We can offer you a path to take the weight off your shoulders and can even serve as a guide for your family, during times of crisis.

Take the first step and ensure your family is prepared for any eventuality.

We offer a variety of ways to meet with you,  
allowing you to take care of *your* business at *your* convenience.



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