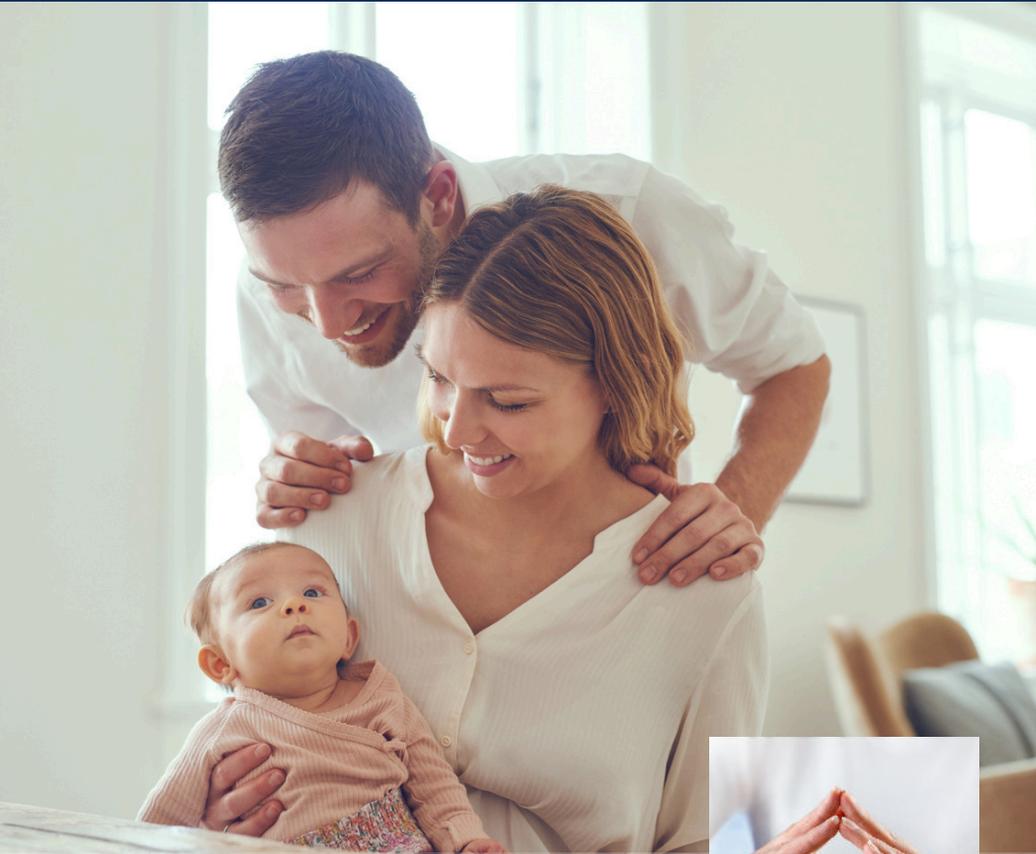


PROTECTING YOUR FAMILY'S FUTURE:

# A Guide to Estate Planning for New and Expecting Parents



**BDP**

**BRIAN D. PERSKIN**  
& ASSOCIATES P.C.

# Table of Contents

<b>The Importance of Estate Planning for Parents</b>	<b>3</b>
<b>Wills and Trusts 101</b>	<b>5</b>
<b>Choosing a Guardian for Your Children</b>	<b>7</b>
<b>Managing Your Estate</b>	<b>10</b>
<b>Consequences of Not Having an Estate Plan for Your Children</b>	<b>12</b>
<b>Choosing the Right Attorney</b>	<b>13</b>



**BRIAN D. PERSKIN**  
& ASSOCIATES P.C.

# The Importance of Estate Planning for Parents

## Understanding the Risks and Consequences of Not Having an Estate Plan

As a parent, you want to ensure that your children are taken care of and that your assets are protected in the event of your passing. While thinking about the possibility of your own death may be uncomfortable, it is important to have a plan in place to ensure that your loved ones are provided for after you're gone. This section will discuss the risks and consequences of not having an estate plan.

