LEGACY ASSURANCE PLAN

# LGBTQ
## ESTATE PLANNING

Despite advances in LGBTQ equality in the United States, there remain important distinctions in how members of the LGBTQ community need to organize their legal affairs, like estate plans, to ensure that they are not subjected to potentially discriminatory state laws.

The basic estate planning documents used by LGBTQ people and their straight allies are the same – a will, trust, medical directive and general powers of attorney. However, the drafting of these documents can look considerably different for LGBTQ people who may need to consider factors that many straight people do not.

An attorney can help prepare estate planning documents that are customized to your specific family situation and can circumvent any undesirable state laws that may exist in your area. This booklet will cover some of the most important estate planning topics for LGBTQ people, such as:

- Relationship status and estate planning
- Defining family, children and other beneficiaries
- How assisted reproductive technology may impact your estate plan
- Providing for changes to name or gender identity in your estate plan
- LGBTQ issues in general powers of attorney
- Using medical powers of attorney to name authorized hospital visitors or to designate LGBTQ-friendly treatment facilities

Going through the process of estate planning may bring up memories or feelings that are tempting to avoid. Having to reflect on estrangement from unsupportive family members who may need to be excluded from inheriting, being required to list a deadname (one's birth name used prior to transition) in your legal documents or facing the fact that the laws of your state might subject you or your family to unequal treatment, can be painful.

But for LGBTQ people and families, working with an attorney to create a comprehensive and customized estate plan can also be empowering and provide you with the security that your wishes will be followed and your family taken care of.

# Table of contents

Below is a list of some of the questions you can start to consider as part of your pre-planning process. Being prepared with answers to questions like these can make the process smoother and more efficient – and can help your attorney create a plan that will reflect your identity, your values and your wishes for the future.

## PRE-PLANNING QUESTIONS FOR LGBTQ INDIVIDUALS & FAMILIES

- What is your relationship status? Are you legally married to the person you consider your spouse/partner?
- What name, pronouns and gender markers do you use, and are these different from what appears on your legal identification?
- Whom do you define as your "children" or "family" and are any of those people not legally related to you?
- Whom do you want to raise your minor children in the event something happens to you? Is that person legally related to your children?
- Do you have any biological family members you would not want to inherit your property or make medical decisions for you if you are incapacitated?
- Have you ever used assisted reproductive technology?
- Do you have any cryopreserved genetic material, such as eggs, sperm or pre-embryos?
- Where do you want to receive medical treatment if you are unable to express your wishes? Do you know how to use the Healthcare Equality Index to select treatment facilities where your LGBTQ identity will be respected?

# LGBTQ ISSUES IN WILLS AND TRUSTS

## Relationship status and estate planning

*"In forming a marital union, two people become something greater than once they were. … [M]arriage embodies a love that may endure even past death. It would misunderstand these men and women to say they disrespect the idea of marriage. Their plea is that they do respect it, respect it so deeply that they seek to find its fulfillment for themselves. Their hope is not to be condemned to live in loneliness, excluded from one of civilization's oldest institutions. They ask for equal dignity in the eyes of the law. The Constitution grants them that right."*

Justice Anthony Kennedy, Obergefell v. Hodges (2015)

Prior to the Obergefell decision, in which the U.S. Supreme Court held that the Constitution guarantees the right of same-sex couples to marry, estate planning for some LGBTQ couples was more complex than it is today. However, even in a post-Obergefell world, issues surrounding the form of a couple's relationship are still some of the most important questions that must be addressed in estate planning.

**If my spouse and I were legally married after the Obergefell decision, how does that affect our estate planning?**

If you were legally married on or after June 26, 2015 (the date of Obergefell), your estate planning might look similar to that of non-LGBTQ married couples. That is, you will need the basic documents – a will, trust, medical directive and general power of attorney. However, even though the law now recognizes marriage equality, many LGBTQ couples find that they still have compelling reasons to ensure they have a highly customized plan in place that meets the needs of their particular situation. For example, if the extended family members of one or both spouses are unsupportive of the relationship, the couple may wish to have the additional privacy that a revocable living trust can provide.

