Special Report for New and Young Parents

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Congratulations! You have your first child. Or perhaps you have a 3 year old and a 7 year old. A well meaning friend or family member told you it was time to get a will and to look at buying some life insurance. Sounded like great advice. So . . . you scheduled an appointment with the lawyer who handled your speeding ticket. He (or she) was reasonable and did a good job.

The meeting went something like this. He asked what it was that you owned. You told him you had just bought a house, but that you didn't make much of a down payment. You told him you were going to get some Life Insurance, but hadn't done so yet. You also have a couple of cars on which you are making payments, and are just starting a 401-k at work. Other than that you have the stuff in your house, and that's about it.

Knowing that this was your situation he suggested that all you needed was a simple will to name your guardians. The wills basically said I leave everything to my spouse, and if my spouse is not alive, then to my kids equally.

After you took care of that you went to see the insurance agent. You knew her (or him) because you bought your homeowners and automobile policy from her. She told you that you should each buy a $50,000 policy, name each other as the beneficiaries, and then your kids as contingent beneficiaries. Although it was expensive, she recommended "Whole Life", because it builds cash value, and because the premium never goes up.

Everything was taken care of – you have protected your children.

Or . . . so you thought.

Let's take a look at what happens when the unthinkable tragedy occurs. There is a car wreck. Your children are now orphans.

Here's the good news: Your guardian is named in your will. And that's about the end of the good news.

What about the life insurance?

Well, you named your kids as the "contingent" or secondary beneficiaries. Since they are under 18 years old the money must be paid into a "Conservatorship".

What's that?? Well, it's sometimes called “Living Probate”. Someone, usually a family member, applies to the probate court to be appointed to take care of the money. The money is then deposited into a CD, or other similar investment approved by the Court. Sounds okay, doesn't it?

OOPS! I forgot to mention that a lawyer had to be hired to set up the conservatorship. Several hundreds of dollars were used to pay the lawyer. More money had to be paid for filing fees, and a “Bond” had to be posted that cost several hundred dollars to make sure that the person appointed doesn't steal the money. So, now your kids have spend at least $1,000 of the insurance money. But, at least it's there for them.

Well, sort of. The person you appointed as their Guardian wants some of the money to pay bills, buy clothes, etc. Guess what? The conservator has to ask the judge if that's okay. It will be, of course, if the amounts are appropriate, but you spend more money with the lawyer getting that done. Oh, and another thing – every year the lawyer has to prepare a “settlement” in a very specialized format to tell the Court what's going on with the money. Did I also mention that every year that bond has to be renewed and a new premium paid?

Speaking of probate, your house needs to be sold, along with your cars and all of your personal stuff. That's okay, you say, you had a will and appointed a “Personal Representative (PR)”, commonly known as an executor. OOPS!! I guess you didn't realize that Wills only operate through the Probate system. Until a judge “blesses” the will and “admits” it to Probate, it doesn't do anything. So, your PR has to hire a lawyer, pay filing fees, publication fees, etc. so that she (he) can be appointed, and then try to sell the stuff. Six to twelve months later, the house has been sold, the bills paid, etc., and the money that's left gets paid to the Conservator along with the Insurance money. Your kids are now short a few thousand dollars more.

Starting to get the picture? Well, there's more bad news to come.

Since the judge will only let you put the Conservatorship money in CD's, it doesn't earn much. By the time you pay the legal fees, and perhaps Conservator fees, it may actually lose money. Plus, the money is being used to take care of the kids. Those two $50,000 policies are being used up pretty quickly.

Remember why you bought those policies? Probably one of the things you were thinking about was paying for college. Let's assume that magically the $100,000 hasn't been completely depleted. When your child turns 18 the Conservator has to write them a check for everything that is left. No options, it has to happen.

What would you have done at age 18 with, say, $25,000? A lot of us would have had nice new cars, taken a spring break vacation, and maybe put a few thousand dollars back to pay for insurance and gas for the new car. Pay for college? I'll worry about that later. Chances are that when the child turns 19, there isn't much of the money left, if any. Maybe your child will be the frugal responsible one. Or, maybe your child will like to party and have a good time. There's no way to tell now.

