

WHO WILL WATCH OVER YOUR KIDS? CHOOSING A GUARDIAN FOR YOUR KIDS.

If you and your spouse pass away leaving minor children, have you selected someone to serve as their guardian? Have you chosen someone to manage their finances? These decisions can be made during the estate planning process, a process that employs legal tools designed to protect you and your family. Even if you have a living trust already in place, you still need a will that designates, among other things, guardians for your children.

The law requires children to be raised by adults. You can't leave your kids at home with an instruction booklet and ask them to raise themselves. If you don't name a guardian in your will, the court will designate someone without your input. Generally, it's best to name one person as guardian. Some inquire about "co-guardians." However, co-guardians can end up going separate ways or have trouble agreeing on key issues. An estate planning attorney should ask you to name an "alternate" or "successor" guardian if the first nominee is unable to serve.

You need to ask some fundamental questions. Is the person old enough and mature enough to serve as guardian? Have they raised children and does that matter? Does the guardian have kids of similar age? Are they physically able to handle the job? Does your nominee for guardian have a genuine affection and concern for your kids? Does the guardian have the time? Does your nominee share your values and/or religious convictions? Can they afford to raise your kids? Will your children have to move?

You can't force someone to be a guardian. It is advisable to sit with the nominee and ask the aforementioned questions tactfully. Usually, people are honored to be asked. If they are not up to it, they will typically let you know. Wouldn't you rather know in advance?

If you want your kids to remain together, it's best to name the same guardian for each. In some cases where age differences are considerable or with children from different marriages, it may be appropriate to name different guardians. Keep in mind that your ultimate goal (and the court's job) is to make sure the children's best interests are served.

During the estate planning process, you should name a guardian to watch over your children's property and finances. Children typically can't own property. If you leave property or money to your kids (directly or as a beneficiary), there needs to be a guardian to manage it until your child becomes an adult, or at some other time designated by you in your estate plan. Typically, a guardian over property and money does not require court approval. This guardian needs to make sure the children's expenses, health, and educational needs are properly managed. Unless there is a compelling reason not to, it is advisable to

choose the same person to be the personal guardian and guardian over property and finances. The money and property you leave for the kids can be placed in a children's trust (separate trusts for each child or a combined trust). The children's trust can contain instructions to guide the named guardian. Again, all this can be set up during the estate planning process.

Choosing a guardian can be a contentious subject during the estate planning process. It can be difficult to agree. Remember most people struggle with this decision. You may not have a "perfect" choice, and you simply may have to choose the "best" person for the job. Since you are not perfect, it would be unreasonable to expect your child's guardian to be perfect.

Usually, the court will appoint the person you nominated unless it is not in the best interests of your children. Children are not property. You can't leave your kids to someone in the same manner you might leave your baseball card collection to your cousin Mel. A court may deny your nomination for guardian if there are obvious reasons to question your selection. Planning for the future is wise, and a good estate plan should address the issue of guardianship.

Currently, I am offering free Guardianship Nominations. To learn more, visit my website or call my office.

For more information, please contact Robert Mansour at 661-295-4610 or visit www.MansourLaw.com