People change, relationships end, and new relationships develop. New families form from the pieces left from relationships that ended due to death or divorce. And those new beginnings are wonderful.

But they still don't automatically lead to happily ever after. Sometimes, the legal remnants of previous relationships leave directives in place that can interfere with expectations. Other times, the measures people expect to protect them have been swept away by changes in circumstance or legal status.

When it comes to your property and the law, it is best not to assume anything but to get the facts from a knowledgeable attorney. Often, blended families need to take specific legal steps to ensure that their expectations for the family actually come to pass.

Every family is unique, so your plans need to be tailored to your family's situation and goals. This is not possible using a form from the back of a book or generic estate planning software. You need to connect with an estate planning attorney who can review the big picture and create a plan to cover all the bases. Your plan does not need to be complex, but it does need to take all of your circumstances into account.

What Happens if You Do Nothing?

If you don't have existing estate plans, then Texas law determines what will happen to your property when you or your spouse passes away. The law may operate in ways that you do not expect, so you need to understand it. Many people assume that if they do not have a will or other estate planning documents, their property automatically goes to their spouse. But the reality is far more complicated. Property is treated differently depending on whether it is community or separate property. Section 201.002 of the Texas Estates Code specifies that the separate property is divided so that 1/3 goes to the spouse and 2/3 to the deceased person's children. Even marital community property may not go entirely to the spouse. If the person who passed away has children from another relationship, then the deceased person's interest in the property shared in marriage partially belongs to those children. Families may need to sell everything to make the appropriate legal

allocations. The situation can be complicated and extremely disruptive. What do you do when you own 1/3 of a sofa?

The default laws of Texas may also have unintended effects if you have old estate planning documents that are no longer valid due to changes in the law or changes in circumstances. For instance, if you created a will during a previous marriage, the provisions dealing with your former spouse and your former spouse's blood relatives are essentially nullified because of Section 123.001 of the Texas Estates Code. The former spouse and relatives of your spouse who are not also your relatives are treated as if they are dead. If you wanted to leave property to your ex or your mother-in-law, or you planned to have your former sister-in-law manage property in trust for your children, all those appointments are no longer valid unless your will includes a specific provision that overrides the law. So you need a new will or other estate planning documents, even if you liked the provisions in your old will.

While courts interpret wills differently after a divorce, the same is not necessarily true of other plans made long ago. If you have named a former spouse as beneficiary of your life insurance policy or recipient of proceeds from your bank account, the law may invalidate the designation, or it might not. You need to go through every asset and make sure that plans are in place to transfer it to the right person upon your death.

Planning for Incapacity

Many families of all types fail to plan for a situation where an adult becomes incapacitated and unable to manage their financial affairs or health issues. An accident or illness could put you in a coma at any age, so it is important for all adults to have emergency documents prepared. Every adult should have legal provisions in place to enable a trusted family member or friend to access accounts and pay bills, and they should have health care documents that allow a trusted family member or friend to make medical decisions, receive medical information, and ensure that doctors follow their advance directives for medical care.

If you have never created these documents, or if you had documents prepared years ago or in another jurisdiction, this is a good time to update them. The person

you designated to act on your behalf may no longer be in a position to help, or their decision-making may no longer align with yours. Older documents may be ineffective due to changes in the law. If you named a former spouse or someone on their side of the family to act for you, their authority may no longer be valid.

Discuss Expectations for Children from Previous Relationships

It can be difficult to sit down with your current partner to discuss financial plans and expectations regarding children from your previous relationships. But this is the first step toward preventing discord, uncertainty, and animosity in the future. You and your current partner need to understand how each of you wants to handle property you owned before you got together, as well as how you will deal with property acquired together.

While it is beautiful to assume that you do not need legal instructions because you trust that your family members will “do the right thing” after you pass, that approach is based on a series of dangerous assumptions. Unless you leave explicit instructions backed by legal authority, your family may not know your wishes, and they may have conflicting expectations that conflict with your goals. Even if they do understand what you want, they may not have the legal authority to carry out your plans. That is because Texas law has default provisions that govern your property unless you have legal documents that override them.

So, the first step is to decide how you want property to be allocated, and the second step is to meet with an estate planning attorney who can develop plans to protect your family now and in the future.

Components That May Be Part of Your Plan

At one time, estate planning for most people consisted of drawing up a will and nothing more. Now, however, there are more options for customizing plans so that you have more control over what happens and your loved ones have less work to do after you pass away. Tools your estate planning attorney may suggest for

protecting and transferring property may include:

- Making strategic beneficiary designations
- Re-titling property with additional ownership interests
- Preparing springing powers of attorney that only take effect if certain events occur in the future
- Establishing a revocable living trust to enable the property to pass outside the probate process
- Purchasing life insurance policies to balance inherited property
- Creating irrevocable trusts for specific purposes, such as education or to protect assets from tax liability or debts
- Healthcare directives, including medical powers of attorney, living wills, and HIPAA authorizations
- Adding payable on death clauses to bank accounts

Once plans are prepared, it is important to take appropriate follow-up actions to ensure they work as intended. For instance, after setting up a trust, it is necessary to transfer property into the trust. For real estate, this requires creating a new deed. For vehicles, you generally need a new title.

Choosing Family Members for Authority Roles

When one person passes away or becomes incapacitated, another person will need to take on leadership roles. It is important to give careful thought to the individuals you want to fill those roles. This can be tricky in blended families, so it is wise to be open in discussions and state your choices in no uncertain terms.

You need to understand what the individuals you nominate are expected to do, and you need to ask them whether they agree to accept the responsibility. Then you need to make sure they have the authority to fulfill their roles and know where to find the information they will need to do what must be done. This could be serving as executor of a will, trustee of a trust, conservator of a minor, and other roles. It is generally a good idea to have a backup candidate named for each role. Then, every few years, you should review the individuals named to see whether they are still willing and able to fulfill their functions when the time comes.

Having leadership roles established long before they are needed can prevent uncertainty and conflict in the future. Many families find it helpful to split responsibilities. For instance, one child might be designated to handle certain financial matters, while another is named to serve as the agent for health care decisions.

Protect Your Family with the Right Planning

In many blended families, a polite upbringing ensures that everyone gets along in social interactions, but uncertainties lurking in the corners are suppressed but never addressed. When a stressful situation arises, such as a death or illness, those uncertainties can cause arguments that destroy relationships. But the problems can be prevented by open preparation and appropriate planning.

When everyone knows what to expect and what to do, a crisis can be addressed with minimal delays and no distress. Family members will know how to support one another, and transitions will be much less painful. This is particularly important for blended families.

At The Nordhaus Firm, we know how to prevent the common problems that often disrupt blended families in transition. Whether you have plans you'd like reviewed or you're starting from scratch, we invite you to schedule a complimentary consultation to discuss how we can protect your family's future. To get started, just call 214-726-1450 or contact us online to schedule your free consultation.