It might be better. It might be worse. You might not have the will, and you may not have purchased the life insurance.

Is there a better way? Of course. It requires several things, however.

First, it requires a “Paradigm Shift” in thinking. If you aren't familiar with this term, look it up. It basically means a complete re-orientation as to how you look at a situation.

Secondly, you need to be dealing with a financial advisor who understands the types and amounts of life insurance that young parents should be buying.

Finally, you need to be doing “Trust-based” Planning. No, trusts are not just for the wealthy. But, more on that later.

As to the Paradigm shift. You may be spending more money to accomplish what you really want to do. Maybe not a tremendous amount, but some. Only you can decide if your kids are worth it. **Is that a challenge? You bet it is.**

Not only that, you may have friends, advisors, family, etc. tell you that you are nuts, that you are doing the wrong thing, that you don't need to do “all that”. They are well meaning, but in most cases they simply don't understand. After you become educated, you can educate them, or you can just move on knowing you are doing the right thing.

Let's talk about the Life Insurance. There are two basic types, with many variations of these types. The first is Term Insurance – often called “pure” insurance. You pay a premium, and if you die, the policy pays out to whoever is named. If you life, the Insurance Company keeps the money. A lot like your homeowners or car insurance. Often you buy it for a fixed period of years, ten, fifteen, twenty, etc., and the premium stays level for that period of time. The good news is that you can buy a lot more insurance now, when you really need it. As an example, a couple age 30 and in good health can buy $500,000 on each of them for somewhere around $60 a month. Now – here's my disclaimer. Insurance premiums vary based on a whole bunch of factors – age, health, amount purchased, and length of term just to name a few. I'm just trying to give you some idea. By the way, the $500,000 I talked about may seem like a lot, but frankly, it's probably the minimum you should consider on EACH parent. Remember, these are your kids we're talking about.

The second kind is called “Whole Life”, or its cousin, Universal Life. These generally provide a flat premium for your entire life, and build a “cash value”, that can be borrowed against or cashed out if desired. Now, let me be clear, there are certainly times that these are a good idea. However, for most young parents they are a lousy thing to do. You basically need as much insurance as you can afford, and don't need the cash value. So, why did the agent suggest the Whole Life? Let's give her the benefit of the doubt and say she truly thought it was the best thing for you in the long run. A nasty little secret, however, is that she likely made a lot more money selling you the Whole Life Policy. Save the whole life purchase for the time when it's appropriate. That's also why it's important to find the right financial advisor. When you do, remember them – they helped you with something that was best for you, even though they didn't make as much money. This advisor will be someone to deal with in the future.

So, now we've spent perhaps a little more money, or maybe not, and we have a more appropriate amount of life insurance. What do we do about all the probate issues, dealing with Court, and giving the money to the kids when they are age 18? With this much insurance money there will certainly be a lot more left at that time, maybe even more than you started with. As a short digression, this would be a time for your Trustee (the person who manages your Trust) to remember the guy who did the right thing and sold you the insurance that you really needed.

The short, simple answer is to do Trust based planning. No, you don't have to be rich to use a trust. You don't have to be named Rockefeller or Kennedy or Buffet or Gates. You just have to understand that it is the way that makes the most sense and does the best job.

Before we launch into Trusts, let's talk about the options. You can do a lot of what we are going to talk about by using a Will. It's less expensive up front, but as you now know, it involves the probate system along with its costs and delays. Also, most people who plan properly ultimately use Trust based planning. Starting today just puts you ahead of the game.

A second option that avoids the probate system to some extent is what we call Beneficiary driven planning. This is quick, easy and cheap – but you get what you pay for. For young parents it is just not worth it – it involves conservatorships for minor children, complete turnover to the kids at 18, and a variety of other problems.

