

Who Should You Name As Your Children's Guardian?

If you're like most parents of young children, you've probably put a lot of thought into raising your kids, ranging from their schools to their activities to their religious upbringing. But have you considered what would happen to them if you — and your spouse if you're married — should suddenly die? Will the children be forced to live with relatives they don't know or become entangled in a custody battle? Fortunately, you can avoid a worst-case scenario with some advance estate planning.

With A Will, There's A Way

The biggest step you can take to ensure your intentions are met is to specifically name the guardian in your will. If you have a will in place but haven't provided for a guardian for your minor children, amend it as soon as possible. This can be done easily enough by adding a clause or, if warranted, through drafting a new will.

Be sure to list all the names and birthdates of your children. In addition, you might include a provision for any future children in the event you pass away before your will is amended again. Rely on your attorney for the required language.

What happens if you don't name a guardian for minor children in your will? The choice will be left to the courts to decide based on the facts. In some cases, the court could choose a family member over a friend or vice versa. This could lead to subsequent legal disputes with the kids caught in limbo.

Factors That Can Influence Your Choice

There's no definitive "right" or "wrong" choice for a guardian. Every situation is different. But there are several factors that may sway your decision:

Location. It's often preferable to name a guardian who lives close to your current location as opposed to someone residing thousands of miles away. The transition will be easier for the kids if they aren't uprooted.

Age. A guardian's age is often overlooked but can be a crucial factor. Your parents may have provided you with a great upbringing, but they may now be too old to raise young children. Plus, your parents may experience health issues that could adversely affect the family dynamic.

Environment. Do the guardian's views on child raising align with your own? If not, your intentions may be defeated. Consider such aspects as education, religion, politics and other lifestyle choices.

Living Circumstances. No one can fully project into the future, but at least you can take current circumstances into account. For instance, if you're inclined to select a sibling as guardian, does he or she already have kids? Is he or she single, married or in a relationship? You don't want your child to be thrust into chaos when a safer choice may be available.

Choose the best person for the job and designate an alternate if that person can't fulfill the duties. Frequently, parents will name a married couple who are relatives or close friends. If you take this approach, ensure that both spouses have legal authority to act on the child's behalf.

Other Special Considerations

Depending on your situation, other issues may come into play. For example, if you're divorced, your will may control the designation if your spouse predeceases you.

It may be helpful to prepare a letter of explanation for the benefit of any judge presiding over a guardianship matter. The letter can provide valuable insights into your choice of guardian.

Coming To A Final Decision

Be sure to take time to review your choice of guardian in coordination with other aspects of your estate plan. This decision shouldn't be made in a vacuum. Contact your estate planning advisor with any questions.

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