**How is our estate planning affected if my partner and I never legally married, but entered into a domestic partnership or civil union prior to Obergefell?**

If you lived in a state that did not recognize marriage equality prior to Obergefell, entered into another legally recognized type of relationship and have not legally married post-Obergefell, it will be important to determine the current legal status of your relationship as part of the estate planning process. For example, in some states, like Washington, couples in domestic partnerships or civil unions were given an "automatic upgrade" to married status following Obergefell.

Because domestic partnership and civil union couples weren't required to take any additional steps in order to obtain this new marital status, some LGBTQ couples became legally married without realizing it – regardless of whether the couple was still together. If this situation applies to your relationship, your estate planning attorney can help you decide how to determine the legal status of your relationship and avoid potential legal confusion and complication.

**Are there differences in estate planning for unmarried LGBTQ couples?**

Estate planning is especially critical for unmarried LGBTQ couples. If you are not married to your partner, no matter how long you've been together, the law of intestacy (i.e., dying without a will or trust) considers you to be legal strangers and you normally will not have any rights to inherit property from each other unless you have an estate plan.

You may also not have the right to visit each other in hospitals or other care facilities, or to make financial decisions for your partner if they become incapacitated. Because only around 10% of LGBTQ individuals in the U.S. are married[1], most members of the community fall into this category and may require additional estate planning techniques.

# Defining family, children and other beneficiaries

One of the most important issues for LGBTQ parents when doing estate planning is the definition of who should be considered a "child" or "descendant." The traditional definition of a child as someone who is "born to or adopted by" the person writing the will or trust does not work for every family.

**If I'm not biologically related to my child, can my child still inherit my estate?**

With an increase in assisted reproductive technology, it is becoming more and more common that neither parent, or only one parent, is biologically related to a couple's children. When a child is genetically related to only one parent, and those parents are not legally married, it can be advantageous to do a "second parent adoption" which allows the non-biologically related parent to be legally recognized as the child's other parent. Unfortunately, only 17 U.S. jurisdictions permit second parent adoptions for unmarried LGBTQ couples.

If you live in one of the states listed on the right side in the chart shown on this page, and you are not biologically related to your child, and you are not married to your child's other parent, the law considers you and your child to be strangers. Your child may have no legal right to inherit from you if you were to die without an estate plan in place that specifically names that child.

| Only 17 jurisdictions permit second parent adoptions regardless of marital status | | |
|---|---|---|
| Second parent adoption permitted regardless of marital status | Second parent adoption limited to legally married couples only | |
| CA | AK | AL |
| CO | AR | American Samoa |
| ID | AZ | Commonwealth of the Northern Mariana Islands |
| IN | DE | FL |
| ME | GA | Guam |
| NJ | HI | IA |
| OK | KS | KY |
| PA | LA | MD |
| U.S. Virgin Islands | MI | MN |
| VT | MO | MS |
| | NC | ND |
| | NE | NH |
| | NM | NV |
| | OH | Puerto Rico |
| | RI | SC |
| | SD | TN |
| | TX | VA |
| | WA | WI |
| | WV | WY |
| | UT | |
| Only 44% of the LGBTQ population live in states that recognize second-parent adoption for non-married couples | | |

**Can I be named as guardian of our children if I am not married to my partner and am not biologically or legally related to our children?**

For unmarried LGBTQ couples in which only one of the partners is the legal parent of the couple's minor children, planning for the children's guardianship is crucial. Although the couple may consider themselves to be co-equal parents of the children, the law in many jurisdictions does not. If the parent who is legally related to the children dies without an estate plan in place, their partner will have to petition a court to be appointed as the children's guardian. It is possible that in some circumstances a court would choose to appoint a biological relative as guardian instead of the surviving partner, even if that relative has had little contact with the children.

The partner who is the legal parent of the children can nominate the other partner as the guardian for the children through their will. Although courts give such a nomination significant weight, they are not bound by that nomination if they determine that is it in the children's best interests to be cared for by someone else.

In addition to a will, having a trust in place that names the non-legally related partner as the trustee of the children's assets is another possible planning solution that may help ensure that partner's ability to remain in the children's lives. This issue can be one of the most challenging estate planning issues for LGBTQ families, but an experienced estate planning attorney can help families navigate these potential hurdles.

