

Interesting Changes in Estate Planning/Elder Law for 2020

Federal Changes

Illinois estate tax limit remains at \$4 million per person or \$8 million for a married couple (who have the appropriate estate planning documentation).

Federal estate tax limit increases to \$11.58 million per person or \$23.16 million for a married couple (who have the appropriate estate planning documentation).

Gift tax exclusion per year per recipient remains at \$15,000 (anything above this will begin to use up your \$11.58 million lifetime gifting limit).

The Setting Every Community Up for Retirement Enhancement (“SECURE”) Act provides that inherited retirement account distributions must be taken within the ten-year period after the original account holder’s death, unless the beneficiary is an “eligible beneficiary,” which includes a surviving spouse, chronically ill heirs, disabled heirs, and minor children. In the case of minor children, the ten-year rule applies with the minor reaches the age of majority (i.e. 18 years old).

State of Illinois

Illinois Trust Code (PA 101-0048): The Code applies to express trusts, charitable or non-charitable trusts, and trusts created pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an express trust. It consolidates existing statutes and common law practices on trusts into one single act. More detail about these changes can be found on our website.

Disposition of Remains Act (PA 101-0381): Provides that any dispute concerning the right to control the disposition of a decedent’s remains shall be resolved by a court within 30 days of filing the dispute with the court.

Pre-Paid Burial Funds (PA 101-0552): Provides that if a trustee has reason to believe that the contract information for a purchaser is no longer valid or the purchaser is deceased, then the trustee shall promptly notify the seller. It also provides that a trustee shall not report and remit any trust funds relating to the account that is presumed abandoned to the State Treasurer. A pre-need trust fund is considered abandoned 40 years after the contract for payment was executed. If the owner indicated an interest more than 40 years after the contract for payment, then it is deemed abandoned 3 years after the last indication of interest. If the seller is licensed to hold care funds, then within 30 days of receiving notice that pre-need trust funds are presumed abandoned, the trustee of the pre-need trust fund shall remit the presumptively abandoned property to the trustee.

Long Term Care Notice (PA 101-0100): Provides that if a recipient resides in a long-term care facility, the Department of Healthcare and Family Services must send notice of its decision to

terminate Medicaid assistance to both the long-term care facility where the individual resides and the individual.

Medicaid Redeterminations (PA 101-0101): In provisions regarding expedited long-term care eligibility determination and enrollment, it provides that if an individual is transferred from one long-term care facility to another long-term care facility, any annual notice concerning redetermination of Medicaid eligibility must be sent to both the long-term care facility where the individual resides and the individual.

Medicaid Prescriber Education (PA 101-0278): Requires that the Department of Human Services, in collaboration with an academic institution, develop a program designed to provide prescribing physicians under the medical assistance program with an evidence-based, non-commercial source of the latest objective information about pharmaceuticals.

Assault of Elderly (PA 101-0182): Provides that a person convicted of assault, aggravated assault, battery, or aggravated battery of an elderly person shall not receive any property, benefit, or other interest by reason of death of that elderly person.

Abuse Investigations (PA 101-0496): Amends the Adult Protective Services Act and provides that in a provision concerning face-to-face assessments conducted by a provider agency designated to receive reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect under the Act, the agency must include interviews or consultations regarding the allegations with service agencies, immediate family members, and individuals who may have knowledge of the eligible adult's circumstances based on the consent of the eligible adult in all instances except where the provider agency is acting in the best interest of an eligible adult who is unable to seek assistance for himself or herself and where the allegations are against a caregiver who has assumed responsibilities in exchange for compensation.

Hearing Aids (PA 101-0393): Requires coverage for hearing instruments and related services for all individuals 65 years of age and older when a hearing care professional prescribes a hearing instrument.

Financial Exploitation of Elderly (PA 101-0394): Provides that the court shall not order the sealing of the records of convictions for financial exploitation of an elderly person or a person with a disability, aggravated identity theft against a person 60 years of age or older or a person with a disability, abuse or criminal neglect of a long-term care facility resident, or criminal abuse or neglect of an elderly person or person with a disability. This holds people who commit crimes against elderly and disabled people accountable.

For a list of all 255 new laws in Illinois for 2020, see:

<http://www.illinoisenatedemocrats.com/images/PDFS/2019/2020-new-bills-list.pdf>