

THE SKETCHLEY LAW FIRM, P. A.

Providing Compassionate Support & Guidance Through Elder Law & Guardianship

REASONS TO CREATE TRUSTS

March 2009

A trust is a fiduciary obligation, protected by the courts, whereby a trustee holds a property interest for the benefit or use of another person.

While this is a simple definition, there are a multitude of reasons, some simple and some complex, for creating a trust.

Preserve Public Benefits

Many people utilizing public benefits find that the programs may impose income and asset limits. This can potentially create a situation where a person who has been frugal, or who has pursued a property settlement, is being penalized.

Fortunately, there are trusts specifically allowed by federal law that can be created so a person can receive public benefits, use their assets to improve their quality of life, or place their income in a trust and still remain eligible for public benefits. Given the few options and expense for long-term care, these trusts are especially important for our seniors.

Protect the Beneficiary

Trusts also offer flexibility. For instance, the needs of some children may not yet be known. While older children may have already established themselves with education, employment, and a family, some children may not have reached that point. With a trust, monies can be set up to address the needs of the children later in life.

Trusts can be established so the person that creates the trust has more control over how and when the beneficiary receives property.

For children that may not have mastered the finer points of savings and economics, the

trustee can provide professional management of assets, as well as preventing creditors from attaching to a beneficiary's interest.

Another reason to create a trust may be to ensure that a spouse is provided for, but pass property at that spouse's death to designated children.

While a trustee may be an additional expense, this expense may be offset by other savings. For example, if the beneficiary is a minor, putting money in trust may avoid the expense and administration that is required if the court imposes a guardianship over the minor's property.

Avoid Probate

Avoiding probate can, in some situations, reduce costs and fees, including the costs of administration (attorney's fees and personal representative's fees). Trusts can also offer more privacy, since a probate is a public proceeding.

Avoiding probate can also pass property faster than a probated will, which can take time due to the various notices involved. Trusts may also be an effective way to avoid will contests, which, if successful, can destroy a person's estate plan.

Before deciding a trust is appropriate, it is important to remember trusts may also have drawbacks that need to be carefully considered.

If you would like to arrange for one of our attorneys to speak to your group or organization about this topic, please contact Tracy Rouse at (850) 894-0152. Past newsletters can be found at www.sketchleylaw.com.



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