

Wealth Planning Update

Why Your Child's 18th Birthday Is Different and How To Plan For It

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Laurence J. Burke, CTFA, CFP®
Senior Fiduciary Advisory Specialist
Wells Fargo Private Bank

Steven Pallaria Jr.
Wealth Planner
Wells Fargo Private Bank

In this Wealth Planning Update:

- » *Your child turning 18 is an important milestone rife with the excitement of new beginnings.*
- » *Unless you have certain documents in place when your child turns 18, you will not be able to make any legal decisions on their behalf and lose the ability to access any of their health, education, or financial records.*
- » *By carefully considering the legal impact that turning 18 has on your child, you may be better equipped to navigate this transition and hopefully avoid any unintended consequences.*

As we approach the start of another school year, you may have recently celebrated your child's high school graduation and are supporting them as they now face the next phase in their life. Your child may be leaving for college, planning to travel, or going into a trade. No matter what their choice, you face considerations from both a legal and emotional standpoint that you need to be aware of.

In your eyes, your child will always be "your child," no matter what their age, but in the eyes of the law, that "child" is legally an adult on their 18th birthday. This seemingly minor change in nomenclature can have a major impact if not carefully planned for. Without having certain documents in place on their 18th birthday, you will have no access to their medical, financial, or academic records. Furthermore, in the unanticipated situation where your child is incapable of making decisions on their own, you will be barred from making them on their behalf. This can present a unique set of challenges if your child is away at college. Planning for these and other issues that may arise is key to avoiding the various pitfalls that you and your children may face.

How does the law view your child now that they are 18?

The "age of majority" – Once your child turns 18, they have reached the "age of majority." This means, as far as the law is concerned, he or she is an adult, and information regarding their health, finances, and education will not be disclosed to anyone without their written consent.

What can be done? – Certain legal documents must be put in place to designate you as your child's legal representative.

What documents should you consider having in place on your child's 18th birthday?

- *Health care power of attorney* – Often referred to as a “health care proxy,” this document is essential because it gives you the authority to make health care decisions on behalf of your child. Health care proxies don't normally kick in unless your child is determined to be physically or mentally incapable of making decisions on their own. It's a scenario you never want to have to consider as a parent, but it's a document you will be thankful to have in place if you ever need it.
- *HIPAA authorization* – The Health Insurance Portability and Accountability Act, otherwise known as HIPAA, is a privacy law that prevents anyone from inquiring about your child's current medical condition or medical records. If you want to maintain access to that information, a HIPAA authorization document must be on file. Additionally, if your child feels uncomfortable allowing unrestricted access to their sensitive information, he or she can limit its breadth according to their comfort level.
- *Financial power of attorney* – Similar to the health care proxy, the financial power of attorney allows you to make financial decisions and access financial records on your child's behalf. The list of benefits is long as to why it is a good idea to have this in place, but a practical reason is simply that if they are getting ready to head off to college, details like tax deadlines, contractual obligations, and other time-sensitive financial decisions can be easily overlooked amongst their busy schedules. By maintaining access to these matters through a financial power of attorney, you and your child may be able to avoid some headaches or costly mistakes that could result if these details were overlooked.
- *FERPA authorization* – FERPA stands for the Family Educational Rights and Privacy Act, which requires that students over age 18 give written consent before any educational records can be released to another person. Educational records include transcripts, disciplinary actions, scholarship information, and tuition information. If you want access to this information, make sure there is a FERPA authorization on file.
- *Simple will* – If your adult child dies owning assets, his or her estate is subject to the probate laws of their jurisdiction. If the child does not have a will or will substitute, any untitled assets will pass according to the intestate laws of the state. Generally, the assets of an unmarried child with no descendants will pass to his or her parents, if they are living. If the parents are not living, the assets will go to their siblings. Although the appropriateness of a will or will substitute varies based on the complexity of the child's estate, you should consider discussing this with your adult child.

Uniform Gifts to Minors Act (UGMA) and Uniform Transfers to Minors Act (UTMA) accounts

UGMA and UTMA accounts are custodial accounts set up for minors that can hold cash, investments, and, in some cases, collectables. These accounts are controlled by a custodian, usually the parent. Depending on state law, when the child attains age 18 or 21, he or she assumes control of the account. If the child is not ready to manage the assets, or would simply benefit from your assistance, the child must make that election with the financial institution holding the account.

Beyond the legal requirements

Dealing with the legal aspect, of course, is just part of this journey for you and your child. How do you deal with the emotional impact to you and your family? This is an important milestone and an opportunity for you to engage in meaningful conversations that convey your hopes and wishes as well as getting an idea of

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your child's dreams. This dialogue can be valuable, especially when the conversations are aspirational as opposed to pressure-based. This allows you to empower and enable them, which can help them prepare to be on their own.

Making sure you have the legal documents described above will give you access to important information, but, ideally, much of this information will come via speaking with your child. Discussing how much contact and what method will vary by child. It will likely be less than you have now, given they will be developing autonomy when away from home. It will also be a time for your child to stretch their wings and build their own experiences. Some may discover that their initial choice, whether it be college or career, may not be right for them, or they may not be making the most of the experience. This is an opportunity for you to coach them on being accountable as well as finding their own path. These years go by so quickly, and the opportunity to support your child during this experience is a gift to them.

Summary

As a parent, you may find the enormity of all the changes that will result in your child's "adulthood" to be daunting. Whether you are helping them pack up their dorm-room essentials or get ready for a different "next step," communication and training from you is paramount. So whether your child is nearing their 18th birthday or has already crossed that threshold, consider the steps outlined above to help you both be prepared for the exciting road ahead.

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