

## What Will Happen to Your Children?

My close friend called me before going on vacation with her husband to explain who should take her children if something happened to them. She's a great mother who loves her children and has very strong wishes about who should care for them if a tragedy occurred but, like many Canadian parents, she hasn't legally named guardians. As her friend, I'd certainly recount her wishes, but as a lawyer, I realize that if she doesn't legally name guardians, there is little I could do.

As a lawyer and a mother, I urge every parent to name legal guardians for their children. It may be unpleasant to think about, but it's so important. If you don't, your children could be left to complete strangers.

Right now, without a plan, if you and your spouse passed away, the court would appoint a guardian for your children – and could even place your children with the Children's Aid Society until a more permanent solution can be arranged.

Making mistakes in the process can lead to some easily avoided problems, including:

- **Naming a couple to act as guardians**, when you really don't want both people to serve as guardians. It's also important to address what should happen if the couple breaks up or one person in the couple is unavailable – or unwilling – to serve as guardian.
- Only naming **one possible guardian**. It's best to name as many successor guardians as possible, in case something happens to your first choice.
- Failing to **consider financial resources**. Your guardians do not have to (and often should not) be financial decision makers for your kids. However, it's wise to consider whether the financial decision maker will work well with the guardians you've named.
- **Failing to exclude guardians where appropriate**. In some cases, it's not just about who you DO want raising your kids, but also about people you DO NOT want stepping into that role. If you are concerned that someone might challenge your decisions, a "confidential exclusion of guardian" document should be completed.
- **Only naming guardians for the long-term**. In addition to naming permanent guardians, also make arrangements for the short term, in case

you're in an accident. It's vital to plan for what would happen in those immediate hours until your permanent guardians can arrive. Name someone who is nearby, trusted and familiar to your children as a temporary legal guardian, and provide them with instructions and temporary legal authority in case of an emergency.

There are many factors that should be considered in naming guardians for your children, but these are the most common errors made in the process. Your estate planning lawyer can help guide you through the process to help you make the best decisions for your family.

*Cornwall lawyer Michele R.J. Allinotte, founder of Allinotte Law Office focuses on guiding families and small business owners to make the best legal and financial decisions over their lifetime. Find out more at [www.yourcornwalllawyer.com](http://www.yourcornwalllawyer.com).*