# THE COLORADO GUIDE TO THE LIVING TRUST

Let's learn about the living trust through the eyes and ears of John and Mary Love, fictitious, but typical clients of The Hughes Law Firm. If you're unmarried, don't worry; most everything you will learn here applies to both married and unmarried people.

John, age 70, and Mary, age 62, live in a large three-bedroom ranch in Lakewood. This is their second marriage; they were both widowed ten years ago. John has one child, Alice. Mary has one child, Bart. John and Mary have two pets they absolutely adore: Buddy, a Yorkshire Terrier, and Little Girl Kitty.

John's health is good except for some hearing loss. Mary has high blood pressure and is a stroke risk.

John's daughter, Alice, is a frugal, strong-willed woman, but suffers from MS. She is married to Rusty, a very controlling man with a weakness for gambling and jumping into risky business ventures too quickly. One of their two teenage children, Danny, is severely autistic and goes to a special school.

Mary's son, Bart, is an alcoholic, but is sober for now. The last time he fell off the wagon was about a year ago when he went to a VA rehab facility for five months. He doesn't much like to work, so his new wife, Lola (and stepmother to Bart's two children), brings home most of the family income working as a server at a local cabaret.

John and Mary are both retired, take in around $3,800 per month from Social Security, interest from savings and John's pension, and own the following assets:

| | John's Assets | Joint Assets | Mary's Assets |
|---|---|---|---|
| Residence* | | $395,000 | |
| Hawaii Condo | | $150,000 | |
| Mutual Funds | | $125,000 | |
| CDs | | $120,000 | |
| IRAs | $200,000 | | $100,000 |
| Annuities | $ 20,000 | | $ 30,000 |
| Life Insurance (term) | $ 30,000 | | $ 20,000 |
| Personal Property | $_____ | $ 30,000 | _____ |
| | $250,000 | $820,000 | $150,000 |

**GRAND TOTAL ESTATE (net) …… $1,200,000**
* (less a $20,000 mortgage)

**Attorney:** "Welcome. What brings you to my office?"

**John:** "Good friends of ours, Bill and Jenny Peterson, worked with you about a year ago putting together a living trust. We've been thinking about doing the same thing, but didn't know who to go to. They suggested that we come see you. We have lots of questions."

**Attorney:** "Well, I'll do my best to help. Is there any particular topic you would like me to focus in on first?"

**Mary:** "Yes. Probate, trusts, wills, Medicaid..."

**Attorney:** "Whoa, slow down! Let's start with the basics. Do you have wills now?"

**Mary:** "No, but our neighbor who just died a year ago had a will and her three kids complained about probate and all of the delays and costs. I thought a will was supposed to make everything simpler…you know, avoid probate.

**Attorney:** "Contrary to popular belief, a will does not avoid probate. Ironically, it's the thing that is probated--along with the property it transfers to the people named in the will called beneficiaries."

**Mary:** "Doesn't the will at least make things go faster?"

**Attorney:** "Not really, but it's usually better than having nothing at all. With a will, you get to name who you want to settle your estate, called your 'personal representative' and, of course, you get to name who you want to receive your property at death. Without a will, the court or state law could make all of these decisions."

**John:** "The court… does that mean a judge?"

**Attorney:** "Yes, but sometimes it means a judge's assistant called a magistrate, but it still means court."

**John:** "I've heard that probate can take two to three years and cost thousands of dollars."

**Attorney:** "That's true, but only in a small percentage of cases where the will was confusing or handwritten or contested. The 'messy' cases are the ones people hear about that take years to settle and consume up to half of the estate. Most probate cases take less than a year and a half to settle and cost less than five to ten thousand dollars."

**Mary:** "So exactly what is probate, anyway?"

**Attorney:** "It's the legal process of making certain that the will of the decendent is, in fact, the true will, that all of the creditors are paid and the beneficiaries named in the will get their proper shares free of any "clouds" on real estate titles. It also helps resolve any conflicts and takes care of the IRS in case any death taxes are due."

**Mary:** "So why does probate have such a bad name?"

**Attorney:** "Court filings are necessary to get a court order allowing the personal representative to do his job. Other formalities, like asset inventories, creditor notices in the newspaper and estate closing paperwork, all take time and money. But, many of the ugly probate stories you read about in the newspaper come from poorly-planned estates or from states that don't have a simplified probate process like Colorado. Most folks I work with still want to avoid courts so their family can settle everything privately among themselves…as long as it's economical to do so.