**How can I make certain my chosen family inherits my estate, rather than my biological family?**

For members of the LGBTQ community, the concept and definition of "family" may be different than for their straight allies. Chosen family refers to friends who become like family, and who provide kinship support that one's family of origin cannot provide for a variety of reasons. The process of coming out to one's biological family continues to be, for many, fraught with anxiety, uncertainty and fear of rejection. When a person's family of origin is unsupportive or openly hostile to their LGBTQ identity, chosen family may replace biological family members.

If you die without a will, your state's intestacy laws will govern who inherits your property. The default laws will favor your biological family members if you don't have a spouse. This could result in your parents, siblings or other extended family members being named as executor of your estate and inheriting your property. For LGBTQ people who would prefer that chosen family, rather than biological family, inherits your property and administers your estate, proper estate planning is a must.

# How assisted reproductive technology may impact your estate plan

According to a 2019 study, 78% of LGBTQ millennials (currently in their early 20s to late 30s) already have children or are considering having children in the future. This is a significantly higher percentage than for the Generation X or baby boomer generations (62% and 32%, respectively). For the first time, young LGBTQ people are considering parenthood at similar rates to their non-LGBTQ peers. Some of the reasons for this dramatic uptick in numbers of LGBTQ people who are interested in becoming parents include: the Supreme Court's Obergefell decision legalizing same-sex marriage, an increase in public acceptance of LGBTQ families, and advances in assisted reproductive technology (ART)[2].

Of the LGBTQ couples contemplating parenthood, 63% indicated that they will use ART, foster care or adoption[3]. Unfortunately, there are still significant barriers to adoption and foster care for LGBTQ people in the U.S. Twenty-seven U.S. jurisdictions either permit state-licensed child welfare agencies to refuse to provide services to LGBTQ families if doing so conflicts with their religious beliefs, or have no explicit protections prohibiting discrimination against LGBTQ people seeking to adopt[4].

Continued legal barriers to adoption and foster care, combined with advances in ART may mean that for LGBTQ people planning to become parents, ART is a more desirable and accessible option.

As of 2019, only around 5% of LGBTQ couples were using ART to become parents, but 40% of LGBTQ couples planning to become parents in the future were considering it[5], indicating that we may be on the precipice of a dramatic increase in the use of ART by LGBTQ families.

The types of ART most frequently used by LGBTQ parents include:

- Artificial (or intrauterine) insemination
- In-vitro fertilization (IVF)
- Intrafallopian transfer
- Intracytoplasmic sperm injection (ICSI) or intracytoplasmic morphologically selected sperm injection (IMSI)
- Donor conception (using donor sperm or donor egg)
- Traditional or gestational surrogacy
- Cryopreservation (freezing) of eggs, sperm or pre-embryos for future use

In addition to the legal, financial and medical hurdles LGBTQ families face when using ART, it is essential to understand the implications on estate planning for families that have been built in this way.

### How does using assisted reproductive technology affect my estate planning?

If you've ever used ART, you should have an honest conversation about this with your estate planning attorney so they can advise you of your rights under your state's laws and ensure this issue is explicitly addressed in your will or trust. How this issue will be addressed will depend on what type of ART you used and what the outcome was.

For example, if you and your unmarried partner used ART to have a child, you may need to ensure that your child is included within the definition of "children" in your estate plan. (See previous section on second parent adoption.)

If you have stored cryopreserved eggs, sperm, or pre-embryos, you should consult with an attorney regarding (1) whether your state law considers this stored genetic material to be "property" or a "person"; (2) what your rights are to the genetic material under state law and any pre-existing written agreements; and (3) whether you have the right to bequeath your genetic material to someone else through your will or trust.

### What happens to my frozen eggs, sperm or pre-embryos if I die without a will?

If you die without a will, your property may pass according to your state's law of intestate succession. Assuming that your state considers cryopreserved genetic material to be property, your next-of-kin may end up controlling the fate of your genetic material. An example of this occurred in 2014, when a Texas court awarded a deceased couple's frozen embryos to their 2-year-old son, stating that he could determine what to do with the embryos when he reached adulthood[6].

