

Docket Call

The Official Newsletter of the Young Lawyers Conference of the Virginia State Bar
Patrick J. Austin, Esq., Editor
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Bar Break: Virginia Licensing Eased for Military Spouse Attorneys Jessica O'Connell

The Virginia Supreme Court adopted a rule allowing lawyers whose spouses receive military orders to move to Virginia or the Washington, D.C. area to practice law in Virginia without passing the state bar exam.

Rule 1A:8, the "Military Spouse Provisional Admission Rule," applies to civilian military spouses who have already passed a Bar exam and are an active member in good standing in at least one state. This provisional license also requires the military spouse attorney to practice under the supervision of a licensed Virginia attorney and keep current on Virginia CLE requirements for the duration of their spouse's military assignment in Virginia or the D.C. area.

The Military Spouse J.D. Network, a group formed in 2011, advocates

for licensing accommodations for military spouses, particularly Bar membership without additional examination. This group began advocating for Bar licensing accommodations for military spouses in Virginia two years ago and continues to support changing state licensing rules for military spouses with law degrees in all jurisdictions.

Prior to the Virginia Supreme Court's adoption of this rule, six other states already enacted licensing accommodations for military spouse attorneys: Idaho, Arizona, Texas, North Carolina, Illinois, South Dakota. Four other states recently jumped on board as well—Colorado, Massachusetts, New Jersey, and New York—bringing the total number of states

who have rule accommodations for military spouse attorneys to eleven.

Approximately 35% of military spouses work in professions requiring state licensure or certification, according to the February 2012 Joint Departments of Defense and Treasury Report, "Supporting Military Families: Best Practices for Streamlining Occupational Licenses Across State Lines." Military spouses are also ten times more likely to move across state lines when compared to their civilian counterparts.

Frequent moves not only make it difficult to maintain and advance in a career, they also often contribute to loss of income and are a serious financial burden. Preparation materials, registration fees, and travel costs

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Of Hybrid Taxes and Fox Pens: New Laws Take Effect in the Commonwealth

Alexander T. MacDonald

As of July 1, 2014, an assortment of diverse new laws came into effect in Virginia, ranging from high-profile legislative overhauls (e.g., government-ethics and voter-ID reforms) to relatively obscure legal tweaks (e.g., looser limits on Sunday hunting). Here are a few of the highlights:

Stricter voter-ID requirements.

When Virginians go to the polls this fall, they will have

fewer options for proving their identities—a prerequisite to casting a non-provisional ballot in the Commonwealth. Since 2012, Virginia voters have been required to provide some form of identification. Until now, they did not have to show a *photo* ID; they could instead produce, among other things, a utility bill, a paystub, or a bank statement.

However, in its third voter-ID innovation in as many years, the

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to test sites can cost thousands of dollars per Bar examination.

Military spouses may face a number of administrative and financial challenges if they work, or desire to work, in a profession which requires state licensing. This burden is particularly substantial for military spouse attorneys. Licensing can take up to a year, sometimes more, for the application, character and fitness review, Bar examination, and processing to be completed. The fact that Bar exams are held only twice a year, and that test results take months to be reviewed, further prolongs the licensing process.

Because of the lengthy and expensive process involved in re-licensure for attorneys when moving across state lines, many military spouses choose not to practice law, recognizing that by the time they are admitted in one state, it may be time to move again. As a result of these barriers,

military spouse attorneys are often unemployed or underemployed.

Adopting licensing accommodations for military spouse attorneys helps ease the unique challenges they face and allows them to minimize the interruption to their legal careers while reducing the financial and time consuming hardships imposed on their families. Licensing accommodations may also aid in retaining service members. Research suggests that over two thirds of married armed service members report that their decision to reenlist in the military was “largely or moderately” affected by their spouse’s career satisfaction and objectives. In fact, because of the recognized impact on retention, the Department of Defense made military spouse licensing and employment a priority.