**John:** "That's me. I want my estate to be settled as fast and as cheap as possible for my kids. I don't want any one or two year delay or lots of lawyer fees."

**Attorney:** "And don't forget you have a piece of real estate in Hawaii. That property will go through probate, too—in the state of Hawaii…and at an additional cost for this second probate. That's more red tape you need to avoid for your family."

**Mary:** "We've worked too hard for what we have; we're pretty careful and organized. We don't want to leave an expensive mess behind for our kids to have to clean up."

**Attorney:** "Even in simplified probate states like Colorado, folks are choosing to plan with a living trust. The living trust makes the process of settling an estate at death or in the event of a disability about as simple as possible."

**Mary:** "You mentioned 'disability.' I thought probate happened only when somebody dies…"

**Attorney:** "That's a great point. Actually, there are two kinds of probate: a 'death probate' and a 'living probate.'"

**John:** "What's the difference?"

**Attorney:** "A living probate happens when you get injured, have a stroke, lose your mental faculties or otherwise become unable to manage your day-to-day financial affairs such as paying bills, watching over your investments, running a family business, and so forth. Just imagine not being able to write a check…"

**John:** "I never really gave it much thought. I always assumed that kind of stuff happened to other people!"

**Mary:** "This actually hits closer to home than you realize, John. Remember, your sister had Alzheimer's the last five years of her life. She lost nearly everything to nursing home bills and the court administrator in charge of all of her finances. Her kids fought over everything. They were in and out of court for years. It was a circus."

**Attorney:** "This type of court proceeding--what I just called a living probate--is officially called a 'conservatorship.' Even in a non-complicated estate, a living probate can be far more costly than a death probate and last for years--or at least as long as the person is incapacitated."

**Mary:** "Your sister's case was in the courts for over four years, John. Then it all had to be dragged through probate again when she died."

**Attorney:** "That's right. At death, the living probate must be terminated, causing another expensive procedure--and then it all gets followed up with a death probate. This translates into three separate legal proceedings, three separate legal bills and three long-and-drawn-out legal procedures."

**Mary:** "I can remember your sister's relatives digging into all of her court records to see what she was worth."

**Attorney:** "Right. A disabled person's financial life becomes public record. Privacy is lost. Everyone can see everything. Nosy neighbors can spy all of the family jewels."

**John:** "Does this happen in a death probate, too?"

**Attorney:** "Not usually--unless there is a will contest or other controversy after death."

**John:** "If I had a stroke, couldn't Mary just handle all of my finances as my spouse?"

**Attorney:** "For the most part, yes, until it became necessary to sell real estate or deal with certain stocks and bonds."

**John:** "If everything's in joint names or has PODs set up, can't she just take over automatically?"

**Attorney:** "When it comes to joint bank or credit union accounts, she could. But if she needed to sell the house, she couldn't. Real estate is a problem--even when it's joint. So are most brokerage accounts and stock certificates. And PODs only work at death, not disability."

**Mary:** "But if I were John's power of attorney, wouldn't that work?"

**Attorney:** "It will most of the time, but experience has shown that many financial institutions and title insurance companies will refuse to honor a perfectly valid power of attorney. Many of these financial institutions have been defrauded over the years by unscrupulous types and are now gun-shy of powers of attorney. In fact, a broker friend of mine working for a major investment firm recently told me that they wouldn't accept any power of attorney older than ninety days! And just a few weeks ago, an executive with a national title insurance company told one of our clients that her father's power of attorney signed only a month earlier wouldn't be honored because it was too new!!

**John:** "So what's the answer?"

**Attorney:** "A revocable living trust."

**John:** "Why?"

**Attorney:** "Because real estate people, stock brokers, banks, credit unions and most every other financial institution have confidence in trusts and don't question their reliability. They work better than powers of attorney and avoid a living probate in most every situation when they are properly written and funded."

