Marriage rates may be declining, but that does not mean that the number of couples living together in committed relationships is decreasing in any way. Many people see no need to go through the formalities of marriage. Others are prevented from marrying their partner due to financial or legal complications. Regardless of the reason for not marrying, these couples need to be aware that the laws of Texas do not afford them the same protections and courtesies as married couples. That means that to protect each other, unmarried couples need to make sure they work with an estate planning attorney to ensure that they establish the legal rights they will need in emergency situations or the eventual transitions in life.

Health Care Documents

Every adult should have certain health care documents prepared as part of their estate plan—even if those documents are the only planning documents they have. In many situations, medical professionals are only permitted to discuss a patient's condition or needs with individuals who have specific legal authorization acceptable under the federal Health Insurance Portability and Accountability Act or HIPAA. For that reason, it is a good idea to have your attorney create a universal HIPAA release that authorizes healthcare providers and insurance companies to share information with your partner.

In addition, you should have your estate planning lawyer prepare a medical power of attorney to enable your partner to authorize treatment and make medical decisions on your behalf if you should be unconscious or otherwise incapacitated. In many cases, doctors may allow a spouse or other family member to make these decisions, but an unmarried partner will be left out unless specifically given authority with a power of attorney document and HIPAA release.

Durable Financial Power of Attorney

If your partner becomes incapacitated due to an accident or illness and you are not married, you will not be able to access accounts to pay bills and manage other financial matters unless you have been given specific legal authority. This can have devastating consequences when an emergency strikes a couple living together.

Fortunately, there is a simple step to enable an unmarried partner to step in and handle financial matters in this type of situation.

An estate planning attorney can prepare a durable financial power of attorney for each partner to authorize the other partner to act on their behalf. The power can be broad to cover all types of legal and financial matters or the power can be limited to give access to only one or two accounts or a single legal matter. The power can also be set up so that it takes effect right away or that it only becomes effective if the person who grants the power is declared incapacitated by their doctor.

Property Rights

Unmarried couples do not have the same rights to community property as married couples. This impacts them if they end their relationship or when one spouse passes away. It is important to take steps to establish property rights to prevent what at best will be a confusing and inconvenient situation.

When someone passes away without a will or other estate plans prepared, the Texas laws of intestate succession determine who will handle their final affairs and who will receive their property. These laws favor naming a close relative to administer the deceased person's estate although another person, including a live-in partner, can ask the court for authority to manage the estate. However, the laws will allocate all of the deceased partner's property to one or more legal relatives, regardless of the deceased person's wishes or stated preferences.

Protect Your Partner with a Will or Trust

You can override the Texas intestacy laws and protect your unmarried partner and other loved ones by working with your estate planning attorney to create a will or trust. In a will, you can describe who you want to receive your property after you pass away, including any pets (because they are considered "property" under Texas law). To make matters easier after your death, instead of leaving property through a will that requires compliance with probate court requirements, you can leave your property through a revocable living trust instead. When you set up this type of trust,

whoever you name as your successor trustee can pay your final bills and distribute your property quickly and easily without the need for court authority.

Work with The Nordhaus Firm to Protect Your Partner

Regardless of how long you've lived together, how committed your relationship may be, and how intertwined your property interests may be, if you are not married to your partner, you lack the basic legal rights given to married partners. Fortunately, the Nordhaus Firm can create the right plans and documents to protect you during your lifetime and provide for the smooth transition of your property after you pass away. Contact us today to get started with a free consultation.