Members of the armed forces are not the only ones making sacrifices for their country; the unsung heroes

of the military are their families who play an enormous role in supporting service members. Military families bear the burden of dealing with frequent relocation, prolonged periods of deployment of family members (which often includes single-parenting), and isolation from family, friends, and familiar support networks.

Eliminating the need for a Bar exam for military spouse attorneys makes a significant difference to military families, and comes at little cost to the Commonwealth.

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General Assembly rendered those documents unacceptable. Instead, it will now require voters to present a photo ID, the only acceptable forms of which are:

- Virginia driver’s licenses;
- U.S. Passports;
- Student IDs “issued by any institution of higher education in the Commonwealth”;
- Employer-issued IDs; or
- Any photo ID “issued by the Commonwealth, one of its political subdivisions, or the United States.”

An ID from this list must also be “valid.” It remains unclear exactly what “valid” means. On June 10, the State Board of Elections met to consider how it would interpret the term. After hearing testimony from interested groups, the Board decided that it would take into account

the voter’s name, the picture displayed on the ID, and the ID’s “authenticity.” It did not, however, indicate whether an expired ID would be considered valid.

Shortly afterward, state senator Mark Obenshain (R-26th Dist.), who sponsored the 2012 voter-ID law, wrote to the Board arguing that the word “valid” actually means that the ID in question must serve its intended purpose outside the voting context. In other words, to be acceptable, a driver’s license must allow its holder to drive, and a passport must allow its holder to travel internationally. Accordingly, to be “valid,” an ID must be unexpired. Sen. Obenshain also claimed that the Board had no authority to define “valid” under the law.

In response, the Board delayed the law’s implementation for 21 days and invited public

comment on whether it had the authority to define “valid” for the purposes of the new law. As of the writing of this article, that period had not yet closed. The word’s real meaning, therefore, remains an open question.

Hybrid tax repeal. Only a year after passing a widely-ridiculed “hybrid tax,” which imposed a \$64 annual fee on all hybrid-electric vehicles in the Commonwealth, the General Assembly reversed itself, repealing the tax and promising refunds to those who had already paid.

The tax, signed into law by former Governor Bob McDonnell in 2013, was aimed at making sure hybrid owners paid their “fair share” for highway maintenance and construction. Generally, the Commonwealth covers those expenses through a per-gallon gasoline tax. Hybrid owners, naturally, buy less gasoline than

►New Laws, continued from previous page

owners of non-hybrid vehicles. Therefore, to a certain extent, hybrid owners “ride free” on roads and highways. By passing the hybrid tax, the General Assembly, and former governor, sought to end this free-riding.

However, the hybrid tax was immediately and broadly unpopular, drawing criticism in both the local and national press. Moreover, the original logic behind the law collapsed when the Commonwealth repealed its 17-cents-per-gallon gasoline tax (which it later replaced with a 3% tax, levied at the wholesale level). Bowing to pressure from its constituents (and, perhaps, the lambasting it received at the hand of the press), the General Assembly passed a bill repealing the tax in January, which new Governor Terry McAuliffe signed into law the following month.

This repeal did not, however, abolish the new tax entirely: The owners of all-electric and alternative-fuel vehicles will continue to pay an annual fee. Theoretically, this fee is more easily justified than the tax on hybrid vehicles, as the owners of all-electric and alternative-fuel vehicles pay no gasoline tax at all. But only time will tell whether this half-repeal quiets the tax’s critics.

Ethics reform. Following on the gifts scandal that embroiled the McDonnell Administration during its last year in office, the General Assembly passed a package of ethics reforms aimed at reining in influence-peddling in Richmond.

Under the old law, lobbyists and government contractors could give unlimited gifts to lawmakers so long as the lawmakers disclosed those gifts. Lawmakers did not, however, have to disclose gifts to members of their immediate families. In contrast, under the new law,

lobbyists are forbidden from giving more than \$250 per year to any single lawmaker. They must also disclose any gifts to lawmakers’ immediate family members.