Without an estate plan, your children's guardianship will be determined by a court, and your assets will be distributed according to state laws, which may not align with your wishes. This can lead to lengthy legal battles and can be incredibly stressful for your loved ones during an already difficult time. In this section, we will discuss the potential legal and emotional consequences of not having an estate plan in place.



## Protecting Your Assets and Loved Ones

Estate planning involves creating a comprehensive plan for the distribution of your assets after you pass away, as well as any healthcare and end-of-life decisions you want made on your behalf. Having an estate plan in place is essential for all parents, regardless of the size of their estate or their current stage in life. This section will discuss the ways in which estate planning can protect your assets and loved ones.

With the right plan in place, you can ensure that your assets are distributed in a way that maximizes their value for your beneficiaries while minimizing tax liabilities. This section will cover the different estate planning tools and strategies that can be used to protect your assets and minimize taxes.

Estate planning is also important for parents who have children with special needs or who require ongoing medical care. With the right plan in place, you can ensure that your child's needs are met and that they have access to the care and resources they require even after you're gone. This section will discuss the ways in which estate planning can be used to protect and provide for children with special needs.

Overall, estate planning is an important step for parents to take to protect their loved ones and assets in the event of their passing. By working with an experienced estate planning attorney, you can develop a comprehensive plan that meets your unique needs and provides you with peace of mind knowing that your loved ones will be taken care of when you're no longer here to do so yourself.



# Wills and Trusts 101

## The Difference Between Wills and Trusts

When it comes to estate planning, two of the most common tools are wills and trusts. While both of these documents are used to distribute assets after you pass away, they serve different purposes and have different benefits. In this section, we will discuss the differences between wills and trusts.

A will is a legal document that outlines your wishes for the distribution of your assets after you pass away. It allows you to name an executor who will be responsible for carrying out your wishes and can also name a guardian for your minor children. A will is a good option for those with smaller estates or who want to keep their estate planning simple.

On the other hand, a trust is a legal entity that holds and manages your assets during your lifetime and after you pass away. It can be used to manage assets for the benefit of your beneficiaries and can provide more control over the distribution of your assets after you pass away.



## Determining Which Option is Best for Your Family

Choosing between a will and a trust can be a difficult decision. It's important to consider your unique needs and goals when deciding which option is best for you and your family. In this section, we will discuss the factors to consider when making this decision.

One important factor to consider is the size of your estate. If you have a large estate with multiple assets, a trust may be a better option as it can provide more control over the distribution of your assets and can offer various tax benefits. However, if you have a smaller estate or prefer to keep your estate planning simple, a will may be a better option.

Another factor to consider is your goals for your estate. If you have specific wishes for the distribution of your assets, a trust may be a better option as it allows for more control and specificity. However, if you prefer a more straightforward approach to your estate planning, a will may be a better fit.

For younger parents, testamentary trusts may also be worth exploring. A testamentary trust is a hybrid tool that combines features of both wills and trusts. It is essentially a contingent trust that only comes into effect under limited circumstances, often tied to the ages of children. This can be an ideal solution for parents who want to ensure their children receive assets in a controlled manner, such as when they reach a specific age or milestone, rather than all at once.

While there is no one-size-fits-all answer to whether a will or trust is the best fit for an individual or family, we'll explore some general guidelines to consider.



# Choosing a Guardian for Your Children

## What to Consider When Choosing a Guardian for Your Children

Choosing a guardian for your children is one of the most important decisions you will make as a parent. The thought of leaving your children behind is difficult, but it is crucial to plan for their care and well-being in the event of your passing. Here are some things to consider when choosing a guardian:

1. **Values:** It is important to choose a guardian who shares your values and beliefs. Consider their lifestyle, religious and moral beliefs, and parenting style.
2. **Age:** Choose a guardian who is an appropriate age to care for them. You want someone who will be able to care for your children until they are adults meaning that elderly parents may not be the best option.
3. **Location:** Consider the location of the guardian. Will your children need to move far away from family and friends? Will they need to change schools?
4. **Relationship:** Choose someone who has a close relationship with your children. This will help them feel comfortable and secure in their new living situation.
5. **Financial Situation:** Consider the financial situation of the guardian. Will they be able to provide for your children's needs?



