

# The Nance Law Firm, PLC

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## Keeping Your Assets "All in the Family" The Heritage Trust

The majority of people who set up wills, revocable or irrevocable trusts leave their assets outright to their children in equal shares when they die. So, what's wrong with that? Well, there may be a better way. Instead of leaving your assets outright to your children, consider the potential advantages of leaving your assets to your *children's* trusts, which you can design and create during your lifetime.

The Heritage Trust is created by you, today, as grantor, naming your child as trustee and beneficiary when you die. So, for example, if your daughter was Mary Carter, the trust would read "Mary Carter, as Trustee of the Mary Carter Heritage Trust".

There are a number of good reasons to create trusts for your children today. Just as you've learned about the benefits of a trust, your children will probably wish to avail themselves of the same opportunity one day. But in the case of your children, there are a number of additional benefits to leaving assets to them in trust as a part of your own estate plan. These are: (1) the assets will be protected from their spouse in the event of divorce; (2) the assets can be protected from their creditors in the event of a financial hardship; and (3) on your child's death, the unused assets will go to your blood relatives (such as grandchildren) instead of in-laws or others who are not a part of *your* plan..

These trusts may be drafted to provide that, during your children's lifetimes, they can have complete access to the income and the principal of their trusts - so that you're not necessarily giving them a "gift with strings attached" or "ruling from the grave". (If circumstances are warranted, you may elect to impose tighter control over these assets.) But when your child dies, you can insure that the unused portion of their inheritance to go to your grandchildren. If the grandchildren are under age 30, for instance, you may direct the funds are held in trust for them until then, with the Trustee (which may be one of your other children) using so much of the assets as may be needed for their health, education, maintenance and support. If one of your children dies without leaving children of her own, then the trust funds go to her surviving brothers and sisters.

An additional benefit is that, while we are preparing your estate plan, we can offer these trusts to you at a fraction of the cost it would be to your children if they were to go out and set these trusts up for themselves, either now or many years later when they receive their inheritance. In fact, in the overwhelming number of states, once your children have inherited, it is too late for them to create their own protective trust.

The reality of the Heritage Trust is that it is much easier for your child to keep assets separate from their spouse when these assets are left to them in trust. On your death, all of your assets are re-titled directly from your trust to your children's trusts. There is a world of difference when a child can say to their spouse "my parents left this money to me in a trust" compared to their receiving the inheritance "in hand," and having to take active steps to keep those assets separate from their spouse. If you're going to leave it all to them anyway, consider using a small portion of the inheritance to do some good planning for them today. They will greatly appreciate what you've done to put them on the right track to plan for themselves and their families. If you would like to discuss whether the Heritage Trust makes sense for you and your family please call me to arrange for a consultation.

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