These reforms, limited as they are, are even sparser than initially envisioned. Not included is a provision that would have prohibited the governor from accepting more than \$50 from any person who was also seeking a grant from the Governor’s Development Opportunity Fund. The Fund is a mechanism the Commonwealth uses to funnel public money to private businesses willing to relocate to, or expand, their operations in Virginia. Governor McAuliffe vetoed these limits, complaining that they applied only to him—not to members of the legislature and their campaigns.

McAuliffe’s veto did little to help the new law’s credibility; indeed, it had already come under fire for lacking substance. The Washington Post, for one, wrote an editorial even before the law passed, arguing that the proposed reforms would do “practically nothing to stanch the cascade of freebies to which Richmond’s high and mighty feel entitled.”

There is, admittedly, some basis for this criticism. For example, the law’s limits on direct gifts do not apply to “intangible” gifts, such as free meals, travel, and entertainment, which make up the bulk of giving in Richmond. An analysis by ProgressVA, a left-leaning advocacy group, showed that that none of the 756 gifts state lawmakers received in 2012 would have been prohibited under the new law’s terms. Moreover, the law’s limits apply only to registered lobbyists and government contractors, leaving everyone else free to shower lawmakers with money. While this sort of freedom might make life in

Richmond a bit more comfortable, it does little to end the perception - or some argue, reality - of runaway handouts in the capital.

Restrictions on e-cigarette sales.

Under a new law, Virginian will join a cadre of jurisdictions that already restrict the sale and use of e-cigarettes. Before this year, Virginia did not restrict the sale of such devices. But the new law treats e-cigarette sales just like traditional cigarette sales, requiring that purchasers be at least 18 years old.

For those unfamiliar with the devices, e-cigarettes work by funneling a nicotine-laced fluid past a heated coil into a vaporizing chamber. The user then inhales the vapor, just as a tobacco-cigarette user inhales cigarette smoke.

While e-cigarettes are commonly marketed as smoking-cessation devices, their health effects are largely unknown. A recent FDA study, however, found traces of diethylene glycol (a toxic substance often found in antifreeze) in several e-cigarette samples. In light of that study, a number of states and localities have limited the sale and use of e-cigarettes in public places.

The FDA has also moved to regulate e-cigarettes, recently proposing rules that would bring the devices within its sphere of supervision. As written, the regulations “deem” e-cigarettes to be just like any other tobacco product and prohibit their sale to minors. Accordingly, if finalized in their current form, the regulations will render Virginia’s new law largely superfluous, prohibiting people younger than 18 from buying e-cigarettes as a matter of federal law.

Mental Health Reforms. Probably the most significant of these was a long-awaited mental-health reform package. This package was largely a response to the tragic death of Gus Deeds, the son of state

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senator and former gubernatorial candidate Creigh Deeds. Last November, Gus committed suicide after repeatedly stabbing his father. Gus had been released from an expired emergency custody order only 13 hours before the stabbing. Under the new reforms, the maximum length of emergency custody orders rose from 6 to 12 hours, and the time a person can be held involuntarily under a temporary detention order rose from 48 to 72 hours. The reforms also established an online state-wide registry for psychiatric beds.

New Criminal Laws. Several new criminal provisions also went into effect. Under one new provision, it is now a Class 1 misdemeanor to disseminate or sell an unauthorized nude or sexually explicit image of another person. Another provision raises the penalty for handling a firearm in a manner that shows

reckless disregard for human life (i.e., “celebratory gunfire”). This provision was a response to the death of Brendon Mackey, who was killed on during a Fourth of July celebration by a falling bullet.

New Animal-Related Laws. The General Assembly also passed a hodge-podge of new animal-related laws. One such law seeks to phase out fox pens (enclosures where hunters train dogs to track and kill wild foxes). The new law forbids establishing any new fox pen, but allows existing fox pens to continue operating for another 40 years. Another law now requires pet shops and pet dealers to reimburse purchasers for their medical costs for any cat or dog a veterinarian deems to have been unfit for purchase. Previously, shops and dealers only had to refund the price or exchange the pet for one of equal value.