### Can I give my frozen eggs, sperm or pre-embryos to someone else in my estate plan?

The short answer is – maybe. It depends on your state's laws and whether you have entered into any pre-existing contracts or written agreements regarding the disposition of your stored genetic material after your death.

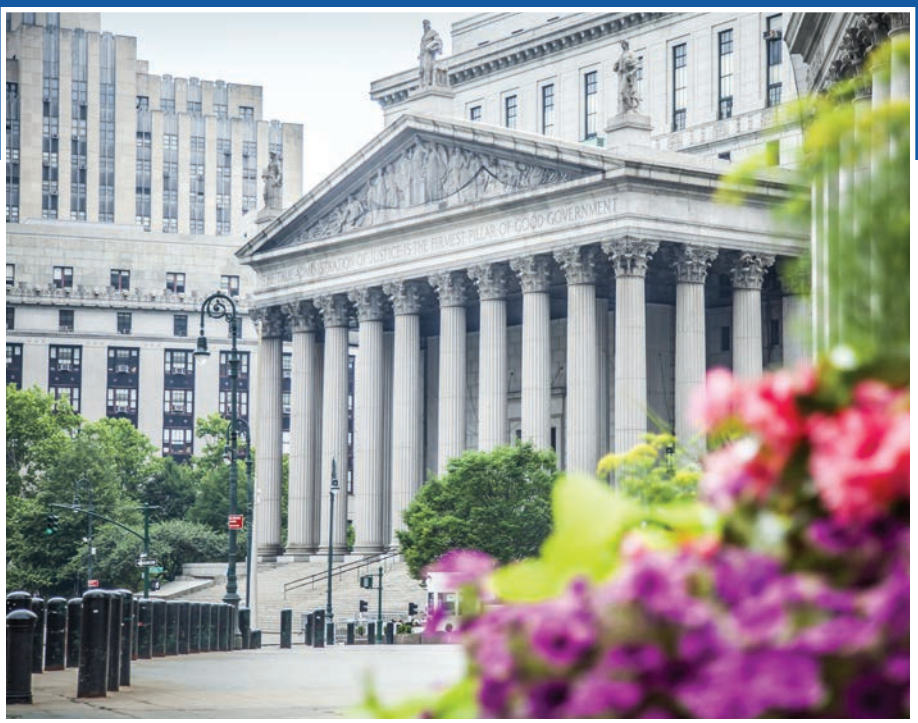
Different states have different laws pertaining to the custody/ownership, disposition, use and destruction of cryopreserved genetic material, such as eggs and sperm. Few states have adopted legislation that addresses the custody and disposition of cryopreserved pre-embryos.

Florida law makes the custody and disposition of eggs, sperm or pre-embryos subject to contract law and requires a couple with cryopreserved eggs, sperm or pre-embryos to enter into a written contract with their physician "in the event of a divorce, the death of a spouse, or any other unforeseen circumstance."[7] If there is no contract, then the person who contributed the eggs or sperm has legal ownership of that genetic material. However, the couple has joint legal authority over any pre-embryos, and if one member of the couple dies, the survivor retains sole legal authority over the pre-embryos[8].

In contrast to Florida law, the law of Louisiana treats pre-embryos as people and forbids their destruction[9].

Other states that do not have specific statutes addressing ownership of genetic material have emphasized an individual's right to refrain from procreating. For example, this right has been important in divorce proceedings where one member of the couple wishes to use the cryopreserved genetic material to have a child and the other member of the couple wishes to destroy the genetic material[10].

Because the intentions of the person contributing the egg or sperm are given substantial weight by courts in many states[11], it is important that individuals who choose cryopreservation for their genetic material clearly and explicitly document their intentions for any cryopreserved genetic material that may exist when they die. You should decide and make it clear whether you want your genetic material to be used by your spouse or partner to have a child, donated to science or another couple or destroyed after your death.



