

What Do These People Have In Common?

- Aretha Franklin
- Prince Rogers Nelson (Prince)
- Jimi Hendrix
- Tupac Shukar
- Stieg Larsson
- Marvin Gaye
- Sam Cooke
- Barry White
- Martin Luther King, Jr.
- Amy Winehouse
- Kurt Cobain
- Pablo Picasso
- Howard Hughes
- Steve McNair
- Peter Brock
- Sonny Bono
- Nathaniel Dwayne Hale (Nate Dogg)
- Abraham Lincoln



What Do These People Have In Common?

THEY ALL DIED WITHOUT A WILL
or a QUESTIONABLE WILL.

One of several estate planning documents used to
Protect Your Assets.

What Does Protecting Assets Mean?

- Planning for the inevitable
- Planning for the possibility of being unable to manage your health care and finances
 - *Estate Planning*



Estate Planning

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Estate Planning Involves.....

- Accumulating Assets
 - Saving and investing
- Protecting Assets
 - Managing risks and purchasing insurance
- Distributing (Transferring) Assets
 - During life and after death



Who Needs Estate Planning?

- Almost Every Adult
- Importance Increases as Estate Value Increases
 - Total of all the money and property owned by an individual

When Should Estate Planning Start?

- No set time period or age
- When a person starts accumulating assets

Why is Estate Planning Important?

- Provides instructions for who inherits assets
- Prevents assets from being transferred via state's intestacy laws
- Protects minor and adult children
- Allows appointment of guardian/conservator if needed
- Saves time and money

Why is Estate Planning Important?

- Minimizes and/or reduce taxes
- Provides protection from creditors
- Allows someone to make financial or health care decisions on your behalf
- Restricts heirs access to and use of assets
- Avoids family arguments
- Avoids probate

Why is Estate Planning Important?

- Allows for more privacy
- Keeps assets in the family
- Reduces heirs property issues
- Gives peace of mind
- Increases the # of people with estate planning documents

Estate Planning Survey

- Information from Caring.com's 2021 Wills and Estate Planning Study
- Study included 2,500 Americans and was conducted in December 2020 by YouGov.
- <https://www.caring.com/caregivers/estate-planning/wills-survey/#covid-19%E2%80%99s-impact-on-estate-planning%C2%A0>



Percent of Americans With a Will

- “In our 2021 wills survey, we found that while the COVID-19 pandemic has increased people’s desire to get a will (35% saw a greater need), the overall percentage of people with a will hasn’t changed since last year – 2 out of 3 still don’t have crucial estate planning documents. In the wake of COVID-19, it’s important to provide the education to help Americans both see the need, and understand what steps to take to ensure that they have a proper estate plan in place.” Daniel Cobb, Managing Editor at Caring.com; <https://www.caring.com/caregivers/estate-planning/wills-survey/#covid-19%E2%80%99s-impact-on-estate-planning%C2%A0>



Percent of Americans With a Will

- All Age Groups
 - 32.9 percent
 - 2 out of 3 adults without a will
 - 32.1 percent (2020)
 - 40.0 percent (2019)
 - 42.0 percent (2017)

Percent of Americans With a Will

- Age Groups
 - 44 percent (55 and Over)
 - 22.5 percent (35-54)
 - 26.8 percent (18-34)

Percent of Americans With a Will

- Race
 - 27.5 percent (Blacks)
 - 31.6 percent (Hispanics)
 - About 35 percent (Whites)

Percent of Americans With a Will

- Income Level
 - 39.0 percent (\$40,000-\$80,000)
 - Less Likely; About 25 percent (Under \$40,000)
 - More Likely; About 45 percent (Over \$80,000)



Advance Healthcare Directive

- Slightly less than 1 in 5 adults (18%) did not know what an advanced health care directive was.

Why Do People Fail to Do Estate Planning?

- Haven't gotten around to it (#1 reason; 34 percent)
- Don't have enough assets to leave anyone (2nd reason; 28.1 percent)
- Don't know how to get a will or living trust (3rd reason; 7.6 percent)
- Too expensive to set up (4th and least common reason; 5.6 percent)

Why Do People Fail to Do Estate Planning?

- I haven't had time (procrastination).
- I don't like thinking about bad health and/or death.
- Estate planning is needed by the elderly and wealthy people only.
- A simple will lasts a lifetime.
- The state has laws to protect my estate.
- Joint ownership with my spouse (for married people) is a practical substitute for an estate plan.
- Estate planning is too expensive.



