

TEXAS FUNERAL PLANNING

– WHY YOU SHOULD CONSIDER INCLUDING IT IN YOUR ESTATE PLAN

“In order to understand why estate liquidity is so important it helps to better explain what is meant by the term and what happens when an estate plan lacks liquidity.”



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A well thought out estate plan should include far more than just instructions for the division of your estate assets upon your death. The additional components you choose to include in your estate plan will typically depend on your unique needs, objectives, and concerns; however, estate plan could benefit from a funeral planning component.

Like most people, the idea of planning your own funeral and burial may not sit well with you when you first consider it but after you realize the numerous advantageous to incorporating a funeral plan into your estate plan you may agree that your estate plan should have one.

HOW PLANNING AHEAD BENEFITS EVERYONE

According to the National Funeral Directors Association, the average funeral costs around \$6,600. Cemetery services will cost another \$3,000,



on average, bringing the total cost to around \$10,000 for the average funeral and burial. Of course, funeral directors will try and get your loved ones to spend more than that by stressing the importance of the entire affair. Your loved ones, in turn, will be emotionally vulnerable and easily

swayed because they are not thinking clearly in the immediate aftermath of your death. This can be a costly combination. Your family could end up spending upward of \$20,000 on a funeral and burial *that you didn't even want*. That's right, don't forget that if you failed to include funeral planning in your estate plan all the money could be spend on an elaborate funeral and burial service that isn't even what you would have wanted since no one *knows* what you would have wanted.

All in all, including a funeral plan in your comprehensive estate plan may benefit you and your loved ones in the following ways:

- Ensures your wishes will be honored with regard to the type of funeral and burial/cremation that follow your death.
- Ensures that your loved ones will not be taken advantage of by funeral directors.
- May pre-determine the expenses associated with your service.
- Allows you to arrange for the funding for your funeral and service so your loved ones do not have to scramble to come up with a large sum of money right after your death.
- Decreases the chance of conflict among family members as often occurs when there is disagreement about what the decedent would have wanted.

Ensures that you will be buried *where* you wish to be. Waiting until after death could mean space is not available in your preferred location.



WHAT DECISIONS CAN BE MADE NOW?

Now that you have decided to plan ahead by including funeral planning in your estate plan, you need to consider *what* decisions can be made now. Depending on what method you use for funding your service, just about *all* of the decision can be made now, including:

- Whether to be cremated or buried.
- Where to be buried or where to scatter ashes.
- What type of memorial service to have – formal service, small gathering, or an Irish wake, for example?
- Open casket or closed?
- Who will preside over the ceremony?
- Who will speak at the service?
- Who will be the pallbearers?

