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9 Van Ger Drive, Bow, NH 03304 Tel: (888) 471-2903
Email: Ben@KiniryLawFirm.com www.kiniryfirm.com

INHERITANCE MANAGEMENT

What if When I Die My Child is Irresponsible, Young, or Abuses Substances?

My wife and I have been blessed with three teenagers in our home. We currently have some level of control over their daily affairs but someday we will only have the power of persuasion. When we are no longer here, they will be left to their own devices. Like many parents, we hope to leave them a legacy when we are gone and wonder how each child will manage his or her inheritance (if we do not succeed in spending it all)? What if they are irresponsible, young and/or abuse substances?

Do you believe, given any of the conditions above (or some other circumstance), it is desirable or necessary to exert some level of control over your child's inheritance? If so, then you may be wondering what is the best way to distribute your assets to your child (or grandchild) upon your death?

As an Estate Planner, I would suggest to you the best tool to exert control over your child's inheritance would be a Trust. A trust allows you to control how and when your child receives benefits from your estate.

At the outset of establishing a trust, you will choose who will act as your child's Trustee, or in other words, who will oversee management of the assets and controls distributions in your absence. This role is often entrusted to a friend or family member, and in some cases a professional, such as an Attorney or a financial institution.

You will also need to specify the how and when your child receives benefit from the trust share you established for them. There are numerous ways that you can provide for your child and following are a few popular examples:

ANNUITY: In this type of arrangement the Trustee is directed to distribute a specified amount of funds each month/year on a schedule chosen by you. The amount to be distributed may be adjusted upwards annually to account for the increase in the cost of living.

INCENTIVE TRUST: This trust requires something from the beneficiary. This could be related to meeting educational goals or some type of other achievement. I had a client who was losing sleep over the thought her son would inherit her significant wealth and never go out in the world and be productive (a goal very important to her). Ultimately her instructions to the Trustee were to distribute a sum equal to one hundred percent of her son's w-2 income on an annual basis.

AGE-BASED TRUST: This type of Trust directs the Trustee to make distributions to the beneficiary upon attaining a specific age (also typically established for grandchildren). A typical starting point for discussion with a client is a withdrawal right of 1/3rd at 25; 1/2 at age 30; and the remainder at age 35. One of the things I really like about the Age-Based Trust is the opportunity for the beneficiary to learn from prior distributions. Some clients move the ages up significantly, seeing the inheritance as retirement security for their child.

PAY OF DEBT: Trustee is directed to pay off debt, such as student loans and mortgages.

SUBSTANCE ABUSE: One of the biggest concerns I see is parents who fear that when they die, their child will utilize their inheritance to harm themselves. Clients in this position sometimes make the very difficult choice to disinherit such a child. A Substance Abuse Trust is one way to assure that your child receives benefit from your estate and at the same time does not have the access to the funds to do self-harm. The Trustee controls the purse strings and can pay for necessities or use the inheritance to pay for substance abuse treatment for your child.

EDUCATION: As you can imagine, some clients direct that the inheritance is to be utilized for educational purposes (college, graduate school, technical school). I recently wrote such a Trust which dictates that the funds are to be utilized only for education until age twenty-five, thereafter, the trustee may make distributions for other things such as buying a home or starting a business. The beneficiary ultimately has the right to withdraw the funds at age thirty-five.

NON-MONETARY ASSETS: Of course, many clients leave real estate or other non-monetary assets to their children. Holding real estate in Trust can ensure that your child always has a place to live ("I don't want my child living on the street" one of my clients proclaimed to me). Since the Trustee has control over the real estate, your child beneficiary is not able to sell the property and go on a spending spree.

These options can be mixed and matched and of course there are other tools that can be utilized to meet your desired goal.

It goes without saying, all of our children are different. They each have their own strengths and challenges and your estate can be tailored to reflect each child's particular needs. If you have concerns about your child and would like some assistance planning what will work best to benefit your child (though your child may not like it initially, perhaps they will come to appreciate in the course of time) please feel comfortable reaching out to us to start a conversation.

The information provided in this article does not constitute legal advice.



New Hampshire had 307 new cases of COVID-19.
Local statistics are:

Bow	24 active cases	392 total
Dunbarton	5 active cases	149 total
Hopkinton	4 active cases	224 total



Nellie Doughty
NMLS ID: 170344



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