

DAVID J. ECKERT
JASON J. KRAUTKRAMER
e-mail - dave@eckertlawllc.com
jason@eckertlawllc.com

630 N. 4th Street
P.O. Box 1185 • Wausau, WI 54402-1185
Phone: 715 842-0907
Fax: 715 842-0900

Can Artificial Intelligence Programs Write Basic Estate Planning Documents?

With the increased coverage of artificial intelligence (AI) and all of the applications it can have in our everyday lives, some people may wonder whether an AI program can create an estate plan for them. While AI may be able to generate basic estate planning documents, including wills and trusts, there is no guarantee that they will be valid and enforceable. Providing accurate information and executing the documents in compliance with your state's laws is critical. Otherwise, your documents will not work as intended. Most people do not have the legal knowledge necessary to determine what clauses and language should be included in a will or trust to accomplish estate planning goals. They also are not familiar with state laws or how to comply with them. This is why people rely on experienced attorneys to prepare the necessary documents to carry out their wishes.

Some state laws are complex and hard to understand, and you may not know enough specifics to offer the correct information about your situation or verify that AI has properly generated or created your will or trust. Additionally, your final documents may contain wording, formatting, and grammatical errors that make them unenforceable. To review them carefully, you have to know what to look for, which often requires that you possess a certain level of legal education and knowledge. The AI program does not understand your situation and will not help you solve a complex legal issue unless you can provide additional information. Even then, you should be cautious and ask yourself the following questions:

- How well do I understand my options for protecting my money, property, family, or business if I have a medical emergency and after death?
- Do I have a complex financial situation with large amounts of property, income, or debt?
- Is my family structure complicated (family dynamics leading to questions about property or disinheritance)?
- Am I undecided about my wishes (how to divide my money and property or what to include in an advance directive)?

Ease and Convenience versus Legal Expertise

Online estate planning programs that use artificial intelligence are designed to streamline or automate the process, making it more accessible and cost-effective for those on a tight budget. While they may provide convenience and accessibility, they provide limited guidance, and they do not offer the same level of customization, legal expertise, and personalization that an experienced estate planning attorney can provide.

You must carefully consider your needs and circumstances before choosing a reputable online estate planning program, such as one of the following:

- Quicken WillMaker & Trust
- Trust & Will
- LegalZoom
- Rocket Lawyer
- U.S. Legal Wills

Each program requires you to answer a series of questions in an attempt to tailor various legal documents, such as wills, trusts, advance directives, powers of attorney, and other estate planning documents, based on the information you provide. You may have trouble providing accurate and specific answers for several reasons:

- **Legal knowledge.** Crafting precise answers to estate planning questions requires familiarity with legal terms, their context, and how they should be structured in a legal document.
- **Clear intentions.** Vague or ambiguous answers can lead to inaccurate, incorrect, or inadequate documents for your situation.
- **Complex legal requirements.** Legal documents must adhere to specific formatting, contain specific language, and comply with legal requirements that vary by state and are not always straightforward.
- **Legal consequences.** Certain instructions or clauses within a document require predicting and avoiding potential legal issues; being unaware of the risks has adverse legal consequences.
- **Omission and oversight.** You may overlook critical details or legal considerations necessary to achieve your estate planning goals, resulting in incomplete or ineffective documents.

If you do not understand which estate planning strategies should be implemented to address your unique situation, how can you ensure that the software is creating the appropriate documents for your needs? Legal professionals have the necessary expertise and training to ensure that your concerns are addressed and can implement an adequate estate plan so that your wishes can be legally carried out.

Situations Requiring More Than a Basic Will

While a basic online will may be a viable option for some, an experienced attorney is helpful in the following circumstances.

Blended Families

If you have remarried and have children from a previous relationship, you must create a will or trust that ensures that your money and property are distributed in a way that considers both your new spouse and children from the prior relationship. You may have to make some complex decisions, which may be difficult to evaluate without legal advice.

