THE FUNERAL PLANNING DECLARATION

& Its Importance in the Estate Plan

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No one likes to think about death and many resist planning for it. In fact, mortality is often a taboo family topic. Statistically, only 20-27 percent of Americans plan their funeral. However, the lack of a plan can result in an individual's wishes going unmet, added family tension in a time of great emotional distress, and even delayed disposition of an individual's remains as the family, funeral home, and even a Court sort out who has authority to plan the individual's funeral and arrange for the disposition of the individual's remains.

THE FUNERAL PLANNING Declaration

The Funeral Planning Declaration is a good tool to avoid disputes over an individual's final arrangements and eliminate any ambiguity on who should make such arrangements.

The Funeral Planning Declaration designates the individual's "point person" to carry out the individual's wishes in regards to funeral arrangements and disposition of remains. The Funeral Planning Declaration can also designate contingent designees in the event that the primary "point person" is unavailable upon the individual's death. In addition, the individual can direct the final resting place of his or her remains and the details of his or her funeral, such as facility, officiant, merchandise, memorial, music, etc. The designee is then required to carry out such instructions unless they are impossible or impracticable.

The advantage of the Funeral Planning Declaration is that it avoids any disagreement over who should have the responsibility of planning your funeral and what your funeral plans should be. This can be especially important for those who have family that could disagree on services or have no family available to carry out the individual's wishes. The Designee under the Funeral Planning Declaration will have priority under Indiana law to arrange for the individual's funeral, direct the delivery of the individual's body to the appropriate funeral home, and arrange for the individual's cremation, burial, or entombment.

REQUIREMENTS

The requirements for one to execute a Funeral Planning Declaration are fairly straightforward. The individual must be of sound mind and at least eighteen years of age. The declaration must be its own document and substantially in the format required by statute. It also must be voluntary, direct an individual to serve as designee, be signed by the individual, dated, and witnessed by two competent witnesses at least eighteen years of age.

AREN'T THESE INSTRUCTIONS A PART OF My Last Will and Testament?

Many individuals will insert funeral plans and instructions on the disposition of their remains in their Last Will and Testament. However, for any Will to obtain legal validity, it must be probated with a Court. Most often, the funeral and disposition of remains occurs long before the Will is reviewed, much less probated.

In addition, Indiana law specifically provides that such instructions do not meet the terms of Funeral Planning Declaration. As a result, the Funeral Planning Declaration is a better option to ensure that one's final instructions are followed.

WHAT ABOUT
Pre-Planning the Funeral?

Some individuals will pre-plan their funeral and most of those will pre-finance it as well. This is a task that we will often recommend of clients, especially those who anticipate filing for Medicaid or VA benefits.

However, a pre-need funeral plan does not alone assure that the right person is making an individual's arrangements and that the individual's personal wishes will be followed. This is because family members can still make changes to the individual's plan as they see fit. In addition, the lack of a designated "point person" to direct the transport of an individual's remains and the implementation of an individual's pre-planned funeral can delay an individual's funeral indefinitely.

Consequently, it is best to both pre-arrange an individual's funeral and execute a Funeral Planning Declaration to ensure that the individual's wishes are followed.

TO ENSURE THAT AN INDIVIDUAL'S PERSONAL WISHES IN REGARDS TO BURIAL ARE CARRIED OUT, HE OR SHE SHOULD ENSURE THAT A COMPLETE FUNERAL PLANNING DECLARATION IS PART OF HIS OR HER ESTATE.

TO CREATE YOUR ESTATE PLAN WITH STINSON LAW FIRM, CALL US AT (317) 622-8181 TO SCHEDULE AN APPOINTMENT.

THE GOAL AT THE STINSON LAW FIRM IS TO SECURE YOUR PRESENT AND FUTURE AND LEAVE YOU WITH THE PEACE OF MIND YOU DESERVE.

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