

WHAT IS PROBATE? HOW TO AVOID IT FOR YOUR FARM.

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PROBATE COURT

Assets that are owned in the name of one person, or two if both persons die.

- Cars/Motorcycles/RV/ATV/Boats/Snowmobiles/Farm Equipment
- Business Interests
- Bank Accounts
- Real Estate – the Farm
- Stock Certificates/US Savings Bonds
- Accounts with NO Beneficiary Designations



INTESTACY

- The default laws that control who inherits what when a person dies, New Hampshire RSA 561.
- Surviving Spouse **DOES NOT** get everything unless there are no children or parents of the person who died.
- Children or Parents can inherit a portion of the assets immediately.
- No control over who is going to handle the Probate, nor any control over who is going to inherit.



LAST WILL & TESTAMENT

FIRST ESSENTIAL DOCUMENT

- Replaces the Intestacy Laws
- You can decide who is in charge
- You can decide who gets what
- The only place to declare Guardians for Minor Children
- Still a part of the Probate Court process – Fancy Letter to a Probate Court Judge



TRUSTS

Trusts can be used for a variety of purposes. They avoid Probate Court, but do not offer liability protection unless certain conditions are met.

- **Revocable:** One that can be changed by the Creator of the Trust.
- **Irrevocable:** One that cannot be changed by the Creator of the Trust.
- **Grantor:** (Trustor, Settlor, Donor) the Creator of the Trust.
- **Trustee:** Manager of the Assets of the Trust
- **Beneficiary:** Person who is entitled to inherit something after the death of the Grantor or upon certain conditions.



REVOCABLE TRUST BENEFITS

- Avoids Probate Court.
- Replaces Last Will & Testament as main document to transfer assets.
- Grantor owns the trust, all assets and is in charge.
- Allows Control by the Grantor (Creator) regarding who inherits and allows the Grantor to create conditions to inheriting.
- Can be revoked or changed by the Grantor.
- Private and confidential.



DURABLE POWER OF ATTORNEY

SECOND ESSENTIAL DOCUMENT

- Can be immediately effective or can “Spring” into action if you are unable to make financial decisions.
- Allows you to choose someone to pay your bills and manage your financial affairs.
- You can limit what powers you give your Power of Attorney.
- Avoids Guardianship proceedings.
- Can be revoked or changed at any time.



DURABLE POWER OF ATTORNEY FOR HEALTH CARE (ADVANCED DIRECTIVES)

THIRD ESSENTIAL DOCUMENT

- Only effective if you **CANNOT** make your own medical decisions.
- Can go in or out of effect depending on whether or not you can make a medical decision at the time.
- Allows you to specify whom you would like to make medical decisions for you if you cannot make them for yourself.
- Allows you to choose whether or not you would prefer life support if you are terminally ill or permanently unconscious.



THANK YOU FOR COMING

Stephanie K. Burnham, Esquire

Stephanie K. Burnham is a life-long resident of New Hampshire and focuses her practice in a variety of areas of estate planning, guardianships, probate and trust administration and real estate matters. Attorney Burnham has considerable experience counseling individuals and families regarding asset protection, transferring assets, avoiding and working through probate court. She works with clients on developing strategies to plan and prepare the appropriate tools to protect their family, businesses and assets. She assists families in estate and trust administration.

Attorney Burnham is a frequent speaker and author on estate planning, elder law, Medicaid and probate matters. She was recognized in March 2017 by the New Hampshire Bar Association Pro Bono Program for her “Distinguished Pro Bono Service” and has served as Chair of the New Hampshire Bar Association Ethics Committee since 2020.

For Additional Questions or to Schedule a Consultation:
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