

Planning for the Unthinkable: How to Select a Guardian for Your Children

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There are many reasons to create an estate plan, but one of the most important is to provide for the care of minor children. What happens if both parents of a minor die without an estate plan in place? A guardian and conservator would need to be appointed by the applicable probate court without any direction from the parents. A guardian is responsible for the minor child's health and well-being; a conservator is the steward of the minor's property. An individual can be both roles for a minor. How can you avoid this undesirable outcome? Appoint a guardian (and conservator) in your Last Will and Testament.

Estate planning is fraught with fear and is easy to procrastinate. However, selecting a guardian is one of the most critical decisions you can make for your children. Many parents picture their children's future with them in it, but life is unpredictable. Planning for the worst ensures peace of mind.

When selecting the guardian, first it is important to consider if this person has the same shared values as you. Who is the person who can best effectuate your values as a parent and stand in your shoes? Whether it is in regards to discipline, education, religion, or parenting practices, this is crucial to consider when narrowing down your options.

The next aspect to consider is the location of the guardian. Would selecting this person cause your child to change schools or uproot them from friends and extended family? Is the guardian wanting to stay in the geographical area that you are raising them in?

Additionally, it's important to consider the guardian's age and stage of life. While it may be tempting to choose individuals who are one or two generations older than your children, this isn't always the best option. For instance, aging grandparents may not have the physical stamina or health to keep up with the demands of raising a child. Additionally, if the potential guardian's own children are at a significantly different stage of life, they might have conflicting priorities or less availability. Take the time to evaluate whether the person's physical condition and energy levels will allow them to meet your child's needs as they grow.

While it's not required to name a successor guardian, it's a wise choice to do so. Life is unpredictable, and having a backup ensures your child will always have someone to care for them. When choosing a successor, consider whether to name just your sibling or both your sibling and their spouse as co-guardians. Many people opt for co-guardians to ensure both individuals share the responsibility and decision-making for your child's well-being. Whichever route you take, it's essential to communicate your wishes clearly with the chosen successor guardians to make sure they are comfortable with and prepared for this responsibility.

Lastly, keep in mind that an estate plan is flexible and can be changed at any time. If your circumstances or relationships evolve, you can update your will or add a codicil to change the appointed guardian or conservator for your children.

The idea of death is an upsetting to all parents, but it is the inevitable. Do not hide from the fear, instead preempt it. Talk to an estate planning attorney to discuss options and what is best for you and your family.