**John:** "Funded? What does that mean?"

**Attorney:** "When it comes to avoiding probate, a living trust is only as good as what's in it."

**John:** "Explain what you mean by that."

**Attorney:** "I will, but first you must have a basic vision of what your probate estate actually looks like. Think of it as a kitchen container you might buy to store sugar or flour in. We get one when we're born--just like a social security number. As you acquire assets over time, those assets automatically go into this container. While you are alive and healthy, you can do anything with your assets you want--sell them, rent them, give them away...anything. But if you become legally disabled or die, the law locks down the top on the container so no one can gain access."

**John:** "Well in a way, that's good isn't it? I mean, this way your assets are protected from outsiders who might want to…take advantage of the situation."

**Attorney:** "Yes, but this protection comes at a price."

**Mary:** "Right…the legal fees, the delays and the inconvenience you just talked about."

**Attorney:** "To unlock the top of the probate container, family members must turn to the probate court. The court must appoint a personal representative or conservator to take control of your assets. The court-appointed representative is then given the key to your probate container."

**John:** "So how do we avoid the court getting in the middle of all of this?"

**Attorney:** "Build a new container with a top that still locks, but doesn't require a key from the probate court judge to unlock it."

**Mary:** "This is the living trust, right?"

**Attorney:** "Right, but it won't work to avoid either a living probate or a death probate until…what?"

**Mary:** "I know. You need to take the assets out of the probate container and put them into the living trust container, right?"
Attorney: "Right. That's what I mentioned earlier: 'funding' your living trust. Funding means changing the title to your various assets to show the name of your trust as the title owner, not the two of you as joint owners. If we called your new trust **The Love Family Trust**, your house, your Hawaii condo, your stocks and bonds, CDs, etc, would all show **The Love Family Trust** as the new owner."

**John:** "How would we actually transfer the house and condo to the trust?"

**Attorney:** "We would use a deed similar to the one you got when you bought your house way back when. You both would sign the new deed showing a transfer of the title ownership to **The Love Family Trust**. Your Hawaii condo needs special care since it's an out-of-state property. Beware that there will be a probate in each state where you own real estate in an individual name. This can increase the cost of settling your estate dramatically. So, by all means, make sure you change the title to all out-of-state real estate to the trust name to avoid multiple probates. And give some thought to making some special provisions for the Hawaii condo. Because it's a vacation retreat you'd love to keep in the family for years to come, consider a **Vacation-Property-Preservation Trust™** as a way to keep peace in the family when it comes to using it, maintaining it, or, perhaps, selling it later.

**Mary:** "Very good advice. How would we re-title our mutual funds and CDs?"

**Attorney:** "Simply tell the representatives of your financial institutions you want to re-title the accounts to **The Love Family Trust**. They're used to these requests and would have you sign some change-of-ownership paperwork to make it happen."
**John:** "What about our car and checking account?"

**Attorney:** "We usually suggest that you keep them just the way they are right now since they probably won't go through probate anyway."

**John:** "How's that?"

**Attorney:** "Colorado probate law lets $60,000 worth of non-real estate assets avoid the probate trap. This allows you to keep your regular bill-paying checking account in joint tenancy--just like you've always had it set up. And unless you have an expensive car, just leave it in joint tenancy. The same applies to RVs, ATVs, and the like. Just make reasonably sure the total value of all of these kinds of assets doesn't exceed $60,000."

**John:** "What about life insurance, IRAs and 401(k)s?"

**Attorney:** "These types of assets usually do not get transferred to your living trust while you are alive. Under certain circumstances, we would name the trust to be the contingent beneficiary to protect the benefits from "issues" involving your children after you're both gone. Taking proper care of IRAs and 401(k)s is a major planning consideration and is something we will talk about in more detail later. Because you have some fairly sizeable IRAs, I would strongly suggest that you opt for what we call our **IRA Stretch-Out-Protection Supplement™** to make sure that your children get the best possible income tax advantages from your IRAs."

**John:** "Sounds pretty straightforward, but who does all of this… funding?"

**Attorney:** "We do all of the deed work for you. We help you change the beneficiary designations on your life insurance, IRAs and annuities and we give you a **Trust Funding Tool Kit™** that contains detailed written instructions on re-titling your other accounts so you can handle those changes with confidence. If you hit any snags, we're here to help. "

**John:** "But if we transferred our major assets into the trust, will we lose control over them? Will I have to get someone's permission to sell things?"