Sunday Hunting. the General Assembly repealed a 1930 law that rendered illegal hunting on Sundays. Under the new law, landowners may hunt wild birds and animals on their own property on Sundays. Hunting is still, however, forbidden within 200 yards of a house of worship, and it is still illegal on Sundays to hunt deer or bears “with the aid and assistance of dogs.” So remember, if you’re planning on hunting big game on the Sabbath, leave Fido at home.

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Calling for Submissions to the Young Lawyers Conference Bilingual Attorneys List

Are you fluent in multiple languages? Are you able to converse with clients and carry out negotiations in another language with ease? The Young Lawyers Conference Immigrant Outreach Committee is creating a Bilingual Attorneys List to serve both referral

as well as networking purposes. The finalized compilation will be placed on the Virginia State Bar website so that potential clients and employers will be able to access it through search engines. All interested VSB members are encouraged to submit their information. Please

include your name, contact information, area(s) of practice, and language(s) spoken through the following Google Form. For more information, contact Immigrant Outreach Co-Chair, **Jamilah D. LeCruise** at jlecrui@nor.idc.virginia.gov or 757.314.2380 ext.124.

Attention Young Virginia Lawyers

Register for the Professional Development Course (PDC). This is a low cost CLE focused on professional development.

Date: September 19, 2014

Locations: Richmond, Washington, D.C., and Virginia Beach.

<http://www.vsb.org/site/conferences/ylc-calendar/pdc9192014>

You Look Great! What’s Your Secret? (We’ve had a little work done.)

Welcome to the redesigned *Docket Call*. With a new layout for easier viewing on digital devices and easier-to-print pages, the *Docket Call* will continue providing you with informative articles and featured columns with some fresh, new twists. Keep your eye out for this fall’s new take on the *Involvement Guide*, providing you with all the details on YLC involvement.

YLC Sunsational Sports

2014 Stitt Memorial Volleyball Tournament Results

First Place with a 3-1 Record

Team New Regime

1. Doria Martingayle, Captain
2. Kevin Martingayle
3. Tariq Louka
4. Ashrif Louka
5. Harrison Martingayle
6. Molly Biddle

Second Place with a 2-2 Record

Team Misfits

1. Christine Fisher, Captain
2. Andy Fisher
3. Tarkan Eastham
4. Drake Cadden
5. Bethany O'Neill
6. Matthew O'Neill
7. Gage Landis

Third Place with a 1-2 Record

Team YLC aka Team The L-Word

1. Dean Lhospital, Captain
2. Nathan Olson
3. Andy Geyer
4. Nathan Veldhuis
5. Eli Veldhuis
6. Farnaz Thompson
7. Paula Bowen

Fourth Place with a 0-2 Record

Team VanWinkle

1. Will VanWinkle, Captain
2. Matthew VanWinkle
3. Peter VanWinkle
4. Turner Allen
5. Nancy Allen
6. Mason Allen

Both the 2014 *Run in the Sun 5k* and *Stitt Memorial Volleyball Tournament*, results shown here, were sponsored by the Young Lawyers Conference at the Annual Meeting. The Run was also sponsored by *Virginia Lawyers Weekly*.