**If my frozen eggs, sperm or pre-embryos are used to produce a child after I die, does that child have a right to inherit from my estate?**

The possibility of so called "posthumously conceived children" (children who are conceived and born using the preserved genetic material of someone who has passed away) can make it difficult to determine who the "heirs" of the deceased parent are at the time of their death. If a child is conceived and born years, or even decades, after the parent's death, does the estate have to be re-opened? Will the heirs who received an inheritance during the probate process be forced to relinquish some of that money in order to provide an inheritance for a posthumously conceived child?

It is now clear that cryopreserved genetic material can still be viable after decades of storage. For example, in 2009, Stella Biblis was born to parents Chris and Melodie Biblis a record 22 years after Chris' sperm had been placed in cryogenic storage for future use[12]. As ART continues to develop, it is foreseeable that the window of time for a child to be conceived and born using cryopreserved genetic material will grow even longer.

There is a wide variety of state laws attempting to resolve the question of whether a posthumously conceived child may inherit from their deceased parent's estate.

California probate courts will allow a posthumously conceived child to inherit from the estate of their deceased parent if (1) the deceased parent specified, in writing, that their genetic material was to be used for the conception of their child; (2) a person is designated to control the use of the genetic material; (3) the designated control person gives written notice to the executor of the estate of the availability of the deceased parent's genetic material; and (4) the child is conceived using the deceased parent's genetic material and is in utero within two years of the parent's death.

For practical purposes, this may mean that the estate of a resident of California who stores their genetic material and leaves the specified written instructions will have to be held open for up to two years and nine months after the death of the parent, thereby creating a lengthy delay for other heirs who stand to inherit under the parent's estate[13].

Florida law, on the other hand, excludes a posthumously conceived child from inheriting under their deceased parent's estate "unless the child has been provided for by the decedent's will."[14]

Other jurisdictions, such as Hawaii, Missouri and Washington, D.C., give a posthumously born child (regardless of whether they were conceived before or after the parent's death) the same rights of inheritance as if the child was born before the parent's death.[15]

This is all to say that there is no consistency among the states when it comes to the inheritance rights of posthumously born children. If it's possible that you will leave behind preserved eggs, sperm or pre-embryos, you should consult with your estate planning attorney regarding what law applies to your situation and what provisions should be made within your estate plan to express your intentions regarding your genetic material.

# Providing for changes to name or gender identity in your estate plan

For transgender and non-binary people, it is critical to work with an experienced estate planning attorney who can ensure that your documents reflect your identity.

**Do I need to update my estate plan after I've transitioned?**

Yes, if you are a person of trans experience and your estate plan reflects your deadname, or your gender assigned at birth, you should work with an estate planning attorney to update your estate plan. Documents can be prepared that reflect your preferred name and pronouns. If you have not legally changed your name, your deadname may still need to be listed, however your preferred name should also be listed.

Your health care power of attorney should also be updated to reflect your preferred name and pronouns, and you may want to consider leaving additional instructions for your health care proxy. For example, if you are hospitalized and are unconscious, or otherwise unable to communicate with your health care providers, what would you want your health care proxy to tell your providers? This may include information regarding gender confirmation procedures or hormone therapy (if relevant) and reminders about your preferred name and pronouns so that you will not be misgendered or deadnamed during your recovery.

**What if a beneficiary of my estate transitions or changes their name?**

Whether or not you are a member of the LGBTQ community, you may want to ensure that the language used when referring to your beneficiaries is as expansive as possible, in order to accommodate any future changes to your beneficiaries' gender identities or pronouns. For example, if your will or trust uses the phrase "I give my home to my son, John" and later this child transitions, changes her name to Jane, and begins using she/her pronouns, there may be some question as to whether the gift is still valid or whether it lapses because you now have a daughter named Jane, not a son named John.

Your estate planning attorney will be able to suggest alternative language that can be used to ensure that your wishes are carried out regardless of whether a beneficiary changes their gender, name or pronouns.

**LGBTQ issues in general powers of attorney**

A general power of attorney allows you to name someone to act on your behalf with regard to managing financial, legal, banking, tax, property, education and digital asset decisions.