**Attorney:** "No, that's because you are the boss--together with Mary--of your living trust. You can do anything you want with your assets. You are in full, 100% control. You are what we call the co-trustees of your trust."

**John:** "But what if I die? Is Mary the only boss of the trust then?"

**Attorney:** "Yes. When one of you gets sick or dies, the other becomes the sole trustee and makes all of the decisions. When the survivor dies or gets sick, another person--perhaps one of your children or a professional trustee--will step forward and take charge."

**John:** "How is that determined?"

**Attorney:** "By you two. You decide who you want to run the show if you're both dead or disabled. You, not the probate court, would decide who takes over…and you, not the probate court, would give the key to your living trust to your successor trustee."

**Mary:** "I'm a little confused…Do we have one trust or do we each have our own separate trust?"

**Attorney:** "Great question. Most married couples will use one trust called a 'joint' or 'shared' trust. Others with certain complications or separate assets they want to keep separate may want to have separate trusts. I'm thinking that the two of you would be well served with a joint trust if you plan to treat your separate children equally."

**John:** "We do, but we've had some talk about dealing with Bart differently than Alice because of his drinking problem. How do we deal with this?"

**Attorney:** "You can disinherit or treat children differently. It's your right to do so, but you need to be careful. Lay out in writing exactly what you're doing and why you're doing it, otherwise the disgruntled heir may sue the estate later and create a big, expensive problem. We encourage our clients to let us help them organize a **Different-Treatment-of-Kids Package™** that documents everything very carefully so the chance of a successful will contest later is minimized."

**Attorney:** "Can't we leave Bart his equal share, but protect it somehow so he doesn't do something…stupid?"

**Attorney:** "Yes. In fact, there are several things you need to consider when it comes to how you leave your estate to your children and who you pick to be in charge."

**John:** "What do you mean?" I thought we simply picked the kids to do everything and let them take their shares outright…"

**Attorney:** "Well, let's explore all of that a moment. Would you want either one or both of your children to be in charge of your estate during what could be a long period of disability? What about after your deaths? Are they up to the task of dealing with the details?"

**Mary:** "Well, as you know, Bart's has me very worried and Alice's husband, Rusty, runs the money show in that family. Then there's Alice's MS that seems to be getting worse by the month…What do you think John?"

**John:** "Hmm…I have to admit that I've never really thought about it before just now. I'm not sure I'd be comfortable with either one of them taking charge, as much as I hate to say it. I'm even concerned that they might blow their inheritances overnight?"

**Attorney:** "It's not unusual to have this worry. That's where a professional trustee that's in the business of running trusts for families comes in real handy. We can explore this option in greater detail later, but it's a viable alternative."

**Mary:** "But what about our fear that our kids could squander their inheritances? We really want something to go to our four grandchildren… to be available to help them get through college. And, of course, there's Danny, our autistic grandson. We absolutely adore him and want to make sure there's money there when we're gone to help pay for his needs.

**Attorney:** "I suggest you read the article I am going to give you now entitled **How to Protect Your Loved Ones' Inheritance with the Bulletproof Trust™**. It outlines the way an irrevocable trust we call the **Bulletproof Trust™** can keep family assets in the family bloodline for years to come without risk of loss from a child's or grandchild's divorce, creditors, medical problems or poor judgment."

**John:** "Interesting. And here I always thought you had to simply give it outright to the kids and hope it might last for more than a few months."

**Attorney:** "No. In fact, the long-term trust benefits of asset protection for our children and grandchildren make the benefit of probate avoidance pale in comparison. Read the **Bulletproof Trust™** article (attached) and see if you agree with 80% of our clients that bulletproofing a child's inheritance is the best way to plan.

**Mary:** "Does the basic revocable living trust avoid death taxes?"

**Attorney:** "Well, understand there is no death tax if one spouse of a married couple dies leaving most everything to the surviving spouse. And there will be no death taxes when the second spouse dies--provided the total estate of the second to die does not exceed the tax-free amount. That tax-free amount is $5,000,000 for individuals and $10,000,000 for married couples for years 2011 and 2012. From scanning your list of assets, it looks like your combined estate would clearly pass tax free. If your estate were greater than the tax-free amounts, we would

recommend more sophisticated planning using other trusts. But for now, we will leave this tax issue alone until you win the lottery!