2014 Run in the Sun 5k Results

42 Runners

Top 3 Males

1. Harrison Martingayle, 18:13
2. Matthew O'Neill, 18:36
3. Jackson Martingayle, 22:47

Top 3 Females

1. Amy Kelly, 26:22
2. Jenny Lee, 27:53
3. Emily Hawthorne, 30:37

Youngest Males to Finish

1. Jackson Martingayle, age 12, 22:47
2. Matthew Lang, age 13, 31:40

Youngest Females to Finish

1. Emma O'Neill, age 10, 42:16
2. Emily Hawthorne, age 13, 30:37

Top Age Group Finishers

Women Under 21

1. Emily Hawthorne, 30:37
2. Emma O'Neill, 42:16

Women 21-29

1. Jenny Lee, 27:53
2. Ashleigh Iszard, 33:44

Women 30-39

1. Marie Washington, 32:17
2. Corrynn Peters, 38:20

Women 40-49

1. Amy Kelly, 26:22
2. Leslie Dix, 30:44

Women 50 and Over

1. Marie Lang, 32:44
2. Jin Doherty, 35:02

Men Under 21

1. Harrison Martingayle, 18:13
2. Matthew O'Neill, 18:36

Men 21-29

1. Benjamin Yobp, 29:20

Men 30-39

1. Robert C.T. Reed, 24:54
2. Joe Luu, 24:57

Men 40-49

1. John O'Neill, 23:15
2. D. Eric Wiseley, 31:47

Men 50 and Over

1. The Honorable Bill Mims, 24:37
2. Chuck Lollar, 26:29

President's Message Maureen Danker

The Young Lawyers Conference (YLC) has played a vital role within the Virginia State Bar for quite some time. I have personally been involved with the YLC, in a variety of roles, over the last decade and it played a significant role in my professional and personal development. It is with great pleasure that I have now been entrusted to be President of the YLC. I look forward to the challenges this incredible position brings, as well as the role I will have in furthering the goals and projects that the YLC has on the horizon.

As your new president, I hope to build upon the strong leadership of our immediate past president, Kenneth Alger. He answered countless questions and emails,



always providing his unwavering support with an appreciated amount of sarcasm and comedy. I am also so very grateful to have the continued support of Maureen Stengel, our Virginia State Bar staff liaison. I look forward to our telephone calls that always start with "Hello Maureen, this is Maureen." The YLC Board is already coining our nicknames, which include "The Maureens" and "M&M," for short. With Maureen Stengel's guidance, Ken's continuing support and an amazing Board of Governors, this Maureen is on the right path for a successful year ahead.

The YLC could not have started the 2014-15 bar year on a more positive note than with the annual Oliver Hill/Samuel Tucker Pre-Law

Institute. This year's Institute hosted 49 participants from diverse ethnic and socioeconomic backgrounds, the largest Institute yet. The week-long summer program introduces future lawyers to the legal profession and gives them the opportunity to meet distinguished members of the bench and bar. McGuireWoods LLP sponsored this year's program, which was held at the University of Richmond from July 13-18. During the week, participants stayed on the University of Richmond's campus, attended mock trial sessions and seminars, and participated in programs geared towards their development as law professionals, including an etiquette dinner and a networking reception - all at no cost.

The participants visited U.S. District Judge James R. Spencer and U.S. Circuit Court of Appeals Judge Roger L. Gregory. They toured the Richmond City Jail's old and new facilities and met with Sheriff C.T. Woody and

General Counsel Tony Pham. They visited the Richmond office of McGuireWoods and met with several attorneys at the firm, including managing partner George Martin.

Justice Cleo Powell, the first African-American woman to serve on the Supreme Court of Virginia, was the keynote speaker for the Institute. She recalled that Samuel Tucker was the first lawyer she met and he inspired her to pursue a career in law. She encouraged the students to remain steadfast in their pursuits and they would attain greater heights than she achieved.

Many young attorneys volunteered their time and contributed in making the Institute such a success. The Institute's chairs,

Latoya Asia and Providence Napoleon, received rave reviews from the participants and their families for the well-organized, engaging, and inspiring Institute they led this year, so much so that many of the participants already inquired about volunteering as an intern for next year's program.

The Prelaw Institute is just one of many ways to get involved and volunteer with the YLC. In addition to programs that educate and serve the public, our Professional Development Course (PDC) is another great program for our young lawyers. This is a low cost CLE focused on professional development. The PDC is set to take place next month on September 19, 2014 in Richmond, Washington, D.C., and Virginia Beach.

These programs are just the start of many more to come this year. To get involved, please visit our website: www.vayounglawyers.com for all of the necessary details for each of our programs. Our website also offers direct links to our social media platforms, so you can follow us and keep up with our busy calendar of events and activities. Don't forget to also sign up for the YLC list serve so that you are sure to receive email updates as well.

