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Is Do-It-Yourself Estate Planning a Good Idea?

Software programs and Web sites selling customized, do-it-yourself wills and other estate planning documents seemingly offer a cost-effective and convenient alternative to visiting an estate planning attorney. After all, does anyone really want to discuss their dying wishes and health care directives with a stranger? On top of that, most people are wary of the fees an attorney would charge. In times of economic uncertainty, families tend to be even more concerned about the cost of legal advice and often put off planning that they hope will not be necessary until they are much older. But is online estate planning worth the initial cost savings? Are the documents created an adequate replacement for a consultation with a qualified attorney?

ElderLawAnswers recently reviewed three leading online estate planning services. ELA found that while the documents these programs produced were adequate, each online service had significant limitations in the information-gathering process that could lead to defects in the final product received. Moreover, no pre-packaged program can take account of crucial differences in state laws or encompass the complicated family arrangements so common in modern society. "As a result, the use of these off-the-shelf programs can lead to unfortunate results for their users and their families."

ELA reviewed three leading online estate planning programs: Nolo's Online Will, BuildaWill and LegalZoom. They purchased wills from all three, and also ordered a "living trust" from LegalZoom. Two experienced estate planning and elder law attorneys completed the documents and evaluated the programs. The costs ranged from \$19.95 for the most basic will to \$228.95 for a living trust. The reviewers found that "While all three programs make it very easy to create basic documents, they do not perform a detailed analysis of the user's true estate planning needs. Estate planning attorneys generally have detailed discussions with their clients about their situation, hopes and goals, including their relationships with their children. If a child has problems with debt, or is anticipating a divorce, or has special needs, certain portions of the estate plan must be adjusted. The online programs didn't ask these questions or address these potentially crucial issues.

The review found that the online programs suffered from a number of significant general defects, including: failure to address significant variations in state laws (and probate laws vary greatly from state to state); failure to address contingencies such as who may receive assets if the primary recipients named in the will predecease the willmaker; and failure to address significant differences in the tax laws of the various states.

The study gave a number of examples of cases where do-it-yourself planning went terribly wrong. The following are just two of these illustrations:

“There was the Massachusetts man who used a pre-packaged will form to leave his home to his wife and his four grown children. This sounds fine, except that the will didn't give the wife the option to remain in the house for the rest of her life. A court case ensued because the children, who possessed the majority interest in the property, could have legally forced the wife to move.

In another case, after a man passed away his son found his will, which the father had purchased online. The will left specific items and bank accounts to certain people. But in the years after the man had executed the will, some of his beneficiaries had died and some of the specific items mentioned in the will dropped out of his estate. Cars were sold, accounts closed and new ones opened. His will had made no provision for what to do if a beneficiary died and it had no "residuary clause" to tell his executor where items not specifically mentioned in the will should go. Much of what was in the man's estate passed according to his state's intestacy laws, as if he had never made a will at all. Trying to save money, the man had cost his intended heirs dearly.”

For careful evaluation and drafting of estate planning documents to protect the ones you love and the assets you own, call us today at 866-ELDERLAW.