



Boldt: Estate planning essentials for newlyweds and new parents

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By Matthew Boldt

Spouses-to-be have a lot on their minds in the weeks and months leading up to their “big day” (e.g., who gets to sit next to Aunt Gerty at the reception). Likewise, new parents-to-be are often preoccupied with finishing the nursery or delving into the finer points of the shelf life of frozen breast milk.

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Amid all of the anticipation and excitement surrounding new unions and new babies, estate planning often falls by the wayside. Nevertheless, newlyweds and new parents are wise to make their estate planning goals a priority. If you fall into one, or both, of these categories, you should consider the estate planning essentials discussed below.

While the majority of newlyweds and new parents have yet to amass a sizeable estate, they should not be deterred from creating an estate plan. In light of the fact that Indiana no longer imposes an inheritance tax, coupled with the generous exemption amount for the federal estate and gift tax (\$5.49 million for the 2017 tax year), most young people can draft relatively simple estate planning documents for a very reasonable fee.

The basic estate planning documents to obtain for each spouse or partner are a last will and testament, general durable power of attorney, durable health care power of attorney and a living will.

Last will and testament. For newlyweds, the last will and testament typically sets forth their intent to pass all of their property to the surviving spouse. For new parents, in the event that each parent dies, the will provides for the care of their child by setting forth who will serve as the guardian over the person of their minor child and likely sets forth who will serve as the trustee of a trust established by the will to provide for the minor child’s health, education, maintenance and support. Finally, a will also sets forth who will serve as the personal representative of the decedent’s estate.

General durable power of attorney. Each spouse typically names the other spouse as their general durable power of attorney. Because the general POA gives the designee broad power to transact on behalf of the principal, young people are better suited to draft a “springing” general POA that takes effect only upon a medical determination of incapacity.

Special durable health care power of attorney. The special durable health care power of attorney grants the designee broad authority to make health care decisions on the principal’s behalf. The health care POA also allows the principal to decide whether they want to receive life-sustaining nutrition if the principal enters a persistent vegetative state or has been diagnosed with an incurable illness that renders their death imminent. The principal also can elect to allow their designee to decide if life-sustaining nutrition should be administered. The health care POA typically takes effect only upon a medical

determination of incapacity.

Living will. The living will is similar to the health care POA, but is limited to the principal's intent regarding end-of-life care.

Young people should also consider updating the beneficiary designations on their retirement, investment and life insurance accounts. Newlyweds can designate their spouse as the primary beneficiary and new parents can elect their child's testamentary trust as a contingent beneficiary. Because these assets are transferred outside of the probate process, up-to-date beneficiary designations are crucial.

While newlyweds may have their eyes trained on the honeymoon and new parents have their (bleary) eyes trained on more sleep, drafting your essential estate planning documents should be a priority too. •

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