## How to Ensure Your Children are Taken Care of in the Event of Your Passing

Choosing a guardian is just the first step in ensuring that your children are taken care of in the event of your passing. Here are some additional steps you can take:

1. **Create a will:** A will is a legal document that outlines your wishes for the distribution of your assets and the care of your children. It is important to work with an experienced estate planning attorney to create a will that meets your needs.
2. **Name a guardian in your will:** Be sure to name the guardian you have chosen in your will. This will make your wishes clear and legally binding.
3. **Consider a trust:** A trust can help ensure that your assets are managed properly for the benefit of your children. It can also provide for their education, healthcare, and other needs.
4. **Create a letter of instruction:** A letter of instruction can provide valuable information to your children's guardian. It can include details about their daily routine, medical needs, and important contacts.

By taking these steps, you can help ensure that your children are well-cared for and that your wishes are carried out in the event of your passing.



## Conservatorships for Minors

In addition to guardianship, it's important to understand the role of conservatorship, or guardian of the property in New York, for minors. While a guardian of the person is responsible for the physical care and well-being of the child, a guardian of the property is appointed to manage the child's financial affairs and assets.

A guardian of the property may be necessary if a minor inherits significant assets, such as life insurance proceeds, real estate, or other financial resources. A court-appointed guardian ensures these funds are managed responsibly and used solely for the benefit of the child until they reach the age of majority (18 in New York). The court also requires annual financial reports to ensure proper oversight of the minor's assets. When planning for your child's future, you may want to:

- **Appoint the same person as both guardian of the person and guardian of the property for simplicity**, ensuring one individual manages both the child's care and financial needs.
- **Appoint separate individuals if you believe one person is better suited for care and another has stronger financial management skills**. This can create a helpful system of checks and balances.



# Managing Your Estate

Planning for the distribution of your assets after your death can be an emotional and challenging process. However, it is a critical step in ensuring that your loved ones are taken care of in the way you intend. In this chapter, we'll discuss how to develop a comprehensive estate plan and provide tips for managing and updating your plan over time.

## Developing a Comprehensive Estate Plan

An estate plan typically includes several legal documents that outline your wishes for the distribution of your assets and the management of your affairs after your death. Here are some of the key documents that you should consider as part of your estate plan:

1. **Last Will and Testament:** A will is a legal document that outlines how you want your assets to be distributed after your death. It also designates an executor to manage your affairs and ensures that your wishes are carried out.
2. **Testamentary Trusts:** A testamentary trust is a legal arrangement that comes into effect only under specific circumstances, typically outlined in your will. It allows you to transfer assets to a trustee for the benefit of your beneficiaries, such as minor children or disabled dependents.
3. **Powers of Attorney:** A power of attorney is a legal document that gives someone else the authority to act on your behalf if you become incapacitated or unable to make decisions for yourself. There are different types of powers of attorney, including financial and medical powers of attorney.
4. **Living Will:** A living will is a legal document that outlines your wishes for end-of-life medical care. It specifies the types of medical treatments you want or do not want if you become unable to make those decisions for yourself.



