



# The Importance of Estate Planning for Young South Dakota Families

When talking about estate planning with young people many of them visualize the process as something they do not need to be concerned with for years to come. Others think estate planning is expensive, or why would they do it when they have such few assets? Young people often equate estate planning with death, which is something many of us do not want to consider. However, no matter how uncomfortable a discussion it may be, no one can predict what is going to happen in the future. That is why estate planning for young families is so important. There is a lot more to estate planning than just giving away the money you have earned. Over the next few weeks, I am going to be addressing some valuable estate planning concepts for young South Dakota families. The first will be to determine who will take care of your children.

Determine who will take care of your children. This is a discussion that many parents have had, but few actually put their decisions down on paper. Because young parents have not made their wishes directly clear, there is a possibility for a dispute to arise between both families that can be unfortunate and very expensive. However, parents can avoid this unpleasant situation with some relatively easy and inexpensive estate planning. By naming a guardian in their Will, parents can designate the person they want to care for their children. This designation will help avoid family conflicts and will provide a smoother transition for a child who has already lost so much.

There are numerous considerations to make before naming a guardian.

**ASK** – It is important to ask the individual to serve as the guardian. As parents you may think an individual is the perfect fit, however that person may not be willing to take on the responsibility.



**BELIEFS** – Whether moral, political, or religious, this person is filling the role of the parents, and the parents should consider the individual's personal values

**LOCATION** – Moving a child out of their comfort zone after losing their parents could be detrimental. Consider where the individual lives and the type of neighborhood they live in

**LIFESTYLE** – Consider the individual's work schedule and social habits

**FINANCES** – Many young families are not leaving their children with a substantial amount of financial assets. When appointing a guardian, determine whether the guardian can afford to raise the child

## Maxx Hickey Featured on KSFY-TV

Swier Law Firm attorney Maxx Hickey was featured on KSFY on April 10, 2014.

Hickey was interviewed for the story "South Dakotans Might Receive Fewer Speeding Tickets in Iowa this Summer."

**Go to <http://www.ksfy.com/story/25219198/south-dakotans-might-receive-fewer-speeding-tickets-in-iowa-this-summer>.**



# Texts and Instant Messaging - A New Frontier for South Dakota Businesses

Texting and instant messaging should be “on the radar” for any South Dakota business. Email is no longer the only electronic communication that may be used in defending lawsuits. Because of “smart phones,” texts and instant messaging have become an increasingly vital type of evidence in lawsuits.

## WHAT IS TEXT AND INSTANT MESSAGING?

Text messaging originally referred to messages sent using the Short Messaging Service. SMS text messages are limited to 160 characters, are transmitted through cellular carriers’ systems, and are typically stored on those systems for a short period of time (for example, 48 hours to two weeks) in addition to being stored on the sender’s and recipient’s devices.

However, the emergence of mobile Internet access has led to the increasing adoption of IP-based messaging, carried via the Internet and without passing through a carrier’s infrastructure, and usually having no cost to the user. A recent Pew Research Center study found that 91 percent of American adults own a mobile phone and 81 percent use their phone to send or receive text or instant messages. Broken down by age group, 97 percent of those 18-29 and 94 percent of those 30-49 send and receive such messages on their phones. Those in the 50-64 and 65+ age groups bring down the overall average at 75 percent (still high) and 35 percent, respectively.

## HOW BIG IS TEXT AND INSTANT MESSAGING?

Nearly 10 trillion SMS and 10 trillion IP-based messages will be sent in 2013. As of June 2012, Apple’s iMessage service had 140 million users who sent one billion messages a day. Granted, a large portion of these messages, even in the work context, are personal, such as “Where do you want to meet for dinner?” But it would be a mistake to presume that all employee texts and instant messages are unimportant. More people are using instant messaging in place of phone calls and email for work communications. Younger employees are used to communicating by text and instant message and are more likely to use them in their work

communication. It is likely that users may be more informal and less careful about the contents of their text and instant messages.

## HOW IS TEXT AND INSTANT MESSAGING IMPORTANT IN A SOUTH DAKOTA BUSINESS LAWSUIT?

Text and instant messages can be a factor in lawsuits and investigations. They have been used as evidence in sexual harassment and wrongful termination cases, and often in litigation arising out of industrial and other accidents. Prosecutors appear particularly interested in text and instant messages in building potential criminal cases.

South Dakota businesses must recognize the importance of text and instant messaging and understand that email is no longer the only form of electronic communication that may be used in lawsuits.



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## kids corner

April is a special month for our family because it is Autism Awareness Month. Our whole school dressed in Blue on April 2 for Autism Awareness Day. After school, everyone gathered to take a picture in the gym. All our teachers gave us Autism Awareness stickers. Mom and Dad even put blue lights on our house that we have left on all month to "Light It Up For Autism."

Will, Kate, and I also had our music concert. Kate and Will sang together. I did a dance with one of my school friends. We sang rock and roll music. Kate's favorite was singing the song *Count on Me*, Will really liked singing *Locomotion*, and my favorite was singing *Blue Suede Shoes*.

This year my family and I are going to be hosting Easter at our house. We have both grandma and grandpa's coming, two sets of aunt and uncles coming, and two cousins coming. We hope to get to do an Easter egg hunt!

By Sarah Swier



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