

# Overview and Estate Law Changes

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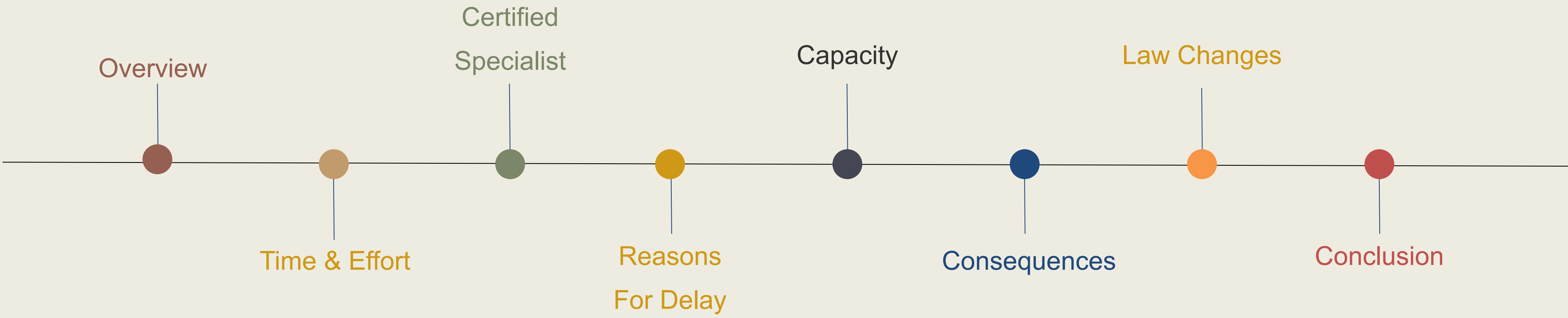
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# Agenda



# ESTATE PLAN: Overview

## *What is an Estate Plan?*

You decide who controls your financial and medical decisions during life (and some post-death decisions), and determine how your assets are distributed upon your death.

### WILL

Designates an **executor** to control the distribution of assets in **your personal name** upon your death through the **probate** process.

### TRUST

Designates a **trustee** to manage and control your assets for **your benefit** during **your lifetime**, and **bypass** the need for **probate** upon your death to distribute your assets to **your beneficiaries**.

### POWER OF ATTORNEY (POA)

Designates an **agent** to make **personal financial decisions** on your behalf.

### ADVANCED HEALTH CARE DIRECTIVE (AHCD)

Designates an **agent** to make **medical decisions** on your behalf, and to make **some post-death decisions**, such as **organ donation** and **disposition of remains**.



# ESTATE PLAN: Time and Effort

*What kind of time and effort would I need to commit?*

## Time Commitment

Consultations/Intake, Review/Revise Drafts, and Execute (sign) documents. Drafting process can take longer with a more complex estate plan. For a simple estate plan, it can take 4-6 weeks to complete.

## Effort Involved

Gather information on all of your assets (i.e., real property, financial accounts, etc.). Deeply reflect on your personal and family dynamics to discuss with your attorney. You know your family, attorneys don't.

## Cost

Some firms will charge a flat rate, while others charge hourly rates. In either case, the resulting fee is typically based on the complexity of the estate plan and clarity of the client's wishes. Complexity refers to amount and type of assets, but also to the distribution scheme selected by a client.

# ESTATE PLAN: Certified Specialists

What does “Certified Specialist” mean?



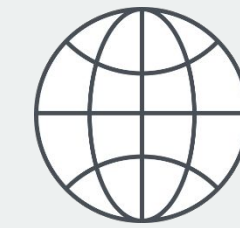
## Expertise

Has met rigorous standards set by the California State Bar, including additional education, experience, and testing in estate planning, probate, and trust law.



## Certification

This certification ensures you are working with an expert in the field, qualified to handle complex estate planning needs.



## Percentage

Only a small percentage of attorneys in California hold this distinction.  
*(0.5% Certified Specialists in Estate Planning, Trust, and Probate Law in California)*

# ESTATE PLAN: Reasons for Delay

*Why do people procrastinate?*

## FEAR OF CONFRONTING MORTALITY

Many people avoid thinking about their own death or incapacitation.

## ASSUMPTION OF COMPLEXITY

People assume estate planning is complicated or only for the wealthy.

## LACK OF TIME

It's easy to put off estate planning because it doesn't seem urgent until a crisis arises.

## MISUNDERSTANDING THE NEED

Many people believe their assets will automatically go to their spouse or children, which may not always be the case.

# ESTATE PLAN: Capacity

## *Capacity and its role in Estate Planning*

### LEGAL CAPACITY

Legal capacity simply refers to a person's ability to understand and appreciate the nature and consequences of their actions. Did the person understand the facts surrounding their decision and the result of their choices?



**Testamentary Capacity:** Typically the term used when referencing estate planning, and is required for simple estate plans, such as a will.

**Contractual Capacity:** Typically the term used when referencing more complex estate plans, such as a trust with a complex distribution scheme (i.e., subtrusts).



