

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

A person is lying down, reading a newspaper. The person is wearing a blue and white striped shirt. The newspaper is open, and the person's hands are visible holding it. The text "HOT TOPICS" is overlaid in the center of the image in a large, white, sans-serif font. The background is a soft, out-of-focus grey.

HOT TOPICS



ESTATE PLANNING

Estate Planning Recap

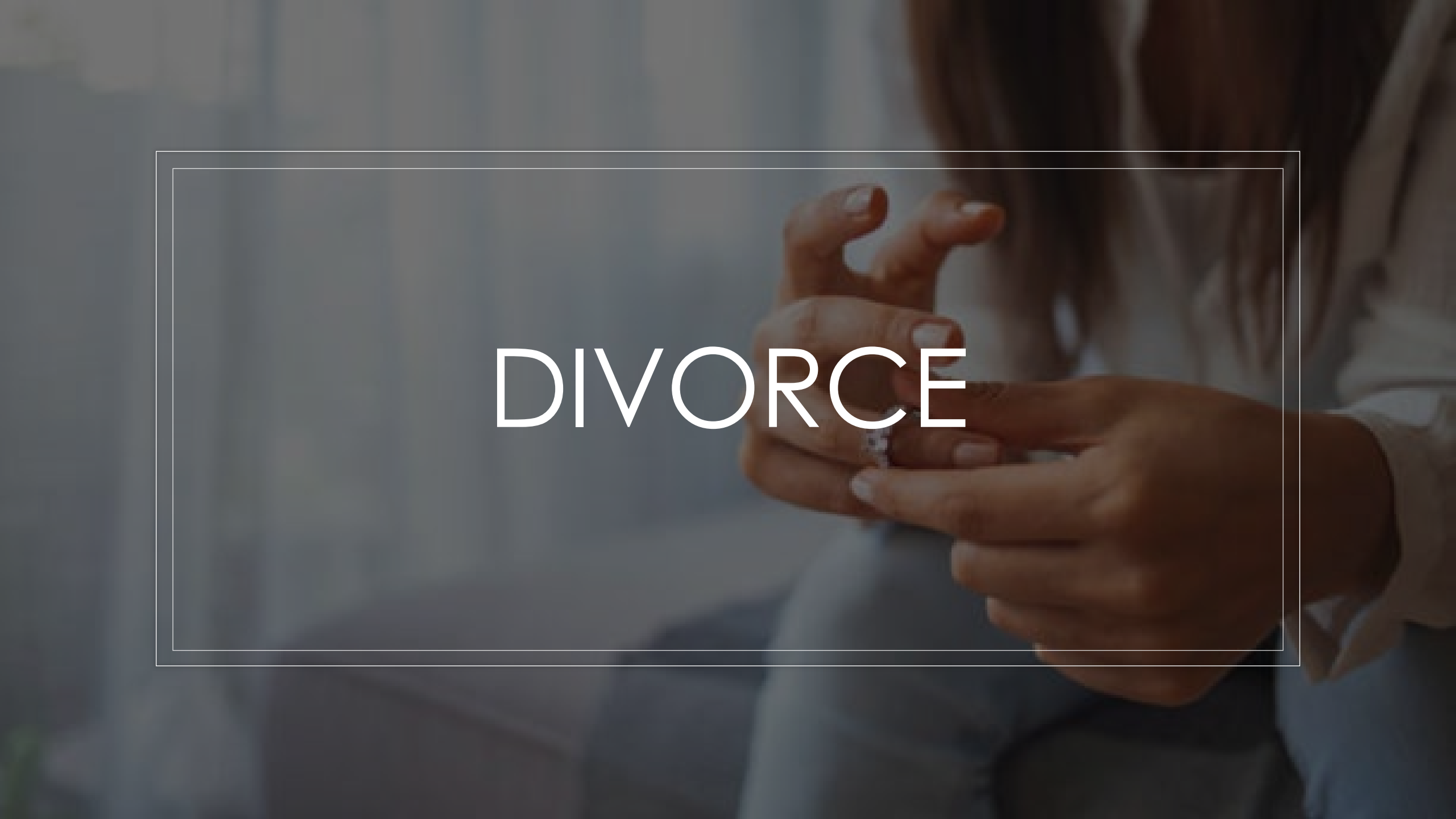
- Health Care Advance Directives
- Durable General Powers of Attorney
- Last Wills and Testaments
- Revocable (Living) Trusts
- Payable on Death (POD) Designations
- Transfer on Death (TOD) Designations

A person in a dark suit and tie is shown from the chest down. Their right hand is held flat, palm down, hovering just above a row of wooden blocks. Their left hand is positioned to the left, with fingers slightly curled as if they have just placed or are about to place a block. The blocks are light-colored wood, standing upright in a row on a wooden surface. To the left of the standing blocks, several other blocks are scattered and lying flat on the surface. The background is dark and out of focus.

ASSET PROTECTION

Asset Protection

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

A close-up photograph of a person's hands, with long, dark hair visible in the background. The hands are holding a small, clear, faceted object, possibly a crystal or a piece of jewelry. The image is overlaid with a white rectangular border, and the word "DIVORCE" is written in large, white, sans-serif capital letters across the center of the frame.

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

The background image shows a severe truck accident. A large semi-truck is overturned on its side on a gravel surface. Another truck is visible nearby. The scene is set against a blue sky with white clouds. The text "LIABILITY PROTECTION" is overlaid in the center.

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)

A healthcare worker in blue scrubs is pushing a wheelchair with an elderly patient in a green shirt through a doorway. The scene is dimly lit, with a dark overlay on the right side. The text "LONG-TERM CARE COSTS" is overlaid in white, bold, sans-serif font.

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

A photograph of four young adults in a heated argument. In the center, a young man with dark hair, wearing a dark blue polo shirt, has his mouth open as if shouting. To his right, another young man with short brown hair, wearing a blue and white plaid shirt, points his right index finger directly at the man in the center. On the left, a young woman with long brown hair, wearing a light blue tank top, is seen from the side, gesturing with her hands. In the foreground, the back of a young woman with long brown hair, wearing an orange long-sleeved shirt, is visible, also gesturing. The background is a plain, light-colored wall with a small green plant visible on the far left. The entire image is overlaid with a semi-transparent dark grey filter, and the title 'FAMILY FEUDS' is centered in white text.

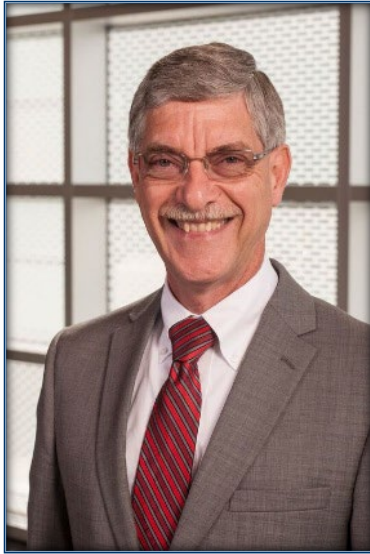
FAMILY FEUDS

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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