Hot Topics in Farm Estate Planning & Protecting the Farm from Third Parties

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Estate & Succession Planning
for the Family Farm

July 16, 2026


HOT TOPICS

ESTATE PLANNING

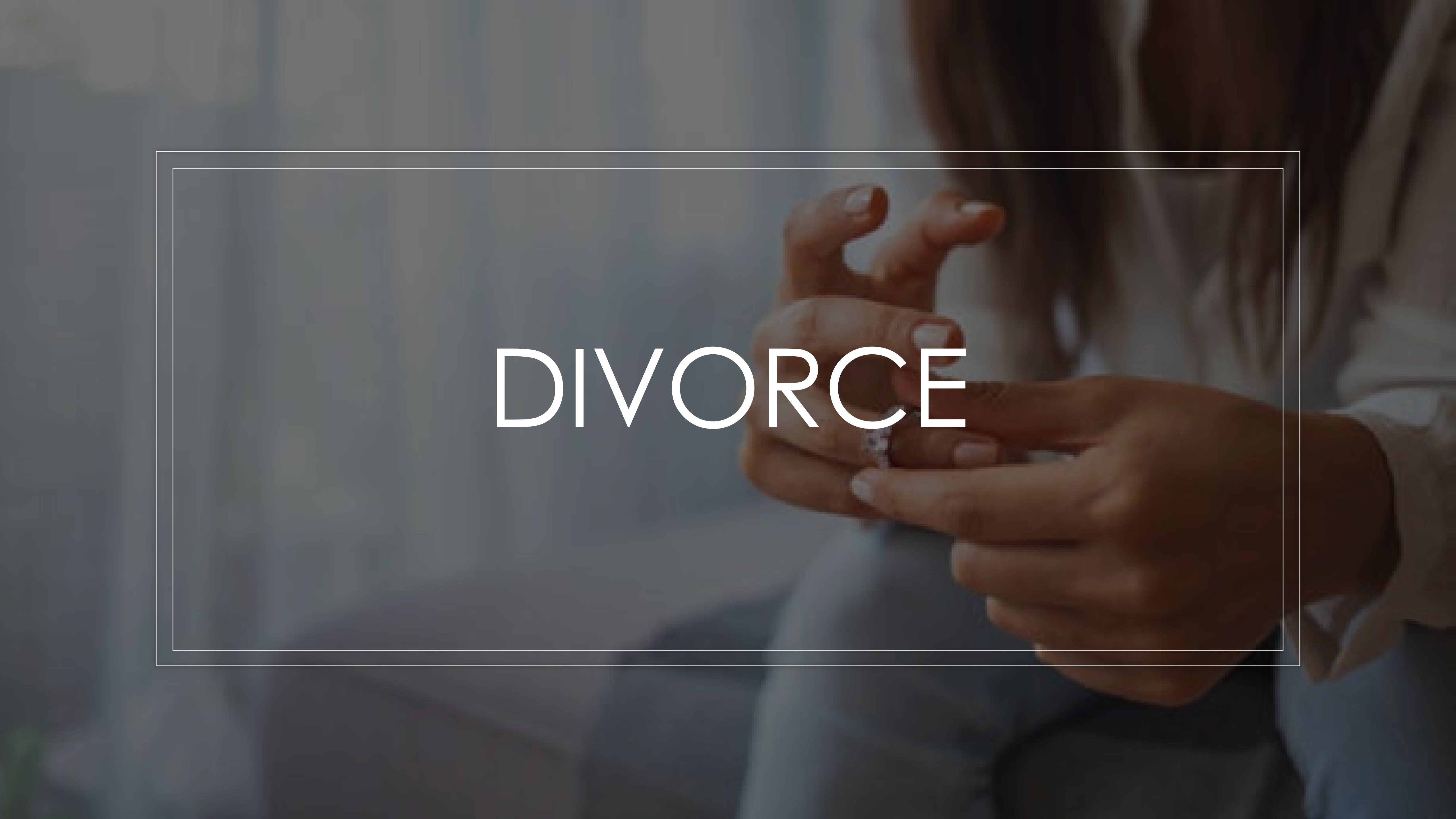
Estate Planning Recap

- Health Care Advance Directives
- Durable General Powers of Attorney
- Last Wills and Testaments
- Revocable (Living) Trusts
- Payable on Death (POD) Designations
- Transfer on Death (TOD) Designations