If we can be of further assistance, feel free to contact our membership coordinator Paula Bowen at pbowen@ci.martinsville.va.us, or me at mdanker@kdbfamilylaw.com, so that we may ensure your offers to volunteer are put to good use.

I look forward to working with the YLC Board of Governors to make this another great year for the YLC. In doing so, we are always looking for ways to include our members in implementing and carrying out our programs. Reach out and get involved!

Hybrid Property Classification After *David v. David*

Andrew R. Page

It isn't often that the Supreme Court of Virginia completely turns a burden of proof on its head. But in *David v. David*,¹ it did exactly that by reversing over two decades of Virginia jurisprudence regarding equitable distribution. This column provides a brief synopsis of *David's* application to hybrid classification and offers practical applications that this case provides to young divorce practitioners.

OVERVIEW OF HYBRID CLASSIFICATION

In order to equitably distribute property, courts must first classify the property. Based on Virginia Code (1950) § 20-107.3, property can be classified as marital, separate, or part-marital or part-separate. This last classification is popularly known as hybrid property. Before determining which property is hybrid, the court must make an initial classification of property based on the statutory presumptions. If the property was obtained during the marriage, it is presumed marital. Otherwise, it is presumed separate.

Separate property can transmute into marital property if the separate property increases in value during the marriage and the increase is due to the use of marital property or the personal efforts of either party, so long as the personal efforts were significant and result in substantial appreciation. The non-owning spouse has the burden of proving contributions of marital property or personal efforts were made and that the separate property increased in value. At issue in *David* was whether the non-owning spouse also had the

burden to prove the significant efforts caused the increase in value.

LAYING THE BURDENS DOWN

When the Davids married, the husband had an investment account worth \$234,783.16. When the parties decided to end the marriage eight years later, the value of the account had more than doubled in value. The wife did not dispute that the account was her husband's separate property. The issue was whether the increase in value of over \$300,000.00 should be treated as marital or separate. The Hanover County Circuit Court found that husband's personal efforts during the marriage caused the increase in value, and awarded the wife half of the increase in value.

The Virginia Court of Appeals reversed the trial court's decision in an unpublished opinion. For years, the court interpreted 20-107.3(A) (1) and (3) together and created a three-tier burden of proof.² The owning spouse first had the burden to prove the property was separate. Once met, the non-owning spouse had to prove, not only that the contributions of marital property or personal efforts were made and that the separate property increased in value, but that the personal efforts were the proximate cause of the increase. If proven, the burden shifted to the owning spouse to show the increase was not due to contributions of marital property or personal effort. The court in *David v. David*, relying on its long history of precedent in this interpretation, determined that the wife failed to meet the burden of proving husband's

personal efforts proximately caused the increase in value.

Using principles of statutory interpretation, the Virginia Supreme Court erased every decision of the Court of Appeals involving this burden of proof. The Supreme Court looked at the plain language of the statute, noting it explicitly placed the burden of disproving causation on the owning spouse, not one of proving causation on the non-owning spouse. Based on that reading, after a court's initial classification of property as separate, the non-owning spouse need only prove personal efforts by a party and an increase in value. Once the non-owning spouse makes that showing, causation is presumed. Therefore, the burden of proof shifts to the owning spouse to show that increase was not caused by the personal efforts of a party.

FOR THE YOUNG FAMILY LAWYER

So what practical points can we immediately apply in our practices as young lawyers? First, always start with the Code. Many practitioners skip past this step, resorting either to their own past experiences or relying on case law. This case brought a sea change in the domestic relations area simply because a lawyer took the time to read exactly what the Code said and argued the plain language. Don't be lazy; read the Code.

Second, what you learned from law school is more important than you think. Creatively apply what you already know about the law. The Supreme Court relied on principles of statutory construction, principles which we all learned in our first year law school classes. Plain language,

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➤*Family Law, continued from previous page*
the presumption that a legislature purposefully chose language, intentional omission of language, and even legislative history are not subjects foreign to us at our level of experience. Use the skills gleaned from your research and writing classes to thoroughly develop your arguments.

