

# FIVE REASONS YOU SHOULD CONSIDER A LIVING TRUST



**Douglas H. McPhail, PLC**

ESTATE PLANNING & ELDER LAW FIRM

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# Introduction

A living trust is a legal entity created during your lifetime to hold and manage your assets, offering enhanced privacy and flexibility in managing your wealth.

This guide empowers you to maintain control over your assets during your lifetime, while also providing clear instructions for their management and distribution after your passing. With a living trust, you can avoid the probate process, saving your loved ones time, expenses, and potential challenges.

By choosing a living trust, you ensure seamless asset management in case of incapacity and minimize the need for court intervention, providing continuous financial security for you and your family.

"5 Reasons Why You Should Consider a Living Trust" is a valuable resource for beginners and professionals alike, offering accessible insights into this powerful estate planning tool. Let this ebook be your guide to creating a robust and worry-free estate plan, securing your legacy, and providing lasting protection for the ones you cherish most.



## **PRESERVE PRIVACY AND AVOID PROBATE**

A fully funded living trust allows you to manage or transfer your assets upon sickness or death in complete privacy.

In the event of illness, a living trust can provide for the management of your assets and give instructions about your own care (or the care of those who depend upon you) without the involvement of the probate court. Unless your estate plan includes a living trust or a general durable power of attorney, your family may face a trip to the courthouse to obtain letters of guardianship or appointment of a conservator before anyone can make decisions about you or your assets.

Unlike a Will, a living trust does not have to be registered with the probate court at the time of your death; nor, does a living trust depend upon issuance of letters of authority from the court to allow your fiduciary to carry out your wishes. When you have a living trust, the value of your assets and the identity of your beneficiaries do not become a part of the public record.



# AVOID THE PERILS OF JOINT OWNERSHIP

It's a common temptation to try and avoid probate by placing your assets in joint ownership with a child or other person on the assumption that if you get sick or die, your joint owner will be able to "take care of everything" when something happens to you.

In most cases, joint ownership arrangements are a mistake. The moment you place someone else's name on your assets you are giving them access and control over what you own. The moment you put someone else's name on your accounts you risk making their problems your problems. Through no fault of your own, your joint owner's creditors may be able to garnish your savings.

Joint ownership arrangements cause a loss of control. Adding someone else's name to an asset is easy but getting them off is not. When you add another person on your asset title you may be giving that person a veto power on your personal decision-making. Many forms of joint ownership prevent you from closing accounts or selling assets without your joint owner's consent.

In the event of your death, jointly held assets automatically become the property of the surviving joint owner. When that happens, there is no legal guarantee that your surviving joint owner will share your assets the way you intend. In most cases, a living trust is the best legal planning tool for keeping control over your own assets at sickness or death.



A living trust is a great way to provide benefits or protection for minor children. If you die before your children reach legal age, a living trust can be used to provide for your child's education or other expenses until they are responsible enough to manage their own resources.

It is a planning mistake to name a minor child as a direct beneficiary of your life insurance or other retirement assets. Without a living trust, upon your death, your insurance underwriter or retirement plan custodian will not make any distributions to a minor without a court order appointing someone to manage those resources until your minor child reaches the age of 18. If you are divorced, more likely than not, that person will be your former spouse.



# PROTECTION FOR ADULT BENEFICIARIES

If your adult beneficiary has a problem with alcohol, drug addiction, or has other special needs, you may want to consider a living trust as a method for providing safeguards to inappropriate spending.

A trustee that you appoint can hold and manage resources for your beneficiary consistent with your instructions without fear that what you leave will be wasted or cause your beneficiary to be disqualified for public benefits.



# CONSISTENT RESULTS

A living trust is a great way to assure consistent and fair results at the time of your death. Transfer on death designations or direct beneficiary designations may avoid probate when you die but don't provide instructions about what to do if your child or beneficiary fails to survive you or becomes disabled.

When you name a living trust as the owner or beneficiary of your assets, your desired outcome is highly predictable because the instructions for all assets are contained in one private legal document that contains your distribution wishes.