So – let's talk about Trusts and what the costs are. With a Trust based plan you can effectively and efficiently avoid and handle all of the problems that have been raised, plus some we haven't even talked about. Here's a partial list of what we can do:

1. Allow for professional management of all money, and completely avoid court intervention or supervision.
2. Allow for the best possible management of assets (money and property) if you, the parents, are disabled.
3. Distribute funds to or for the benefit of your children when they need it, and in the amounts
4. Invest money in the manner that makes the most sense, whether for grown, income, safety, etc.
5. Prevent children from receiving a bunch of money at age 18.
6. Protect children's money from “Creditors and Predators”, such as divorcing spouses.
7. Encourage children to be productive members of society, and not give them the opportunity to “live off the fat of the land”.
8. Completely avoid probate and the accompanying expenses and delays.
9. Appoint guardians for children, both in the event of death AND disability.
10. Provide a mechanism to handle money if people die in the wrong order or at the wrong time

If you'd like more information on Trusts, visit our website at www.KCTrustlaw.com and download our pamphlet “What is a Trust”.

So – why doesn't everybody use a Trust Based Plan?

Well, many people just don't understand, think they aren't appropriate, or think they are only for “rich” people. I hate to say it, but some lawyers would rather not use them so that they can generate the much larger probate fees – hopefully those lawyers are few and far between. Another nasty little secret is that lawyers would make a lot more money if trusts didn't exist and all estates were handle through probate.

The most common answer, however, is that they are more expensive, at least up front.

You get what you pay for.

Here's what we have done in an effort to deal with the costs. We have developed a special Trust Based Plan for New and Young Parents. This plan is not appropriate for people at later stages in life, or who don't generally fit the situation we have described. At the risk of being repetitive, it is designed for young couples (or single parents for that matter) who are just starting out, maybe have a house with a mortgage, cars with loans, perhaps starting their 401-k's, etc, but who have committed to purchasing an amount of Life Insurance commensurate with their obligations and responsibilities.

Our fees are $1,295. Sound like a lot? Of course it does! In order the soften this blow we offer two payment options. If you can pay us up front, we discount it by $100. Otherwise, we accept $95 up front, and you give us a credit card authorization to charge $100 per month for 12 months. So, in other words, for a year it costs you $160 a month, using the Insurance premium that I've used as an example, then you are down to only paying for the Insurance.

In addition to the Trust, we also provide you with a Durable Power of Attorney for backup disability management, and a complete, up to date, powerful set of Health Care documents.

More importantly, you have taken care of your children in the best possible way should the worst possible thing happen. Finally, you have built a solid planning base that you can use for the rest of your life. We often tell our clients, of all ages, that it is our job to plan for the worst, hope for the best, and make sure our planning deals with that as well.

Questions? Email us or call us.

Ready to start? Call us or use our website to set an appointment. You won't owe us a nickel until you have made your final decision.

One final word – it is probably best to wait until after you have visited with us the first time to actually apply for life insurance. If a financial advisor has suggested that you contact us, you can start to lay the groundwork with the advisor. If you don't have an advisor we'll be happy to suggest someone to you.

About Richard J. Herndon

Rick Herndon has been practicing in the areas of Estate Planning, Living Trusts, Probate Avoidance, and Estate Settlement for over 25 years. He received his Bachelor's Degree in Accounting from Northeast Missouri State University and his Law Degree from the University of Missouri at Kansas City. Clients include individuals with estates of all sizes as well as small business owners throughout the Midwest. Rick is a member of Wealth Counsel, a nationwide organization of attorneys dedicated to providing their clients with highly personalized, state of the art planning.

He has taught classes on Estate Planning and Living Trusts for various organizations and has also presented his own seminars in those areas. His practice philosophy centers on educating clients as to their options and implementing their wishes using team based approach which may involve other financial advisors and consultants. Rick has been extremely active in civic affairs. He has previously served on the Kearney Board of Education and also as a Director of the Kearney Fire and Rescue Protection District. He has previously served on the Pastoral Council of the Church of the Annunciation in Kearney, and is an active member of the Knights of Columbus. Rick has coached youth baseball and softball for over fifteen years. He and his wife, Cheryl, have been married for 34 years and have three children and five grandchildren.

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