

# Naming Guardians for Children



While it may not be a pleasant subject to think about, once you have included your choice for guardian in your last will, you will have greater peace of mind knowing that your children will be taken care of in the event of your death.

**Naming guardians** in a will is one of the best things a parent can do for his or her child. If you have a child under the age of 18, you need a will that names a legal guardian in the event that you and the other parent dies. If you don't name a legal guardian before you die, a court will choose who will care for your children based on state law—with no input from you—and don't assume that the court will automatically grant custody to aunts, uncles, or even grandparents.

*Make no mistake:* without specifying a legal guardian for your child in a will, you are leaving this immensely important decision up to strangers.

**While the choice of a child's legal guardian is highly personal, here are some considerations that everyone should think about:**

**Plan for each child.** Make sure all children under the age of majority are provided for individually in your will—it sounds basic and obvious, but don't name just one child and assume the court will automatically grant custody of all of them to the same legal guardian. You can address this by including language in your will that specifically states that the person (or people) you name is to serve as the guardian for all of your minor children.

**Keep children together.** If you want your children to stay together, specify this in your will. In fact, if this factor is more important to you than the legal guardian, say so—that is, if for some reason the court does not approve your choice of guardian, or your chosen guardian cannot serve but you would still like your children to stay together with a different guardian as named by the court, make this preference clear in your will.

**Family chemistry.** Especially if you prefer your children to stay together, make sure your chosen guardian is in the position to care for all of your children, emotionally and otherwise. Does he or she have other children as well? Do all the children get along?





## Custody Rights

Legally speaking, the surviving parent has the right to custody of the minor children. If you prefer otherwise, you should talk to an attorney. When drawing up your wills, be sure that you and the other parent include the same guardian and alternates in both of your wills to avoid later problems.



## How to Establish Legal Guardianship in a Last Will

- ① Include the information in your will
- ② Properly execute the will according to state law (signed, witnessed, etc.)
- ③ Include a supplementary document that explains your rationale, if you so choose

**Consider coguardians.** If your preference is to have your children raised in a two-person home, be sure to name each member of the couple as a coguardian.

**Age of the potential guardian(s).** Many people immediately think of their own parents for guardians of their children, but consider the age and general health of your chosen guardian and whether he or she will be able to handle the physical demands of raising children. If your children are close to becoming adults, this may not be as much of a concern, but if you have younger children, it could be a very important consideration. If you decide to choose older guardians, you should consider naming alternate guardians. The alternates would serve if your first choice can't serve, or chooses not to.

**Location of potential guardian(s).** Some questions to consider: Will your children have to deal with moving to a new location in addition to the loss of their parent(s)? How far away are other family members and important people in their lives?

**Changing schools.** Many parents would prefer that their children be able to stay in their same school or at least school district should something happen to them. Either way, it's important for you to consider where your child would be attending school while living with his or her new guardian.

**Financial situation.** As a parent, you know that raising children is expensive, so while ideally you will have prepared financially for your children ahead of time with estate planning, be sure to consider your chosen guardian's financial resources as well. Also, some parents choose to name someone else besides the chosen guardian to handle a child's inheritance. This is to prevent one person from having control over everything regarding the child.

**Personal and religious values.** You probably would prefer a guardian who shares your basic values and goals as a parent, so that your children will be raised similarly to the way you would have raised them. If religious doctrine—or alternately, not teaching religious doctrine—is particularly important to you, you should consider this when choosing a guardian.

**After choosing your guardian,** although not legally required, it is highly recommended that you have a frank discussion with the person you would like to select to make sure he or she is willing and able to take on this important role.

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