**John:** "Great. Thank you again, but I'm still struggling with the control issue. If we transfer our assets over to our living trust, do we still own them?"

**Attorney:** "Yes and no."

**John:** "Thank you for clearing that up."

**Attorney:** "Sorry, but it gets a little confusing. The two of you still own your assets in reality. More importantly, you still have control over all of your assets. By changing the title ownership of your assets to the trust name, we can change the way those assets will pass down the line--free of court involvement--while you retain all of the benefits of ownership for as long as you live."

**John:** "If the trust is the owner of our assets, will the IRS make us file a separate tax return for the trust?"

**Attorney:** "No. The IRS views the two of you as still the current owners of your assets even though they're titled in the name of the trust. Therefore, no separate tax return will be required and no separate tax ID number will be necessary for the trust. Whenever you need to supply a tax ID number for any asset titled in the name of your trust, just use one of your social security numbers."

**John:** "If the trust owns my property, can I sell it when I want to later?"

**Attorney:** "Yes. You have full control of your assets, so you can sell them anytime you want. In fact, you still get the $500,000 exclusion from capital gains tax on the sale of your home, or $250,000 exclusion if you're unmarried, even though your property is titled in the trust."

**Mary:** "But what if we have a mortgage on the house?"

**Attorney:** "You can transfer property to a trust even though it's mortgaged. And mortgage companies won't declare the mortgage 'due-on-sale' when you transfer property to your revocable living trust. You can even continue to deduct your mortgage interest on your tax return just like you always have."

**Mary:** "Is it difficult to change the trust later on?"

**Attorney:** "No, it's easy. Since you are the co-trustees, you can change what you want when you want. When one of you dies or becomes disabled, the other can make further changes down the line. Consider becoming members of our 'Inner Circle.' It offers free changes over the years for a modest annual fee—plus other benefits you may really like. I'll give you a summary sheet of benefits you can look at later."

**Mary:** "What you just said about the survivor changing the trust after one dies worries me. What if I died and John remarried and changed everything so it would all go to "her" instead of the children?"

**Attorney:** "That's a major concern for many of my clients. If it's a concern for you, I suggest you consider signing a special agreement while you are in the process of doing your estate planning that will legally prevent the surviving spouse from disinheriting the children and grandchildren in the event of a remarriage. We call this document a **Don't-Disinherit-My-Kids Contract™**. It's particularly important for couples like you who have children from 'previous lives.' It will make sure that the surviving spouse won't disinherit the decedent's child in favor of his or her own child. It can save your marriage if you think about it…"

**Mary:** "That sounds like something I would really be interested in. But what about our two pets? I would like to make sure they are provided for in the event we die and they continue to live."

**Attorney:** "That's an issue that seems to be more of a concern now than ever before. We can help you set up something either elaborate or simple. The more elaborate approach is called a 'pet trust.' Just for fun,

we call it our **Furry-Friends-and-Family Trust™**. It costs a little extra to do, but many find it worthwhile. Otherwise, you can put some simple language in your basic living trust that asks one of your family members to care for your pets and offers a special gift they would receive on the condition that they actually follow through."

**Mary:** "We've talked about trusts the whole time. Is there any reason we would need a will?"

**Attorney:** "We always prepare a will when we do a trust. We call it a pour-over will. This pour-over will is designed to pour assets over to the trust that were never transferred into the trust initially or that came onto the scene later--sometimes right before death. For example, let's assume that John inherited forty acres of land in Nebraska from his brother one month before John's death. John wouldn't have had time to transfer that land over into his trust. The pour-over will would, however, transfer that property into the trust so that it would be distributed according to the terms of the trust as you directed."

**Mary:** "Would that avoid a probate on that Nebraska property?"

**Attorney:** "No. Pour-over wills do not avoid probate, but they do make certain that these 'outside' properties do get inside the trust for proper distribution later."

**John:** "You mentioned earlier that we could name a professional trustee to settle our trust or run it for our children after our deaths. How much would they charge to do this?"