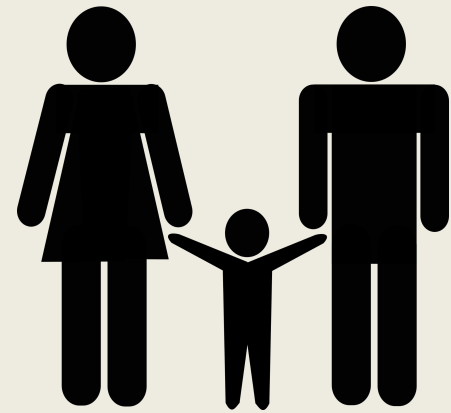
**Diminished Capacity:** Diminished capacity does not mean you lack capacity for everything, but you might lack capacity for certain types of transactions.

**Conservatorships:** A person can have a conservatorship established even if they do not lack capacity to make all decisions. A conservatorship determines whether a person is unable to substantially manage their medical or financial affairs.

**Dementia:** A dementia diagnosis is not a determination that someone lacks capacity, but it might mean the person has a limited window to make certain decisions.

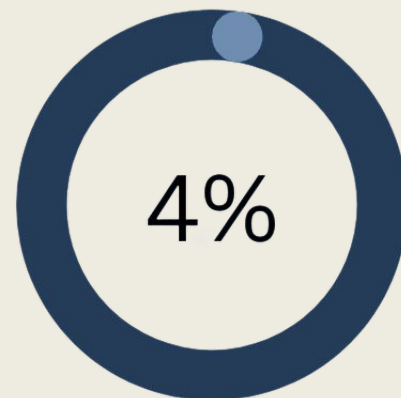
# ESTATE PLAN: Consequences

*What Happens If You Don't Have an Estate Plan?*

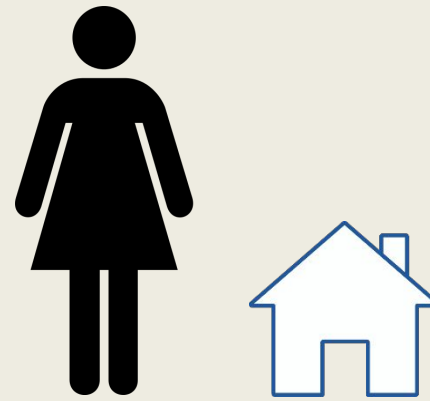


## Intestate Succession

Without a will, your assets are distributed according to state law, which may not align with your wishes, and could lead to unexpected consequences.

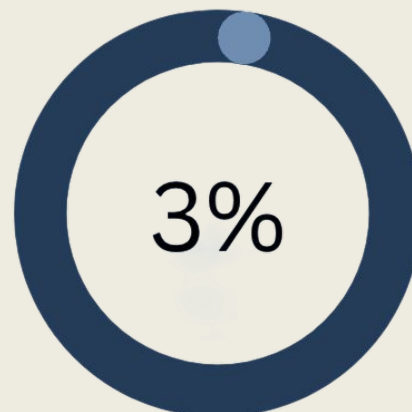


*On First \$100,000*

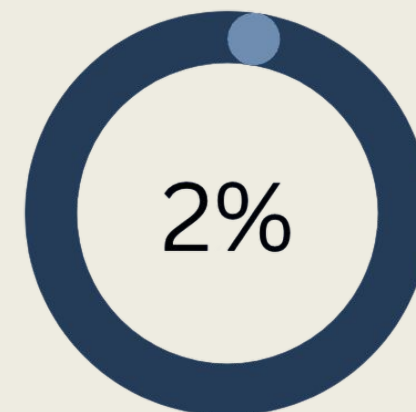


## Probate

Without an estate plan, your assets can only be transferred through probate procedures, which may require court proceedings to distribute your assets, which can take a long time (~2 Years) and be expensive,



*On Next 100,000*

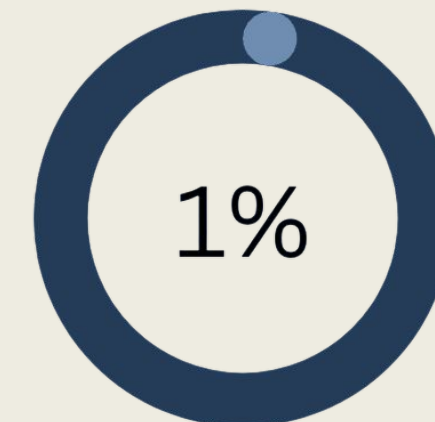


*Next \$800,000*



## Conservatorship

If you cannot manage your affairs, the court may need to appoint someone to manage your affairs, often leading to family disputes.



*On Next \$9 million*



# ESTATE PLAN: Tax Law Changes

## Recent Law Changes

### Current Changes

The **federal estate tax exemption** for 2025 is **\$13.99 million per individual**, meaning estates valued below this amount are not subject to federal estate taxes (subject to IRS guidelines).

California Small Estate Petition Procedures modified to increase value to \$750,000 for primary residence.

### Potential Changes

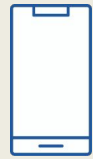
**January 1, 2026** marks the **scheduled sunset** of the current federal exemption. Unless legislation is passed to extend it, the exemption is projected to revert to **approximately \$7 million per individual**, reflecting pre-2018 levels.

The current federal estate tax exemption amounts will change this year, but it will be dependent on what Congress does. Please consult tax professionals regarding how this may impact your particular situation.

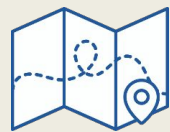
# THANK YOU



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