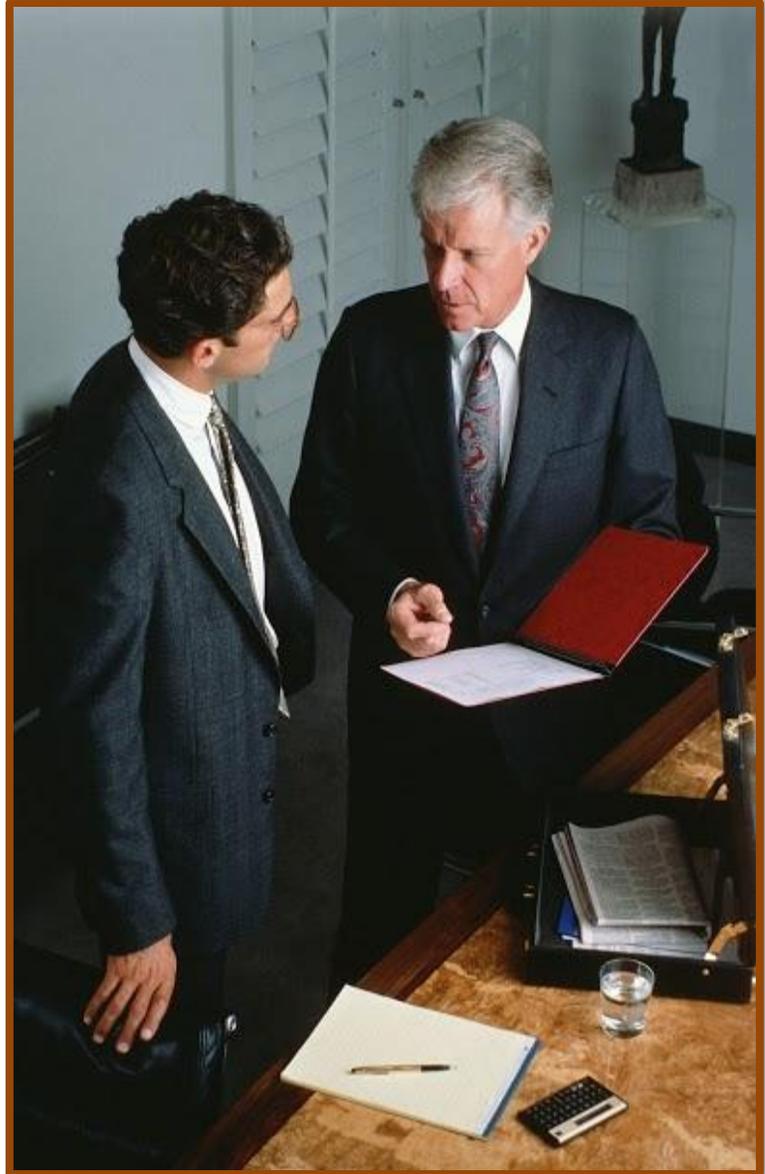
Flower and music choices



USING A DESIGNATED ACCOUNT

If you have decided to create a funeral plan you will need to decide how to fund your plan. There are several ways to accomplish this, with creating a designated account being the simplest. If you choose this method you will open a bank account into which you will deposit sufficient funds to cover the cost of your funeral and burial. You will need to arrange for the person you wish to be in charge of making arrangements to have access to the account. Although this method is simple, there are a number of disadvantages to using a designated account, including:

- The account could be inaccessible because of the probate of your estate



- The individual you designate to have access to the account could predecease you, become incapacitated, or otherwise be unavailable when the time comes.
- You have no legal guarantee that the account funds will even be used for your funeral.
- You have no guarantee that your wishes with regard to the details of the service will be honored.
- As long as the account remains in your name the funds are potentially accessible by creditors

The funds in the account could disqualify you for much needed assistance such as Medicaid or SNAP benefits during your retirement years.



ARE PRE-PAID FUNERAL CONTRACTS A GOOD IDEA?

Another option is to enter into a pre-paid funeral contract. The primary



advantages to this method are that the entire funeral and burial can be paid for now and that you have the ability to make all the decisions yourself with regard to the funeral and burial. There are, however, a number of important

disadvantages to entering into a funeral contract, including:

- The funeral home could be sold, go out of business, or wind up in bankruptcy proceedings.
- The “escape clause” often included in the contract may allow the funeral home to require your loved ones to pay additional costs because of increased cost of materials and/or inflation. In short, your “pre-paid” funeral might not *really* be pre-paid.
- You are locked into all the choices and conditions contained in the contract. If you change your mind about wanted to be buried, for example, you may have to pay a fee to have that change reflected in the contract – assuming you can make changes at all.

You could move, making the entire contract potentially worthless if you no longer want to have your funeral and burial in the area where the funeral home is located.

CREATING A FUNERAL TRUST

An option that addresses many of the disadvantages of using a designated account or a pre-planned funeral contract is creating a funeral trust

agreement. A funeral trust operates, in principal, the same as any other trust agreement. You will need to name a Trustee who will be in charge of administering the terms of the trust.

Those terms are where you will express your wishes with regard to the funeral and burial. The Trustee is legally obligated to abide by those terms, ensuring that your wishes will be honored. You should also name at least on successor Trustee in the event your original Trustee is unable or unwilling to serve.



Funding your trust can be accomplished in one of two ways. You can directly fund the trust by simply transferring assets into the trust now or prior to your death. Another popular option, however, is to fund the trust with a life insurance policy. You name the trust as the beneficiary of the

policy, whereupon the policy proceeds will be paid out into the trust immediately following your death. One crucial benefit to using this option is that the trust avoids probate and there are no assets in your name at the time of your death to be subject to gift and estate taxes. In addition, you



have the flexibility to change the terms of the trust at any time should you move to another state or simply change your mind about an aspect of the funeral or burial.

If you now see the benefits gained from including funeral planning in your

estate plan you should take the time to discuss adding a funeral plan to your comprehensive estate plan with your Texas estate planning attorney.

Federal Trade Commission, [Planning Your Own Funeral](#)

Fox Business, [10 Facts Funeral Directors May Not Tell You](#)

Findlaw, [Funeral Planning FAQ](#)

NOLO, [Planning Your Funeral or Memorial Service](#)

About the Author



Stephen A Mendel

Stephen A. Mendel is a member of the American Academy of Estate Planning Attorneys, a national organization that serves the needs of legal professionals whose practices focus on estate planning and asset protection. The Academy fosters excellence among its members and helps them deliver the highest possible service to their clients. Stephen A. Mendel provides a broad spectrum of strategies and planning tools that can accomplish very diverse goals.

Mr. Mendel is an attorney who focuses a substantial part of his practice on estate planning. Mr. Mendel's guiding principle is to provide his clients with quality legal services tailored to each client's specific needs and goals.

Mr. Mendel has been providing quality estate planning for Houston and surrounding area clients for many years. His firm helps numerous people who are concerned about protecting their families from the devastating legal effects of disability and death. The aim of the firm is to help you accomplish your estate planning goals and to take the mystery out of the planning process.

Specific services include, but are not necessarily limited to, design and preparation of wills & trusts, asset protection, use of family limited partnerships as part of the planning process, buy-sell agreements, business counseling, and succession of closely held, family owned businesses.

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