

# Estate Planning for Blended Families

The Australasian Lawyers Group Pty Ltd trading as Butlers, Barristers & Solicitors

At Butlers, we have extensive experience in the preparation of Estate Plans for blended families, where you or your spouse/partner have children from prior relationships. Planning for blended families is often not an easy task and may involve an emotionally difficult balancing act between the competing interests of two different families. It is a process that requires careful consideration of all issues involved, not least of which is your relationship with each of your family members.

The first step in Estate Planning for blended families is having a Will. In Australia, if a person dies without a Will, that person dies "intestate". When a person dies intestate, the intestacy law determines how that person's assets will be distributed. Of particular relevance for blended families is that the intestacy law in Western Australia contains no provision for step children, even dependents, to inherit from the Estate of a deceased. If you want your step children to receive anything from your Estate, having a valid Will is highly recommended.

However, a valid Will itself is often not enough and this is especially true if you have just entered into a blended family situation. One of the most common Estate Planning pitfalls is when Wills are made and not regularly reviewed and updated in accordance with changing circumstances. It is often this simple oversight that proves the greatest source of unintended upset after death. For example, a person may have a valid Will made during their prior relationship. However, due to oversight the Will was not updated. In most cases a Will is invalidated by a subsequent divorce and no longer has any effect. Even if the Will survives the divorce it may dictate that the majority of the Estate goes to the former spouse and children of that previous relationship and make no provision for any children of the current relationship. At Butlers, we recommend that our clients review their Wills regularly, every two to three years and definitely whenever a significant change in life, financial or family situation occurs.

However, good Estate Planning does not end with making a Will. In a blended family situation, a myriad of factors must be considered which can influence the distribution of the assets of the deceased. For example, some of the options we have encountered in a blended family situation and which you may wish to consider are:

For your Estate to be held in trust for the benefit of your spouse/partner and any children you have or may have with that spouse/partner, with the Estate vesting in all your children upon your partner's death; For part of your Estate to be held in trust for the benefit of your children from a previous marriage,



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with the other part to be held in trust for the benefit of your current spouse/partner and any children you have or may have with your current spouse/partner;

- For your Estate to be divided between the children of your prior marriage, your current spouse/partner and your step children;
- For your Estate to be divided between the children of your prior marriage and your current spouse/partner;
- For your Estate to be divided between children of your prior marriage and your current marriage, and the children of your partner;
- For your Estate to be distributed unevenly among your chosen beneficiaries;
- For your Estate to go to your spouse/partner only and with no provision for your children;
- For your Estate to go to your children only, with no provision for your spouse/partner.

The possibilities are many and all cases are different and unique. With good planning and a clear understanding of the options, you will be able to provide for all of your loved ones as you wish, and minimise the possibility of conflict between family members after your death. Our aim at Butlers is to work closely with our clients to assist them to ensure that their wishes are carried out regarding how their wealth is to be preserved and shared when they die.

### Butlers

At Butlers we pride ourselves on being “The Personal Law Firm”. Our commitment at Butlers is to make the law more accessible, affordable, understandable and human. We aim to reduce your concerns by speaking and writing in plain English, cutting through legal jargon and keeping you informed at all times. Through it all, we work closely with your family’s accountant, bank manager, financial adviser, and other professionals as required. We therefore encourage you to contact us if we may be of any assistance.

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