

Choosing a guardian for your children

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There is hardly an estate planning issue more fraught with distress than the selection of the guardian of your minor children. Many people worry endlessly about whom to select to take over the parenting duties in the extremely unlikely event of the death of both parents while the children are still minors.

Here are some options and thoughts to help you sort out the options and considerations:

Grandparents—Grandparents are often the obvious choice in that they have often already spent countless hours with the children and may have even had a hand in raising them. In addition, the parents already know the parenting style of the grandparents, having been raised by them themselves! You should remember, however, that grandparents are only getting older and not younger, and there may be a time when they can no longer provide the same level of care or attention for young children or teenagers that they do today. Moreover, grandparents may not want the job of raising more children having done that job once already. It is important to have a conversation with grandparents about their willingness to serve in that role. If you name grandparents, it is also important to remember to update your wills if it turns out the grandparents are no longer fit to serve as time passes.

Other family members—Siblings and cousins are also logical choices, the theory being that family members are meant to take care of each other, and having a sibling as guardian would keep the children within the family group. Moreover, most siblings and cousins are within the same generation, so would be generally the same age as the parents. Many of them are parents themselves. When choosing the appropriate family member as guardian, it is important to think about geography and whether you are comfortable with your children moving to another city or state. Also consider how many other children the family member has. Is it feasible for that family to add your children to their family? Do they have the economic resources to support more family members, or will you leave enough money behind to relieve that burden? It is always advisable to talk it over with a family member before naming him or her as guardian. It is better to know in advance if there is a reason the person may not be able to serve.

Friends of the family—You can also consider family friends as guardians. This option can work well if there are no appropriate family members to name or if it is important that the children remain in the same city or in the school system. This choice can be used for older children where it would be too disruptive for them to leave their social circles and to relocate. Often as the children grow up, there are local families with whom they have become close and who could be logical choices as guardians. Again, in this case, it is important to discuss with the family friends whether they are willing and able to serve in this role. You should also let them know whether there would be assets passing to the children that could be used to cover expenses, pay for education, etc.

A few other things to remember:

— The child does not need to reside with his or her guardian. You could name an out-of-state relative as guardian, and he or she could choose to have the children stay in the hometown and live with another family, if it was agreeable to all involved and in the best interest of the children.

— Consider whether to name husband and wife as guardians or whether to name only the family member as guardian. Presumably, if the family member were divorced, deceased or ill, it is preferable for the children to have a different guardian than the spouse of the family member.

— Don't let the perfect guardian get in the way of naming any guardian. Remember that no one will measure up to you and your parenting, but it is critical that you name a guardian in case of the worst scenario. Otherwise, the courts will select a guardian, which is the least desirable outcome.

— Take heart in the fact that it is extremely rare that guardianship clauses are triggered!