



# What Happens if You're Down But Not Out?

BY CARINA LYN ROSELLI, ESQ.

**ESTATE PLANNING ISN'T JUST ABOUT DEATH** planning—it's also about life planning. What happens if you're down but not out? How prepared are you for your potential incapacity? According to Drive Smart Virginia's 2021 Annual Report, an average of 161 people were injured in traffic accidents every day (and that's just in Virginia). According to the Bureau of Labor Statistics, about 13 traffic accidents occur every minute (nationally). It could happen to you...

Your preparedness for life's challenging and very unpredictable events determines how your incapacity will affect the people and things you love and care for. Please consider the following scenarios and gauge how prepared you are for any one of them.

**Scenario 1:** If you're unmarried, what happens to you if you're in a car accident that incapacitates but doesn't kill you? If you're married, what happens if your spouse was in the car with you and you're both incapacitated, or one of you has died? In either case, who will make medical decisions for you?

How will anyone know what treatments you would and would not want? Who will even have the right to speak to your doctors? And who will manage your financial affairs?

**Scenario 2:** If you have children, what happens to them in the above Scenario? Who will rush in to take physical and/or legal custody of them? Who knows how to care for them, immediately and long-term? Will they have to be taken in by Child Protective Services by default? What if you're not waking up and your children require long-term care? Who will provide it and how will they afford sudden parenthood? Will the court appoint someone you'd want as their Guardian? Or would your estranged sibling or a court employee be assigned to take them? Or, even worse, will your children become foster kids?

**Scenario 3:** If you're a pet parent, what happens if you're in a car accident and you're incapacitated? Who will know your pet(s) are waiting for you at home? What if your "pet" is actually one or more horses, or a herd of livestock? Who will step in to care for them?

Do any of them have special needs? If so, who knows what they are and what to do? What if you're not waking up and they require long-term care? Who will provide it and how will they afford it? Will your pet(s) have to be taken in by Animal Control or surrendered to an animal shelter by default?

**Scenario 4:** If your 18-year-old child is in a car accident and becomes incapacitated, do you have the legal authority to make decisions on their behalf now that they are legal adults? Do you even have the right to access your child's medical records or speak to their doctors?

**Scenario 5:** If you own your own business and become incapacitated, who will step in and take over? Do you have a succession plan in place? How will your business survive in your absence?

**Scenario 6:** If you're a gun owner, did you know that incapacitated people can't legally own guns? What will happen to your firearms if you become mentally or physically incapacitated? Who will know what to do with

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them? Who will have the legal authority to take possession of them without accidentally committing a felony?

I could go on...

Like dying, none of these scenarios are pleasant to think about, but it's imperative that you do. Traditional estate planning tools like Revocable Living Trusts, Child Stability Plans, Pet/Horse Trusts, Gun Trusts, and critical documents like Financial and Healthcare Powers of Attorney, Advance Medical Directives, and HIPAA Authorizations can ensure you and your loved ones are prepared, come what may.

How prepared are you? Not very? Let me help. Check out my website at [www.clrlaw.pro](http://www.clrlaw.pro) to learn more and book an appointment to get started.



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