## Tips for Managing and Updating Your Plan Over Time

Once you've developed your estate plan, it's important to keep it up to date. Here are some tips for managing and updating your plan over time:

1. **Review Your Plan Regularly:** Life changes, and your estate plan should reflect those changes. Review your plan regularly, especially after significant life events like marriage, divorce, the birth of a child, or the death of a loved one.
2. **Keep Your Plan in a Safe Place:** Make sure your estate planning documents are stored in a secure location and that your executor and loved ones know how to access them.
3. **Communicate Your Wishes:** Make sure your loved ones understand your wishes for the distribution of your assets and the management of your affairs after your death.
4. **Work with an Attorney:** An experienced estate planning attorney can help you develop a comprehensive plan that reflects your wishes and meets your goals. They can also advise you on changes in the law or other factors that may require updates to your plan.

In conclusion, developing a comprehensive estate plan and keeping it up to date is essential to ensure that your assets are distributed according to your wishes and your loved ones are taken care of after your death. Work with an experienced estate planning attorney to develop a plan that meets your needs and goals.



# The Consequences of Not Having an Estate Plan for Your Children

No parent likes to think about the worst-case scenario, but it's important to consider what would happen to your children if you were to pass away without an estate plan in place. Without a clear plan, the distribution of your assets and the care of your children could be left in the hands of the court. This can have serious consequences for your family, including:

1. **Uncertainty about guardianship:** If you pass away without an estate plan that designates a guardian for your children, the court will decide who should have custody. This can be a lengthy and stressful process for your loved ones, and there's no guarantee that the court will choose the person you would have preferred.
2. **Asset distribution:** Without a clear plan in place, your assets will be distributed according to state law. This means that your loved ones may not receive the assets you would have intended for them. In New York, if a minor inherits assets, including life insurance proceeds, they will gain full control at age 18. However, without an appointed guardian of the property, the court will designate one to oversee asset management until the child reaches adulthood, ensuring responsible use of funds.
3. **Delayed access to assets:** If your estate goes through probate, it can take months or even years for your loved ones to gain access to their inheritance. This can create financial hardships and make it difficult for them to move forward.
4. **Taxes:** Without a proper estate plan, your loved ones may be subject to unnecessary taxes and fees, which can reduce the value of their inheritance.

To avoid these consequences, it's crucial to work with an experienced estate planning attorney to develop a comprehensive plan that protects your children and assets. With a clear plan in place, you can have peace of mind knowing that your children will be taken care of and your assets will be distributed according to your wishes.



# Choosing the Right Estate Planning Attorney

Choosing the right estate planning attorney is crucial to ensuring that your estate plan is comprehensive, legally sound, and tailored to your specific needs. Here are some things to consider when evaluating estate planning attorneys:

1. **Experience:** Look for an attorney who has significant experience in estate planning. Ideally, you want an attorney who has worked on estate plans for clients with similar needs and assets to yours.
2. **Specialization:** Estate planning is a specialized area of law, and not all attorneys have the same level of expertise in this area. Look for an attorney who focuses specifically on estate planning, rather than one who dabbles in it as one of many practice areas.
3. **Communication:** You want an attorney who is responsive to your questions and concerns, and who takes the time to explain complex legal concepts in language you can understand.
4. **Fees:** Estate planning can be expensive, but it's important to get an accurate picture of what you'll be paying upfront. Look for an attorney who is transparent about their fees and is willing to work with you to create a fee structure that meets your needs.
5. **Client Reviews:** Online reviews can be a helpful tool in evaluating an attorney's reputation and track record. Look for reviews from clients who have worked with the attorney in the past and pay attention to any recurring issues or themes.

Once you've found an attorney you're interested in working with, schedule a consultation to discuss your needs and get a better sense of whether they are a good fit for you. Remember, estate planning is a personal and often emotional process, so it's important to work with an attorney you feel comfortable with and trust to guide you through the process.



# Contact Us



## Brooklyn



44 Court Street, Suite 810  
Brooklyn, NY 11201



718-875-7584

## New York City



122 East 42nd Street, 4th Floor  
New York, NY 10168



212-355-0887



**BRIAN D. PERSKIN**  
& ASSOCIATES P.C.



[www.newyorkdivorceattorney.com](http://www.newyorkdivorceattorney.com)