Special Needs Planning

If you are a family with a dependent child or an adult with special needs, you may want to establish a special needs trust to provide for the ongoing care and financial support of your loved one while still maintaining their eligibility for government assistance programs. This requires a custom strategy

to consider your options and ensure that your trust is legally compliant in your state to accomplish your goals.

Estate Tax Planning

If you are an individual with a large estate potentially subject to estate taxes, you will want to understand the latest tax-saving strategies, such as gifting, trusts, or other legal tools to minimize estate tax liabilities and preserve a greater legacy for heirs.

Business Succession

If you are a business owner looking to pass your business on to the next generation or sell it upon retirement, you will need a comprehensive plan that effectively addresses the shift in ownership, management, and business property for a smooth and successful transition.

Multistate or International Property and Heirs

If you have real property in different states, heirs may be subject to estate administration processes across multiple jurisdictions, which will require consideration of different state laws and potential tax implications. Having property and heirs in other countries creates even more complexity.

Asset Protection

If you have concerns about potential creditors coming after your hard-earned money while you are alive or creditors or ex-spouses taking the inheritance of your beneficiaries (spouse, children, loved ones, etc.) after your death, you will need an estate plan that has been specifically crafted to protect your life savings from potential creditor claims and legal challenges. This plan will need to contain specialized provisions and must be created in a manner that complies with the law to ensure that it is legally valid and not a fraudulent transfer.

Charitable Planning

If you want to include charitable giving as part of your estate plan, it may require establishing charitable trusts, foundations, or other organizations to support specific philanthropic causes while maximizing tax benefits. Each organization will have rules regarding gifts that you must follow to avoid negative consequences.

An estate planning attorney can address the unique needs and goals of you and your family. They will educate you about your situation and allow you to make informed decisions.

Errors That Make Online Documents Unenforceable

Estate planning attorneys help you avoid the following common mistakes in online documents that could make them unenforceable, require a court to interpret them, or lead to fighting among your loved ones:

- **Ambiguity in wording.** Ambiguity can lead to disputes and legal battles among potential heirs. Example: a will stating “I leave my property to my children” without specifying which children by name
- **Improper use of legal terms.** Misusing legal terms like property, beneficiary, or per stirpes can lead to confusion or incorrect interpretation of your intent.
- **Incorrect names or identities.** Misspelling the full name of a beneficiary or heir or using a previous name after a legal name change makes it challenging to identify the intended recipient.
- **Inconsistent terminology.** Using different terms to refer to the same asset (e.g., house, residence, property) may create confusion about what is being inherited.
- **Improper witnessing and notarization.** Failing to properly witness or notarize a will and other legal documents according to state laws can render them invalid and unenforceable.
- **Lack of clarity in distribution.** Vague instructions regarding who will receive your accounts and property or how they will receive them, such as “divide my estate fairly among my children,” may cause disputes if there is no clear definition of terms like fairly.
- **Failure to address contingencies.** Not accounting for contingencies, such as what to do if a beneficiary predeceases you, can leave money and property without designated recipients, subjecting it to your state law.
- **Inadequate powers of attorney.** Failing to grant adequate powers of attorney, such as financial or medical decision-making authority, creates complications in managing affairs during incapacity and with advance directives at the end of your life. This could require your loved ones to get a court involved, which is what the powers of attorney were meant to avoid.
- **Conflicting instructions.** Providing contradictory instructions within a single document or across several documents leads to uncertainty about your intentions.

There are many considerations and potential scenarios that should be included in your estate plan. Online legal programs cannot adequately address unique situations or additional estate planning details, exposing you to unnecessary risks.

Experienced estate planning attorneys play a vital role in designing and reviewing state-specific forms that address your family’s needs as well as ensuring that your wishes are met while preventing disputes in the estate administration process.

If you wish to use artificial intelligence estate planning programs, they can be used as an outline to begin the process. Take this information to an estate planning attorney to review and address the many situations you may not have considered regarding your unique family dynamics and financial circumstances. Legal experience and expertise offer valuable guidance and education. If you are ready to create a legally enforceable, customized estate plan, give our office a call to schedule an appointment.