ASSET PROTECTION

Asset Protection

- 4 Biggest Threats to Your Estate
  - Divorce
  - Liability Creditors
  - Long-Term Care Costs
  - Family Feuds


DIVORCE

Pre- and Post-nuptial Agreements

- Should cover death, divorce, and legal separation
- May cover solely farm assets or all assets
- Both parties must fully disclose finances
  - Assets w/ values
  - Income
  - Liabilities
- Start far in advance of wedding date

Pre- and Post-nuptial Agreements (continued)

- Does not insulate against health care bills of spouse
  - Possibly include insurance requirement
- Pre-nups are MUCH better than post-nups in Indiana
- Not all states honor pre-nups and post-nups
- Any assets the parties commingle are no longer covered

LIABILITY PROTECTION

Liability Protection

- Farm equipment and machinery
  - On the roads
  - Employee use
- Overspray
- Groundwater contamination
- Livestock
  - Personal injury
  - Property damage

Insurance

- Your First Line of Defense
  - Farm liability insurance
  - Umbrella policy

Business Entities

- Your Second Line of Defense
  - Separate your highest liability assets
    - Farm machinery / equipment / livestock
  - From your highest value assets
    - Farm real estate
  - And from your personal assets
    - Residence / personal belongings / liquid assets

Business Entities (continued)

- A sample plan
  - 1 operating entity
    - Holds farm machinery / farm equipment/ grain / livestock
    - Either a Corporation or an LLC
  - 1 land-holding entity
    - Usually an LLC taxed as a partnership
  - Personal assets remain in individual name(s)

LONG-TERM CARE COSTS

Long-term Care Costs

- 3 Ways to Pay
  - Self-pay
  - Long-term care insurance
  - Government benefits

Self-Pay

- Average annual cost is $90,000
- Consider all sources of income
  - As if you were 72 ½
  - As if you are not working
- Consider all liquid assets

Long-term Care Insurance

- If you have
  - Review coverage
  - Keep in place if possible
- If you do not have
  - Apply sooner rather than later
- Consider hybrid policies

Medicare

- Will pay a maximum of 100 days
- Will stop paying if/when improvement stops

Medicaid Eligibility Overview

- Single Applicant Rules
- Spousal Impoverishment Rules
- 5-Year Look Back

Proactive Medicaid Planning

- Outright Gifts
- Gifts of Real Estate with a Retained Life Estate
- Gifts to an Irrevocable Trust
  - None of these can easily be reversed or changed

Crisis Medicaid Planning

- Spend Down
- Half-a-loaf Gifting
- Annuities

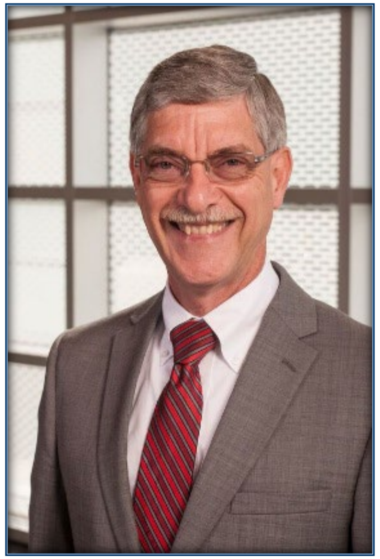
FAMILY FEUDS

Family Feuds

- How to Avoid
  - You can't

Family Feuds

- How to Reduce
  - Equal/Fairness Issue
    - Attempt to equalize with insurance
    - If you can't equalize (or don't wish to) explain any inequality
  - Net Worth Issue
    - Set realistic expectations
  - Trouble-maker Heir
    - Give a gift and use a no contest clause
    - Do not leave real estate as tenants in common



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