**Who is allowed to manage my finances if I don't have a general power of attorney?**

The only way for someone to obtain the authority to make financial and legal decisions for you while you are incapacitated is for that person to go to court and ask to be appointed as your legal guardian. Guardianship proceedings can be time-consuming, costly, and result in long delays in the management of your financial and legal affairs. Additionally, because anyone can petition the court to be appointed as your guardian, you may end up with someone you don't want in control of your affairs. If an unsupportive family member is appointed as your guardian, this could have negative consequences not only for you but also for your unmarried partner who may be prohibited from accessing bank accounts and other resources.

A general power of attorney is an essential element of estate planning for members of the LGBTQ community, particularly if you are not legally married.

# LGBTQ ISSUES IN MEDICAL DIRECTIVES

A medical directive (sometimes also called an advance directive) is a combination of two documents – a medical power of attorney and a living will. A medical power of attorney names a health care proxy who is authorized to make medical decisions for you in the event you are unable to do so. A living will documents your wishes regarding life-saving treatment in the event you are in a terminal or end-stage condition. Your medical directive should also include a HIPPA authorization.

Historically, medical directives have been extremely important to the LGBTQ community, and there are many stories of hospitals refusing to recognize the rights of same-sex partners and of biological family members excluding same-sex partners from visitation.

In a 2009 case that received national media attention, Janice Langbehn's partner of 18 years, Lisa Pond, collapsed suddenly on the first day of a family vacation. Lisa was taken to a Miami trauma center where she later died of an aneurysm. Janice fought in vain to receive updates on Lisa's condition and to be allowed to visit Lisa, along with the couple's three adopted children, while she lay unconscious in the hospital. However, when Lisa's sister arrived later, the hospital staff immediately provided her with an update on Lisa's condition and Lisa's room number. Janice was only permitted one five-minute visit with Lisa prior to her death.

In part as a result of the media attention that Janice and Lisa's experience received, new federal regulations went into effect in 2011 requiring certain medical facilities to prohibit discrimination in visitation based on a patient's LGBTQ identity and permitting patients to designate visitors of their choosing[16]. However, these rules, like all federal regulations, are subject to change, so it is wise to work with your estate planning attorney to prepare a medical directive and other appropriate documents that will give your chosen decision maker and visitors the access they need even if the law changes.

**Does a medical directive name people who can visit me in the hospital?**

A typical medical directive names another person to make medical decisions for you if you become unable to make decisions for yourself. It outlines their powers and your preferences regarding medical treatment and end-of-life decisions – but does not normally extend to naming approved hospital visitors.

State law and hospital policies dictate who is allowed to visit you in the hospital and may limit visitors to people related to you by blood or adoption. If you want to ensure that certain people, who may not be legally related to you, are permitted to visit you, or if you want to ensure that certain people who are legally related to you are not permitted to visit, you can work with your estate planning attorney to draft a customized medical directive that reflects these choices.

Properly drafted documents, such as a medical directive and a hospital visitation form, can help ensure that you are in control of who can and can't visit you while you're hospitalized. Contact your preferred treatment facilities to make sure that your documents are on file with them in case of an emergency.

**Can I use my medical directive to indicate a preference to be treated at an LGBTQ-friendly health care facility?**

As part of your medical directive, your estate planning attorney can help you leave instructions for your health care proxy. Because there are currently no federal anti-discrimination laws that protect LGBTQ patients in medical settings[17], you may wish to provide instructions listing your preferred treatment facilities and indicating any facilities at which you would not want to be treated.

The annual Healthcare Equality Index (www.hrc.org/hei) scores more than 1,600 health care facilities based on their policies and practices related to LGBTQ patients, visitors and employees. Some of the criteria that health care facilities are scored on include whether:

- Health records offer explicit options for patients to indicate that their current gender identity differs from the gender they were assigned at birth
- Health records offer a way for indicating a patient's sexual orientation if they volunteer this information
- Employees receive training on how to collect and record gender identity and sexual orientation data, and reminding them that LGBTQ status is confidential patient information
- Health records offer explicit options for capturing the patient's pronouns in use, and name in use if it differs from their legal name
- Patients are explicitly informed of their right to designate a person of their choice, including a same-sex partner, as a medical decision maker
- Visitation policies and procedures grant equal access to LGBTQ patients and their visitors[18]

You may wish to consult the Healthcare Equality Index to help you identify medical facilities in your area at which you would prefer to receive treatment.