**Attorney:** "They normally charge a fee equal to about ½ of 1% per year (sometimes 3/4$^{th}$ of 1% per year) to administer a trust that continues in existence for the benefit of your children and grandchildren after your deaths. Once again, that fee doesn't apply until you're <u>both</u> gone. That's because the two of you are the trustees of your trust while you're alive; when one dies, the other serves as the sole trustee. The only time a professional trustee would get involved before you're both deceased is if the survivor got disabled and named a professional trustee to act instead of one of the children. They would also charge a fee to settle up

the details right after the survivor's death, but that should be minimal since probate wouldn't be an issue."

**Mary:** "Will this trust protect our assets if we ever have to go into a nursing home?"

**Attorney:** "No, unfortunately not. The revocable living trust is not an asset-protection tool that will protect your assets from Medicaid or nursing home bills. There are other types of trusts that are irrevocable, such as the **Living Trust Plus™**, that may be effective in this regard; however, they require that you give your assets away and relinquish control of how they're managed…a popular option for people with estates ranging from between $50,000 and $1,000,000 who are highly motivated to protect their assets. But they better have one child or more they can trust implicitly! I have a paper on this topic entitled "The Living Trust Plus Plan" that you're welcome to if you'd like to learn more about this strategy, but if you can get it, your best option for addressing long-term care costs is long-term care insurance. I recommend that you at least check it out.

**John:** "I just started hearing about these living trusts in the last few years. Are they something new?"

**Attorney:** "Actually, no. Living trusts have been around for centuries. They have been the tools of the wealthy for years, but are now becoming widely used by 'regular' folks."

**Mary:** "Well, do you think we have enough for a trust?"

**Attorney:** "I think you're a very good fit. Your estate isn't subject to death taxes, but your two pieces of real estate will cause two death probates in two different states. The trust will cure that and save the family five to ten thousand dollars. If either of you become disabled, the trust will avoid a living probate or two in case your financial powers of attorney get rejected--saving much more. And maybe most important, you can use your trust to bulletproof your children's and grandchildren's inheritances from the negative effects of their potential divorces, over-controlling spouses, debt problems, severe health issues, addictions or

bad business decisions. It all boils down to what's important to you and how carefully you want to plan for yourselves and your family."

**John:** "What about just doing a will instead of a trust?"

**Attorney:** "It's a choice. Planning with a living trust is a probate-free option to just using a will. Only you can decide if the benefits you'll get from it are worth the extra cost and time to set it all up. We do lots of simple wills for our clients who aren't that concerned about the things we've been talking about, so we can help you regardless of the route you want to take."

**Mary:** "What would you do if you were us?"

**Attorney:** "Well, since you asked, I, personally, like everything nice, neat and organized. I don't like to have PODs here, joint tenancies there and beneficiary designations scattered loosely among the kids and grandkids. I like a central place to put everything so when I want to make a change later on, all I have to do is simply change one thing--the trust--not all of the tentacles that lead into it. Add in all the other benefits we've discussed and the clear winner is the living trust--even it if does cost a little more up front. After all, this isn't something you do every year…"

**John:** "Exactly how much does the living trust cost?"

**Attorney:** "Pinning down the exact cost is difficult since everyone is different. One size doesn't fit all. The base price of a living trust estate plan for an unmarried person is $3,296; the base price for a married couple is $3,996. This fee includes many different components, including the revocable living trust itself, the pour-over wills we talked about earlier, a memorandum for listing specific items of personal property you want to go to special family members or friends, our **Disability Tool Kit™** which includes durable financial powers of attorney, durable healthcare powers of attorney, living wills and HIPAA releases. Also included is the **Trust Funding Tool Kit™** which includes up to two Colorado deeds at no additional cost; change of beneficiary assistance for IRAs, life insurance and annuities;

re-titling instructions for bank accounts, credit union accounts and brokerage accounts; and a special affidavit we call the 'magic wand' that helps fund 'forgotten' assets into the trust at death.
**Mary:** "So it's a lot more than just a trust, isn't it?

**Attorney:** "Yes and the base fee also includes an **Estate Settlement Tool Kit™** which makes it easier for your family to settle your trust later after a death. This tool kit includes a checklist of trustee duties, a free one-hour settlement conference with the family, funeral instructions, an asset listing, key-people location sheet and other special forms necessary to settle an estate. Finally, all clients are entitled to a one-year free membership in our up-dating program called the 'Inner Circle' that gives all of our clients a free year of routine amendments at no charge, follow-up phone advice at no charge and access to our e-newsletter that highlights important changes in the law—so you're never out of the information loop. Various planning options, such as the Bulletproof Trust™, are quoted as additional fees and can be added to meet your specific family and financial needs. Together, we'll determine an exact figure for your specific plan so you know what the fee is before we get started."

