You invested significant time and money into the process of creating your estate planning documents, so they are valuable. It might seem logical to store those valuable documents in a safety deposit box where they can be protected from damage or theft. But before you do that, it is important to think carefully about the potential problems that could result.

Documents in Need of Protection

Before discussing the options for storing estate planning documents, it is helpful to understand just what those documents are. The estate planning documents you need to protect include your:

Will
Durable power of attorney for finances
Health Care power of attorney
Living Will
Trust
HIPAA authorization or other privacy authorization forms

These documents authorize people you trust to make decisions on your behalf in an emergency, communicate with doctors, and handle financial matters if you are incapacitated or after you pass away. To use that authorization, those people need to have the original copies of the documents when the time comes.

Using Safety Deposit Boxes

A safe deposit or safety deposit box is a small metal vault that you rent from a bank or credit union to store valuable property. Usually, a safety deposit box has two locks on it

and requires two keys that must be used together for it to open. The person who rents the box gets one key and the bank keeps the second key. However, bank employees do not inspect the items in the box and when the box is opened, the person renting the box is usually left alone to view the contents in private.

Before agreeing to open the box, the bank will want to see identification to prove that the person presenting the key is authorized to access the vault. Generally, the only ones authorized to open the box are those people with their names on the bank documents. If your agent or executor was not around at the time you set up the safety deposit box, they may need to get a court order to access the box. The documents that prove their authority to do so are locked in the box. So this can pose a problem and at the very least, a delay.

Adding the name of your agents and executor to the safety deposit box could help, assuming they are aware of the box and able to access it during bank operating hours. Texas law does allow a spouse, parent, or adult child to access a safety deposit box after your death, but this will not help with documents that may be needed in case of incapacity.

Alternative Ways to Store Estate Planning Documents

Instead of storing original documents in a safe box at the bank, many estate planners recommend storing documents in a safe at home on an upper shelf to protect documents from flood damage. They should ideally be kept in a fireproof safe.

You can also deposit a copy of your will with the clerk of the court for a nominal fee.

While it is good to keep an online file of estate planning documents for reference, these will not be considered originals so they cannot be used to establish authority to take action such as accessing accounts or opening probate.

At The Nordhaus Firm, we provide full protective plans for our estate planning clients. If you'd like to discuss options for updating and storing your documents, just give us a call at 214-726-1450 or contact us online.