What Happens If You Die Without a Will?

- Died Intestate
 - What does it mean?
 - Dying without a valid will or
 - Dying with a will that does not provide instructions for distributing all of your property
- If you have a valid will when you die, then you have died testate.
- When would your will be considered invalid?

Distribution Based on Georgia's Intestacy Laws



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Probate and Non-Probate Assets

- Estate planning involves probate and non-probate assets
 - Probate Assets
 - Transfers made through a will or state intestacy laws in the absence of a will
 - Legally changing the title of the deceased person's assets, that are not transferred any other way, from the deceased person to his or her heirs



Probate Assets

- Transfers Made Through a Will or State Intestacy Laws
 - Fee Simple (Sole Ownership)
 - Tenants in Common (Joint Ownership)
 - Personal Property

Probate and Non-Probate Assets

- Estate planning involves probate and non-probate assets
 - Non-probate Assets
 - Transfers Made Outside of a Will or State Intestacy Laws



Non-Probate Assets

- Transfers Made Outside of a Will or State Intestacy Laws
 - Transfers by Title
 - Transfers by Contract
 - Transfers by Trust



Documents and Strategies Used in Estate Planning

- Documents and Strategies Used to Transfer Assets
 - Wills
 - Property Titling
 - Beneficiary Designations
 - Trusts

Wills

- Legal document providing you (will maker) the opportunity to control how your property (assets) is distributed at death
 - Distribute your property to your heirs
 - Appoint an executor or executrix
 - Appoint a guardian for your children
- Prevents your property from be distributed according to state intestacy laws
- Property passed through a will or state intestacy laws goes through probate.



Legal Requirements for Wills in Georgia

- You must be at least 14 years old.
- You must be of sufficient mind and memory that you are creating a document to distribute your property after you die.
- The will must be in writing.
- The will must be signed by you and witnessed by at least two people who are not recipients of property distributed via the will.

Property Titling

- Transfers by Title (Non-Probate)
 - Joint Tenancy With Right of Survivorship (JTWROS)
 - Tenancy By The Entirety (TE)

Beneficiary Designations

- Transfers by Contract (Non-Probate)
 - Life Insurance
 - Retirement Accounts (IRAs, 403(b)s, 401(k)s, Annuities)
 - Pay-on-death (POD) accounts
 - Bank Accounts
 - Transfer-on-death (TOD) accounts
 - Investments (Mutual Funds, Stocks, Bonds)



Trusts

- Trusts (Non-Probate)
- The title to a person's assets is transferred to another party for the benefit of others.
- Parties
 - Grantor (Creator): Person who creates the trust
 - Trustee: Person who manages the trust
 - Beneficiaries: Persons who benefit from trust assets



Documents and Strategies Used in Estate Planning

- Documents and Strategies Used to Handle Other Estate Planning Issues
 - Letter of Last Instruction
 - Power-of-Attorney
 - Living Will
 - Georgia Advance Directive for Health Care

Letter of Last Instruction

- Provides details of your desires regarding:
 - the distribution of specific tangible items and
 - your funeral and burial instructions.
- Letter is not legally binding.



Power-of-Attorney

- Legal document authorizing another person (agent) to act on the behalf of another (principal).
 - May be revoked
- Powers-of-attorney should be durable.
- Your power-of-attorney does not continue after you die.

Types of Powers-of-Attorney

- Durable Power-of-Attorney for Finances
 - Appoints a person to manage your property and finances
- Durable Power-of-Attorney for Health Care
 - Appoints a person to make health care decisions
- You can also consider a springing power-of-attorney.

Advantage and Disadvantage of Powers-of-Attorney

- Advantage

- You reduce the need for someone to go to court to get approval to make decisions on your behalf.

- Disadvantage

- The person you choose can abuse their power.

Living Wills

- Also referred to as an Advance Medical Directive or Health Care Proxy
- Legal document expressing your desires regarding the use of life sustaining equipment if you are not able to make the decision
- Georgia Medical Consent Law
 - Emergency Situations
 - Non-emergency Situations

Georgia's Standard Form

- Combines Durable Power-of-Attorney for Health Care, Living Will and Guardianship in one form
- Georgia Advance Directive for Health Care

☺ Living Will: A Friend's Response ☺

- MY LIVING WILL

Last night, my friend and I were sitting in the living room and I said to her, “I never want to live in a vegetative state, dependent on some machine and fluids from a bottle. If that ever happens, just pull the plug.”

She got up, unplugged the TV, and threw out my wine.