# ALL THINGS CONSIDERED

Obergefell v. Hodges was a landmark decision for the LGBTQ community and one that created a path to parity within the world of estate planning. But until there is comprehensive federal civil rights legislation that protects sexual orientation and gender identity nationwide, LGBTQ individuals and families will be subject to the mosaic of state laws that afford protection only to those who live in pro-equality states.

Regardless of your state's laws, if you have any biological family members who are unsupportive or openly hostile toward your identity or your relationships, your estate planning documents can also help you ensure that they will not be able to control or assets, make medical decisions for you or inherit from your estate.

As a member of the LGBTQ community, you can retain control over who receives your assets and manages your affairs by partnering with an attorney who understands the additional complexities of your life as an LGBTQ American.

# LEGACY ASSURANCE PLAN IS A MEMBERS-ONLY ESTATE PLANNING SERVICES PROVIDER

Our goal is to educate our members on a variety of estate planning and business planning issues. As a plan member, you are part of a select group of individuals who benefit from the team of professionals and resources Legacy Plan assembled to provide its members with a complete estate planning solution.

Learn more at **legacyassuranceplan.com**

Call us at **844-445-3422** or email **info@legacyassuranceplan.com**

Legacy Plan membership provides exclusive access to a group of services, benefits, professionals and providers to assist with the creation of a complete estate plan. A complete estate plan includes legal documents, a financial plan, guidelines to successors, organization of information and periodic reviews and updates, all of which are facilitated by Legacy Plan.

Members receive access to a number of resources needed to create a complete estate plan.
The 3 primary resources are:

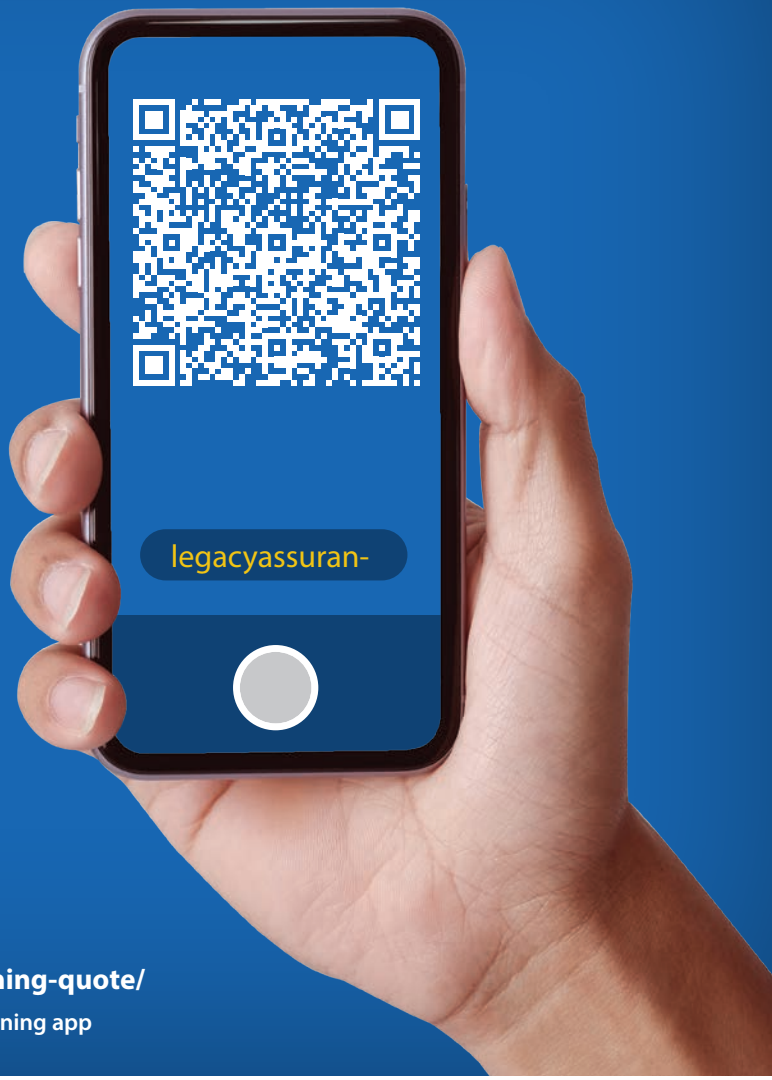
1. A qualified estate planning attorney.
2. The estate planning documents needed to achieve your goals and objectives.
3. A lifetime of services and benefits, including estate plan document delivery and notarization, assistance with estate plan funding, beneficiary review and designation assistance, access to a financial professional, periodic plan reviews, replacement legal documents at a nominal cost and an estate settlement consultation with survivors.