Finally, don't be intimidated into thinking that your inexperience

Endnotes

1 287 Va. 231 (2014).

2 See *Cirrito v. Cirrito*, 44 Va. App. 287, 605 S.E.2d 268 (Ct. App. 2004) for a detailed explanation of the Virginia Court of Appeal's interpretation and application of its three-tier burden of proof for hybrid property cases.

is a weakness. According to the Supreme Court, lawyers and courts had been misinterpreting an important provision of family law for nearly 20 years. If experienced attorneys can make mistakes, we certainly should be encouraged to do our best to make an argument and zealously represent our clients without worrying about messing up. Your clients expect confidence, particularly in domestic

relations cases. Be positive and confidently walk your divorce clients through their difficulties.

Drew Page is a 2010 graduate of Regent University School of Law. He is now a partner at Stallings & Randall, P.C. He can be reached at drewpage@valawgroup.com.

The Great Estate [Virginia Estate Planning]

Estate Planning 101: Not Just for the Rich and Old

Jesci Norrington

Everyone has heard of a will, and you may have taken Trusts and Estates as a course in law school. You've probably also had at least one family member or friend ask you if you can draft a will. You may feel confident drawing up a simple will, but are you really addressing your friend or family member's future estate planning needs?

Estate planning can be many things to many people. Typically, estate planning is used to try and eliminate uncertainties and problems with the administration of an estate. It can also be useful in reducing taxes, protecting assets down the bloodline, and maximizing the value of an estate. However, it should be looked at as a priceless tool to ensure a smooth transition for loved ones when faced with a death or disability situation.

Ask your client, if they passed away, would their loved ones know their wishes? Estate planning can arm loved ones with the right documents and instructions. If they know they are carrying out the wishes of the decedent, they have less to

worry about during these difficult, emotionally-draining situations.

Estate planning is not only for the rich and the old. The key word is planning. This can be as complex or as simple as the client's wishes dictate. Whether it is a simple will, power of attorney and medical directive, or a complex system of irrevocable insurance trusts will depend on your client's specific goals and plan..

These issues can arise at any time and at any stage in life. Perhaps the most famous example is the Terri Schiavo case. At age 27, the legal battle began between her husband and her parents as to whether or not to keep her alive after she suddenly suffered massive brain damage and fell into a vegetative state. This battle lasted 15 years and involved a plethora of trials, appeals and new laws being enacted and struck down. All this could have been avoided by a simple medical directive stating her wishes and appointing a health care representative to make decisions on her behalf.

There is more than just the medical component to think about. Without simple estate planning in place, there are numerous stresses and issues that can arise for the ones left to deal with settling an estate. For example, having power of attorney for a disability situation. Ask your clients - if they were in a car accident tomorrow, who would manage their affairs? Does someone have access to all of their accounts? Will they be able to pay the bills? Get the mail? Take care of the pets? This is especially important for single people where there is no spouse already named on accounts, or to take on the executor role.

Additionally, if there was a tragic accident and your client passed away with no documents in place, the court will have to be involved. The courts will appoint guardians for any children. And, even with a few assets, the court will have to control the process and make decisions for your client's estate. State statutes will determine how their property is distributed instead of the decedent's loved ones making that call.

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Estate planning is an important topic to think about when advising your clients in other practice areas. For example, in family law, there are divorce situations and division of assets. There may have been old wills in place or beneficiary designations that need to be updated. Additionally, when practicing business law, it is important to ensure there is a plan in place if something

happens to one of the owners or members. Even if you do not feel comfortable doing the documents, asking about your client's estate planning shows you truly care about the client and their family.

Estate planning encompasses so many different issues for people of all ages and economic backgrounds. So whether you take part in estate planning for

yourself, your family, or for a client this is just a friendly reminder to get something in place.

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VSB 77th Annual Meeting 06/17-06/21/2015