

GUARDIANSHIP FOR MINOR CHILDREN

Prudent estate
planning for
parents and
legal guardians



The joy of parenthood

There is no greater joy for a parent than to watch a child's life unfold from infancy through adolescence and on into adulthood.

In fact — to state the obvious — a parent is not a mere observer in this growth, but is an active contributor to, and key influence upon a child's future.

Unexpected death of a parent

Should a parent die while a child is still a minor, a surviving parent will continue as guardian in the normal course.

But what if the unexpected happens and a child is left without any parent?

Most of us do not like to consider the prospect of 'not being there', but such wishing and hoping is no excuse for a failure to plan against this contingency, no matter how remote.

While the results may not be so dire as was the fate of *Oliver Twist* in Charles Dickens' classic tale, parents should not underestimate the emotional and financial burden left behind.

Failure to plan

In the absence of a planned process for managing the affairs of orphaned minor children,

- Courts and government agencies may be forced to intervene to make decisions.
- The emotional toll on extended families may thrust them into competing factions, each sincerely believing their view to be in the child/ren's best interests.
- Inheritances may be tied up and/or depleted in the process, only to be exhausted in short order upon being paid out (with no further controls) to the child/ren at the age of majority.

A broad view of estate planning

Broadly speaking, estate planning is about looking after yourself and those near you during life, and caring for those others — particularly dependent children — when you are no longer around.

Consideration and selection of an appropriate nominee guardian for minor children is an integral part of that estate planning process.

Key first steps

At a minimum, guardians should be nominated in the parents' Wills. In addition to this primary nomination, at least one alternate guardian appointment would be advisable should the primary candidate have predeceased, or be otherwise unable or unwilling to accept the role at the critical time.

Though such statements do not have absolute legal force, they are the strongest representation a deceased parent can make to a court that ultimately is empowered to determine what is indeed in the child/ren's best interests.

Toward certainty & peace of mind

Beyond that, a parent can convert concern and uncertainty into a sense of comfort by:

- Putting in place adequate life and disability insurance to support dependents in one's absence.
- Giving appropriate consideration to the naming of contingent beneficiaries in insurance and registered plans, or actively dispensing with such designations as needs may dictate.
- Keeping one's Will and related lifetime decision-sharing documents up-to-date.
- Informing oneself of the benefits of trusts and other simple, yet sophisticated planning tools.

Communicating your intentions

The technical aspects of estate planning and guardianship aside, the one element that is central to an effective plan is good communication:

- With and among a parent's professional advisors;
- With the nominee guardians; and
- With the children themselves when they reach an appropriate level of maturity that their direct input can be brought into the mix.

A selfless legacy

In the end, perhaps the greatest legacy a parent may provide in his/ her absence is the presence of a wisely selected substitute through whom the child/ren may learn, achieve and flourish.

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