Whether your goal is protecting your family the costs, delays, publicity, lack of control and hassles of probate, providing for a disabled child when you no longer can or keeping your business in the family, Legacy Assurance Plan can provide you with the information and resources you need to reach your family's goals.

LEGACY® ASSURANCE PLAN

# Get a quote in *3 easy steps!*

1. **Open** your device's camera application
2. **Place** your device over the QR Code
3. **Tap** the link when it appears




Or visit **legacyassuranceplan.com/get-estate-planning-quote/**

**Some devices may require turning on QR scanning or a QR scanning app**


1. Jones, Jeffrey M, In U.S., 10.2% of LGBT Adults Now Married to Same-Sex Spouse, Gallup, June 22, 2017, https://news.gallup.com/poll/212702/lgbt-adults-married-sex-spouse.aspx
2. Compton, Julie, LGBTQ Families Poised for 'Dramatic Growth,' National Survey Finds, ABC News, Feb. 7, 2019, https://www.nbcnews.com/feature/nbc-out/lgbtq-families-poised-dramatic-growth-national-survey-finds-n968776
3. Ibid.
4. States with no explicit protections against discrimination for prospective LGBTQ adoptive parents include: AK, AL, American Samoa, AR, AZ, Commonwealth of the Northern Mariana Islands, FL, GA, ID, KS, LA, MS, NC, ND, NE, OK, PA, SC, TX, U.S. Virgin Islands, UT, VA, WI, WY
5. States that explicitly permit child welfare agencies to discriminate against prospective LGBTQ adoptive parents include: AL, KS, MI, MS, ND, OK, SC, SD, TN, TX, VA
6. Family Equality, https://www.familyequality.org/resources/foster-and-adoption-laws/
7. Compton, J., supra
8. Report and Recommendations of Master in Chancery, In the Estate of Yenenesh Abayneh Desta, Deceased, No. PR 12-2856-1, Prob. Ct. No. 1, Dallas County, Texas (February 23, 2014)
9. Fla. Stat. Ann. §742.17
10. Ibid.
11. La. Stat. Ann. §9:129
12. See, e.g., J.B. v. M.B., 170 N.J. 9, 783 A.2d 707 (2001); Davis v. Davis, 842 S.W.2d 588 (Tenn. 1992), cert. denied, Stowe v. Davis, 507 U.S. 911 (1993)
13. See, e.g., Kievernagel v. Kievernagel, 166 Cal. App. 4th 1024, 83 Cal. Rptr. 3d 311 (App. 3d Dist. 2008)
14. Healthy Baby Born 22 Years After Father's Sperm Was Frozen, News Medical, Apr. 15, 2009, https://www.news-medical.net/news/2009/04/15/48357.aspx
15. Cal. Prob. Code § 249.5
16. Fla. Stat. Ann. §742.17
17. See, e.g., D.C. Code §19-314; Haw. Rev. Stat. §532-9; Mo. Rev. Stat. §474.050Code of Federal Regulations, at 42 CFR 482.13(h) and 42 CFR 485(f)In 2020, the U.S. Department of Health & Human Services eliminated a provision of the Patient Protection and Affordable Care Act that provided protections against discrimination in health care for members of the LGBTQ community. See, Nondiscrimination in Health and Health Education Programs or Activities, Delegation of Authority, 85 Fed. Reg. 37,160 (June 19, 2020)
18. Human Rights Campaign, HEI Scoring Criteria, https://www.hrc.org/hei/hei-scoring-criteria