**Mary:** "Should our children be doing something like this for their children?"

**Attorney:** "Sure, but getting younger parents to plan is difficult. The sense of urgency is missing…and maybe the financial resources, as well. But since life is unpredictable and there are young children to worry about, we have a very popular **Young Parents Estate Plan** that may be perfect. Although it doesn't avoid probate or bulletproof the grandkids' shares, it costs less than half the fee of our 'Living Trust Estate Plan!' It names who the parents want to take care of their minor children, called guardians, and a trustee of a support-and-education trust that covers the kids' financial needs until they grow up. This plan includes the Disability and Estate-Settlement Tool Kits™--just like the Living Trust Estate Plan.

**Mary:** "That sounds great. I'll pass this information on to them.

**John:** "What I'm hearing on fees is pretty much what I expected. I can see that our fee will probably exceed the base fee since we really want to add some of the extras you talked about, like the Bulletproof Trust™ and maybe the Don't-Disinherit-My-Kids Contract. I like the way you've separated out the various options so we can pick and choose what's right for us."

**Attorney:** "Also, discounts of 10% to 25% may apply if you're a member of one of our sponsoring credit unions, AARP or other group and prepaid legal services plans we work with. We'll figure all of that in when we put pencil to paper."

**Mary:** "Well, John, I think this living trust idea would be a good for our family. What do you think?"

**John:** "I like it. Why don't we just get started?"

I hope you enjoyed being the fly on the wall in our office. You now know more than 95% of all Coloradans about basic estate planning with a living trust. If you have questions or concerns not addressed by this guide, please don't hesitate to give us a call at (303) 4-ADVICE (423-8423).

Thank You,
From everyone at the
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# HOW TO PROTECT YOUR LOVED ONES' INHERITANCE WITH THE BULLETPROOF TRUST™

Studies reveal the amazing speed inherited assets, lottery winnings and personal injury awards slip through the hands of even the most responsible beneficiaries. Inherited assets left outright to your heirs are exposed to a multitude of hazards, including divorce, creditors, lawsuits and opportunistic friends, relatives and suitors. The problems multiply with irresponsible children struggling with alcohol, drugs, gambling, or legal problems. Leaving your estate outright to your children is risky and, frankly, unnecessary. Instead, leave your estate to your children in a trust – a **Bulletproof Trust ™**.

## JOINT TENANCY PROTECTION

Beneficiaries, when pressured or simply without thinking, all too often put newly- inherited assets into joint tenancy with their spouses without considering how a later death or divorce can impact what the grandchildren get – or don't get – later on. To avoid this risk of loss, leave your children's inheritance in a **Bulletproof Trust™** and keep the family legacy in your bloodline. Because assets held in a **Bulletproof Trust™** cannot be titled in joint tenancy with your child's spouse or any other person, the transfer of family assets to your heirs is assured at the death of a child.

## DIVORCE PROTECTION

Assets held in a **Bulletproof Trust™** are owned by the trust, not the child; therefore, trust assets cannot be titled in joint tenancy or given to your child's spouse. This prevents' separate property from becoming marital property subject to equitable division by a divorce-court judge.

## BLOODLINE PROTECTION

Assets held in a **Bulletproof Trust™** cannot be willed by your child to his or her spouse. This prevents the diversion of family assets to persons outside the family bloodline. Assets remaining in your child's trust at your child's death will pass automatically to your child's children, or if none, to your other living children or grandchildren.

## LAWSUIT PROTECTION

Assets held in a **Bulletproof Trust™** cannot be seized or attached by successful plaintiffs in litigation, including accident cases, sexual harassment suits, etc. Since assets held in a **Bulletproof Trust™** are not legally owned by the trust beneficiary, they are not "available" to satisfy a court judgment.

