Beyond the Basic: Estate Planning Strategies for Modern Families

Today's families take many different forms. Some are blended through divorce and remarriage while others are built through long-term partnerships, adoption, or fostering. Families may include same-sex or opposite-sex couples; married or unmarried partners; or children from different relationships or no children. Many households also juggle the needs of aging parents or relatives with disabilities.

You can probably picture many other family arrangements. While no single standard family form exists in the United States, certain trends stand out. Americans are marrying later in life.[1] A growing share has never married.[2] Interracial, interethnic, and same-sex marriages are more common.[3]

As today's modern families evolve and become more diverse, so too must the estate planning strategies that protect them.

Blended Families

The term *stepfamily* has largely given way to *blended family* (or *bonus family*). However, they describe the same thing: a family that forms when partners bring children from previous relationships into a new household, possibly alongside children they have together.[4] And the issues these families face, both in maintaining family harmony and in planning their estate, can be complex, no matter what you call them.

Potential planning goals: Provide for a surviving spouse while ensuring that children from a previous relationship receive an inheritance. Some parents in blended families may also want to provide for stepchildren; however, this goal requires purposeful planning because state law does not automatically provide for them.

Strategies: A revocable living trust is an effective estate planning tool for parents in blended families. With a trust, your client can provide for their surviving spouse for their lifetime—for example, by allowing them to receive income from the client's trust (and possibly principal as well, under conditions your client sets)—while still preserving the remaining balance for children from a prior relationship. This approach helps prevent the unintentional (or intentional) disinheritance that may occur if everything is left outright to the spouse.

Trusts can also include detailed instructions about how assets should be used and what happens to any remainder. The key is finding the right balance of fairness and protection within the unique dynamics of a blended family, where emotions and relationships can be complex and solutions should be flexible and nuanced.

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[1] Carolina Aragão et al., *The Modern American Family*, Pew Rsch. Ctr. (Sept. 14, 2023), https://www.pewresearch.org/social-trends/2023/09/14/the-modern-american-family.

[2] *Id*.

[3] *Id*.

[4] "*blended family*, Oxford Learner's Dictionaries, https://www.oxfordlearnersdictionaries.com/us/definition/english/blended-family.

Unmarried Partners

The number of unmarried couples living together has steadily increased, more than doubling from 3.7 percent in 1996 to 9.1 percent in 2023.[5]

Whether couples choose not to marry for personal, financial, or other reasons, the main planning challenge with unmarried partners is that default inheritance laws still favor spouses and blood relatives, despite the uptick in cohabitating partners.

Potential planning goals: Ensure that a surviving partner is financially secure; can remain in the shared home (regardless of whether the deceased partner owned the home or the two of them owned it jointly); and has legal authority to make medical or financial decisions if the other becomes incapacitated. Couples may also want to provide for children from their relationship or prior relationships and avoid disputes with extended family who stand to inherit under state law.

Strategies: Because unmarried partners have no automatic inheritance rights and lack many legal protections from which married couples benefit by default, forward-looking estate planning is necessary.

A person can provide immediate or ongoing support for their partner in a will or a trust, although only a trust avoids the public and often costly probate process. Some forms of joint property ownership or carefully structured beneficiary designations (such as transfer-on-death deeds or beneficiary designations on retirement accounts) can help ensure that assets pass directly to the surviving partner.

Advance healthcare directives and financial powers of attorney are also needed to give partners decision-making authority in emergencies or while one partner cannot manage their own affairs. Without such strategies, partners risk being treated as legal strangers, and family members will likely be the ones making financial and medical decisions.

Loved Ones with Special Needs

Special needs is a broad term that encompasses many situations in which a person may require specialized services or support to manage everyday life.

An individual with special needs may have been born with a physical or cognitive disability, may require a wheelchair due to an accident, or may struggle with severe depression or anxiety. In some cases, their condition may qualify them for means-tested government benefits, which could be at risk if they were to receive a large inheritance outright. Whatever the situation, careful planning can protect them while still providing support.

Potential planning goals: Allow the loved one to receive an inheritance in a way that does not disqualify them from government benefits or put them at financial or personal risk. The goal may also be to encourage healthier behavior while ensuring their needs are met.

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[5] *Change in American Families: Favoring Cohabitation over Marriage*, Penn Wharton Budget Model (Feb. 19, 2025), https://budgetmodel.wharton.upenn.edu/issues/2025/2/19/change-in-american-families-favoring-cohabitation-over-marriage.

Strategies: A *supplemental needs trust* can provide financial support without jeopardizing eligibility for programs such as Medicaid or Supplemental Security Income (SSI). This type of trust is designed to limit direct access to the inheritance while ensuring that it is used for the needs of the person with the disability, with a trusted individual (the *trustee*) making distributions at their discretion.

For individuals without a functional disability but who may not do well with receiving a large sum of money all at once—for example, they struggle with money management or substance abuse—an *incentive trust* may be a helpful tool. This type of trust is not aimed at preserving eligibility for certain government benefits; rather, it allows the client to set conditions such as distributions tied to employment, education, sobriety, or other goals and milestones to provide support and protection for the beneficiary.

Sandwich Generation

The term *sandwich generation* refers to adults who support their aging parents and their own children. According to an AARP research report, about 16 million US adults meet this criterion, and almost one-third of family caregivers in the US have children or grandchildren under age 18 living at home while they also care for an adult family member or friend.[6]

Depending on the client's age, their child could be a minor under 18 or a young adult still working on gaining financial independence. Their parents may be entering retirement or well into their 80s or 90s. These different types of "sandwiches" may carry different balancing acts in terms of time, finances, emotions, and planning strategies. They also require different estate planning considerations.

Potential planning goals: Protect the client-caregiver while ensuring that their parents and children are cared for and that there is a seamless transition of decision-making authority, guardianship, and financial support if something happens to the client-caregiver.

Strategies: If the children are still minors, naming guardians is one key part of your client's estate plan. Your client can make guardianship nominations in a will or a standalone document, depending on state law, so a judge is not choosing a guardian without guidance or input from the parent.

Your client should also consider including a revocable living trust in their plan. A trust can do more than simply avoid probate; it can ensure that critical financial support for your client's parents and children continues even if the client becomes incapacitated. After the client's death, distributions can be structured to provide for their minor and young adult children in stages as they grow, while also supporting aging parents who may need assistance but should not have unrestricted access to the funds if they cannot manage their own affairs. This flexibility allows your client to protect everyone they care for in a way that balances their needs with responsible oversight.

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[6] *Caregiving in the US Research Report at 2, 4,* AARP (July 2025), https://www.aarp.org/content/dam/aarp/ppi/topics/ltss/family-caregiving/caregiving-in-us-2025.doi.10.26419-2fppi.00373.001.pdf.

Every family is different, especially within the evolving dynamics of the American family. More than ever, estate planning should avoid an out-of-the-box, one-size-fits-all approach and individually and collectively address the unique needs of each family member, now and in the future. If you have clients in any of the above-mentioned categories, it is important that they plan for their own future and that of their loved ones. Contact us to discuss ways we can partner to serve these clients.