



KH LAW NEWS

Bringing You Our Best

September 2011



Bringing you back to school and...

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- KH's Small Business of the Week!
- KH Kudos
- Help Us - Help Others!
- Make Sure Your Dreams Don't Turn Into Nightmares
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Back to School Planning for You and Your Children

All parents greet the back-to-school rush with a mixture of excitement and dread. Each year, the supply lists, books, and the inevitable "must-have" clothes get more numerous and expensive. Divorced or separated parents often experience an additional layer of anxiety and complexity. Some of the issues endemic to back-to-school planning are:

School enrollment: Parents with sole legal custody have the right to decide where the child will attend school (consistent with local school rules). For parents with joint custody, however, the choice is less clear. The parents share the right to make this decision, neither party's rights being superior. If each parent lives in a different school district, each technically has the right to enroll the child in his/her district. Some districts have rules governing enrollment, for example, restricting enrollment to the parent with greater placement, but these rules are far from uniform. Many districts also allow for open enrollment. Parents (and courts) are left with few clear guidelines to make this decision. Situations in which one parent attempts to enroll a child in private, as opposed to public school, present an added layer of complexity because of the cost considerations.

School costs: These costs generally fall under the heading of "variable costs," and are addressed separately than child support by Wisconsin law. Variable costs are usually paid by parents in proportion to the allocation of placement. Therefore, a parent who has the child 50% of the time pays 50% of the costs. Unfortunately, variable costs are poorly defined as "child care, tuition, a child's special needs, and other activities that involve substantial cost". So school tuition will be shared by the parents proportionally. But what about school clothing, books, and supplies? Clothing is actually a "basic support cost" in Wisconsin law, which is supposed to be covered by regular child support-but shouldn't the parents share such a significant cost? These costs are not specifically defined, so how do parents know which costs should be shared? There are several ways to draft agreements, or modify existing agreements, that anticipate and clarify these issues. Spending a little time thinking about these issues, in consultation with your attorney, is worth the effort to avoid greater fees and confusion later. I have drafted numerous agreements of this nature, and have several provisions to consult to address your circumstances.

Separated parents occasionally have difficulty communicating with school officials. The school often is reluctant to provide two copies of school documents, homework, and notices. This information is often just provided to the children, who bring it home to the parent with whom they happen to be placed that day. The result: one parent is in the dark about important events, teacher meetings, and report cards without the other's cooperation. Once again, there are means of addressing this issue through court orders, which the school and parents will follow. Given the important of parental cooperation, with the school and each other, to a child's education, this section of an agreement should be taken seriously.

Even the most comprehensive court agreements do not address every obstacle. But careful drafting can provide vital clarity to avoid the most serious problems. Rather than struggle with uncertainty or an unfair financial arrangement, please contact me, Attorney David S. Kowalski, at (866)455-2993 for a free consultation.

KH KUDOS
Wishing a Very
Happy Birthday to



Katelyn Lenerz! 9/3

KH's Small Business of the Week !

The KH Team believes it is essential to support our smaller local businesses. We have decided to help promote them by adding a new section to our website...KH's Small Business of the Week ("SBW").

Check it out at <http://www.kh-law.net/estate-planning/news.aspx>

and watch for special offers!

Help us – Help Our Neighbors!

This Month's featured SBWs Are:

Week 1- Cupcakes-A-Go-Go *Week 2- Waterstone Mortgage Corporation-Kathy Jasper*

Week 3- Pink Stiletto Coaching *Week 4- Ardyth's Sew-N-Vac Shoppe, LLC*



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Help Us – Help Others!

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| Estate Planning | Family Matters |
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Make Sure Your Dreams Don't Turn Into Nightmares

Parents dream many dreams for their children. These dreams often incorporate hopes that their kids will get a good education, embrace fulfilling careers, keep their good health, and find happy, stable marriages. Sometimes reality can play out more like a nightmare in this last instance, however, as more and more marriages end in divorce.

Even when our children have grown into the independent adults we have encouraged them to be, we still want to shield them from the worst nightmares of real life. The loss of family wealth through a divorce settlement is a trauma that can be mitigated, or avoided altogether, through the use of a Divorce Protection Trust. When you leave your assets to your heirs using this type of Trust, that inheritance is not distributed outright, but the funds can still be used at your heirs' own discretion. Since it is held in trust, the inheritance does not become marital or community property; therefore, in most states, no part of the inheritance is lost in a divorce.

You can also protect your children from the financial consequences of your spouse remarrying after your death. By sheltering the maximum amount that may be left free of estate tax for the benefit of your spouse and/or children in a Family Trust, rather than distributing assets outright, you can provide access to both principal and income for their needs. The assets in the Family Trust will be free of estate tax at your spouse's death. A Marital Trust can also be set up to receive assets in excess of the maximum allowable funding of the Family Trust. You decide if your spouse can access the principal of the Marital Trust for specific purposes, or if they are entitled to income only. In either case, the remainder of the Marital Trust will ultimately reach your own children and will not be available to the new partner of your surviving spouse or that partner's family.

While you can't ensure that your children's lives are nightmare-free, through thoughtful estate planning, you can ensure that your heirs have the comfort of the inheritance you intend for them. An experienced estate planning attorney can help protect your kids from the financial consequences of divorce and remarriage.

This article by the American Academy of Estate Planning Attorneys (AAEPA) was brought to you by Krueger & Hernandez SC. Attorneys Michelle T.L. Hernandez and Dera L. Johnsen-Tracy are active members of the AAEPA and have extensive legal experience in the area of estate planning. To schedule your free consultation today, simply call (800) 431-9776.

HAPPY LABOR DAY FROM THE ENTIRE KH TEAM!

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|-----------------------|-------------------------|
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FREE Family Wealth Trust Seminars in Madison!

New Family Wealth Trust Revealed!

Find out what will happen with and without a Family Wealth Trust, how to protect your loves ones' inheritance, and about the 2011 Tax Changes. They are being held on September 21st and 22nd in Middleton. Register TODAY

by calling us at (608) 824-9540,

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www.KH-LAW.net

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