



Greg T. Bailey & Associates, Inc.

Fighting for the Results You Deserve



Let us help you reduce disputes and set your legacy up for your success

Estate planning is the process by which an individual or family arranges the transfer of assets in anticipation of death. An estate plan aims to preserve the maximum amount of wealth possible for the intended beneficiaries and flexibility for the individual prior to death. A major concern for drafters of estate plans is federal and state tax law.

An estate is the total property (real and personal) owned by an individual prior to distribution through a trust or will. For example, cars, homes, land, household items, and bank accounts are items considered part of an estate. Estate planning distributes the real and personal property to an individual's heirs.

Why should you consider estate planning?

Losing a loved one can be devastating. Unfortunately, a good percentage of Americans pass away without a will or are unrepresented, leaving their estate in the hands of the court. Staying proactive in your estate planning will protect your assets and family. You want to ensure that your final wishes are adhered to. Most individuals do not know that the probate process is a long-and drawn-out process that can take a portion of the estate.

Comprehensive estate planning is your tool to help your family avoid expensive, timely probate court proceedings and reduce drama or estate disputes within the family. This is an area that most individuals do not know about or do not want to discuss. That is where we can help. Greg T. Bailey & Associates has been proudly representing individuals in

Douglasville and Atlanta, Georgia, and surrounding areas. Below is an overview of some documents you will need for a comprehensive estate plan. These documents should be prepared by [an attorney](#) based on in-depth counseling which takes into account your particular family and financial situation:

Living Trust

A **Living Trust** can be used to hold legal title and provide a mechanism to manage your property. You and your spouse or partner are the Trustee(s) and beneficiaries of your trust during your lifetime. You also designate successor Trustees to carry out your instructions as you have provided in case of death or incapacity. Unlike a Will, a Trust usually becomes effective immediately after incapacity or death. Your Living Trust is revocable, which allows you to make changes and even terminate it. One of the great benefits of a properly funded Living Trust is the fact that it will avoid or minimize the expense, delays, and publicity associated with the probate process.



You also need a Pour-Over Will if you have a Living Trust-based estate plan. For those with minor children, the nomination of a guardian must be set forth in a Will. The other major function of a Pour-Over Will is that it allows the executor to transfer any assets owned by the decedent into the decedent's trust so that they are distributed according to its terms.

Last Will and Testament

A Will, also referred to as a **Last Will and Testament**, is primarily designed to transfer your assets according to your wishes. A Will also typically names someone you select to be your Executor, who is the person you designate to carry out your instructions. If you have minor children, you should also name a **Guardian** as well as alternate Guardians in case your first choice is unable or unwilling to serve. A Will only becomes effective upon your death and after it is admitted by a probate court.

Bear in mind that a Living Will is different from the Last Will and Testament. It is, actually, a written directive instructing a doctor to withhold life-sustaining procedures in cases of terminal conditions.



Power of Attorney

A Durable Financial Power of Attorney allows you to carry on your financial affairs if you become disabled. Unless you have a properly drafted power of attorney, it may be necessary to apply to a court to have a guardian or conservator appointed to make decisions for you when you are disabled. This guardianship process is time-consuming, emotionally draining, and can cost thousands of dollars.

There are generally two types of durable powers of attorney:

- **Present Durable Power of Attorney:** Here, the power is immediately transferred to your estate planning attorney, and a “springing” or future that only comes into effect upon your subsequent disability as determined by your doctor.

When you appoint another individual to make financial decisions on your behalf, that individual is called an “attorney in fact.” Anyone can be designated, most commonly your spouse or domestic partner, a trusted family member, or a friend. Appointing a power of attorney ensures that your wishes are carried out exactly as you want them to be, allows you to decide who will make decisions for you, and is effective immediately upon subsequent disability.

- **Advance Directive:** Georgia estate planning laws allow you to appoint someone you trust such as a family member or close friend to decide the medical treatment options if you lose the ability to make the decision for yourself. You can do this by using an **Advance Directive** (previously called a **Durable Power of Attorney for Health Care**), where you designate the person or persons to make such decisions on your behalf.

You can allow your healthcare agent to decide about all healthcare or only about certain treatments. You may also give your agent instructions that he or she has to follow. Your agent can then ensure that healthcare

professionals follow your wishes. Hospitals, doctors, and other healthcare providers must follow your agent's decisions as if they were yours.

In conjunction with other estate planning tools in Georgia, an **Advance Directive** can bring peace of mind and security while avoiding unnecessary expense and delay in the event of future incapacity.

HIPAA Authorization Form. Some medical providers have refused to release information, even to spouses and adult children authorized by durable medical powers of attorney, on the grounds that the 1996 Health Insurance Portability and Accountability Act, or HIPAA, prohibits such releases. In addition to the above documents, you should also sign a **HIPAA Authorization Form** that allows the release of medical information to your Agents, your Successor Trustees, your family, and other people you designate.

Let us help you reduce disputes and set your legacy up for your success by simply putting your estate planning trust in our firm.

Give yourself and your family peace of mind and work with our firm. We keep the planning process compassionate and thorough and treat any dispute with the utmost respect and patience required. Do not leave your will and estate in the hands of a probate court. Contact us now to schedule your free consultation.

Whether you need assistance distributing an estate or you are looking to create a plan, we can help.

Greg T. Bailey & Associates services are dedicated to helping clients draft and execute estate planning. We also help resolve administrative discrepancies. We aim to keep your family's personal matters out of the courtroom. However, if your case goes before the judge, we will have your back every step of the way. We will protect your rights and those closest to you. We know the necessary steps you will need to take with estate planning in Georgia.

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