Emergency Planning for Families

CHICAGO VOLUNTEER LEGAL SERVICES
2020
Emergency Planning for Families

- Disability/Illness → Powers of Attorney
- Death → Last Will & Testament
- Children → Guardianship

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Planning for Disability or Illness

POWERS OF ATTORNEY
Powers of Attorney - Generally

- 2 Types:
  - Power of Attorney for Healthcare
  - Power of Attorney for Property
  - Some states combine these
- Appoints someone (Agent) to make decisions (health/property) when principal unable
- Duration: until death or other timeframe designated by Principal
- Most states have form readily available
  - Illinois → Illinois Legal Aid Online
Powers of Attorney - Requirements

- Signed by Principal
- Sound Mind & Memory
  - Knows what she has
  - Knows what types of decisions she wants made on her behalf
  - Knows who her family members are
  - If principal can’t do these → too late
- Check your state for witness/notary requirements
Powers of Attorney – Why is it important?

- Appoints someone you trust
- Avoids guardianship or court involvement
- Provides guidance for family and loved ones in difficult time
Last Will & Testament – Generally

- Creates plan for property after you die
- State statute provides plan if individual dies intestate
- Can name guardian for minor children
- Names executor to manage property, pay bills, etc.
Why is it important to have a Will?

- A person cannot divide her property after she dies
  - A Court will divide it according to a Will or state law if there is no Will
- Without a Will, state law controls
- Specific gifts
- Disinherit heirs
- Name guardian for minor children
Last Will & Testament - Requirements

- Adult (18+ years)
- Sound Mind & Memory
  - State definitions vary
  - Testator knows what he has
  - Testator knows his family members
  - Testator knows to whom he wants to give his property
- Check state witness/notary requirements
  - Illinois – Two witnesses and notary
Alternatives to Wills

- Co-Ownership
  - Not always advised
  - Convenient
- Beneficiary Designation
  - Bank Accounts
  - Life Insurance
- Living Trusts
  - Used to avoid probate
  - Check state law
Planning for Children

GUARDIANSHIP
Guardianship – Generally

- Gives custody and decision-making authority for children to another adult (guardian)
- Does not terminate parental rights
Types of Legal Guardianship – IL

- Plenary Guardianship
- Standby Guardianship
- Short-Term Guardianship
  - 365 days (IL)
  - No court necessary
  - Form available online (IL)
- Check your state for options
Legal Resources in Chicago, IL

- **Online Forms**
  - ILAO - [https://www.illinoislegalaid.org/](https://www.illinoislegalaid.org/)

- **Chicago Volunteer Legal Services**
  - 312-332-1624

- **Legal Aid Chicago – ADAPT Program**
  - 312-341-1070

- **Center for Disability & Elder Law**
  - 312-376-1880 (Adults 65+)
Thank you!

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