## DEBT PROTECTION

Assets held in a **Bulletproof Trust™** cannot be claimed by your child's creditors. Your child cannot loose what your child does not own. Even if your child was forced to file for personal bankruptcy, assets held in the **Bulletproof Trust™** would be sheltered from loss. As an added benefit, your child could not pledge **Bulletproof Trust™** assets as collateral for a loan, preventing the inadvertent loss by careless borrowing.

## DEATH TAX PROTECTION

With certain exceptions, assets held in a **Bulletproof Trust™** will totally escape death taxes when your child dies and passes the remaining trust assets to your grandchildren. This is an especially important benefit if you have children who are independently wealthy in their own right.

## BAD HABITS PROTECTION

Assets held in a **Bulletproof Trust™** are insulated from the spendthrift tendencies of children who are financially irresponsible, over generous, or prone to taking unreasonable business or investment risks. Children addicted to drugs, alcohol, gambling and other life-style challenges will find difficulty accessing the assets of the **Bulletproof Trust™** to sustain their self-destructive behaviors.

## MEDICAID AND MEDICAL EXPENSE PROTECTION

Assets held in a **Bulletproof Trust™** may enjoy protection from Medicaid. This is important if a child, grandchild or other beneficiary is disabled, handicapped or suffering from a chronic disease that requires care in a nursing home or other long-term care facility. With new legislation making it more difficult to qualify for Medicaid benefits, asset-protection planning for disabled beneficiaries is more important now than ever.

## INCOME TAX SAVINGS

The **Bulletproof Trust™** can purchase assets for a child such as a residence or business. Because the IRS does not impute income to the child for the use (i.e., rent) of trust-owned property, your heirs will enjoy significant income tax savings for life.

## RETIREMENT

Imagine that your children have not "socked" enough away to provide for their secure retirement. A **Bulletproof Trust™** can serve as a safety net that will be there for them when traditional pension plans and/or social security benefits just aren't enough.

## PROTECTION FOR GRANDCHILDREN AND BEYOND

Assets held in a **Bulletproof Trust™** benefit your grandchildren by preserving assets in the family bloodline against a child's divorce, bad habits, legal problems, death taxes, premature death and debt problems. After a child's death, these same protections can be continued for the benefit of your grandchildren and their children by the continuous operation of the **Bulletproof Trust™** for generations to come.

## WHO CAN SERVE AS A TRUSTEE OF A BULLETPROOF TRUST™?

Your child can serve as the trustee of his or her own **Bulletproof Trust™**; however, certain asset-protection benefits may be weakened. You may be wise to name an independent trustee, perhaps a bank or trust company, to act as trustee–especially for any financially irresponsible or unsophisticated children. Responsible children can decide who serves as their own independent trustee. It could even be a best friend. Clearly, an independent trustee is a key element to maximum asset protection and should be used to make distribution decisions in most every instance. Investment decisions can be entrusted to responsible children who act as co-trustees, relieving an independent trustee of investment responsibilities. Your child could be given the power to replace an unsatisfactory trustee with another individual or trust company at any time. In short, many options exist and should be discussed with your attorney.

## DISTRIBUTIONS PERMITTED AS YOU DEEM APPROPRIATE

The **Bulletproof Trust™** can be designed to provide either liberal or conservative benefits for your child or children (your call) while keeping outside predators at bay. The trustee will pay funds to your children for their health, education and general welfare, including additional sums for purchasing a new home, starting a business, getting married, hanging a shingle – even retirement! Only irresponsible children need worry about trustee-imposed restrictions. Honest, self-reliant, hard-working children will be very happy with their **Bulletproof Trusts™**. Don't be surprised if your children, once they understand the wisdom of your planning, design their estate plans for their children around the **Bulletproof Trust™**.

## CONCLUSION

The **Bulletproof Trust™** is the most powerful asset-protection tool in American law. It compassionately provides for your children and younger generations in a manner that reflects your family values and personal concerns. For decades, wealthy families have successfully bulletproofed family inheritances. Faced with the reality of a 60% divorce rate, record-setting bankruptcy filings, 24 million new lawsuits a year and a reckless credit-card culture, it is no mystery why prudent parents and grandparents – regardless of net worth – are turning to the **Bulletproof Trust™** to protect family wealth for generations.

***"The best estate plan is to own nothing but have access to everything."***

Thank You,
from everyone at the
Hughes Law Firm