

# PLANNING FOR YOUR CHILDREN'S FUTURE

Providing for your children goes beyond just putting a roof over their head and food on the table. You should make sure your children are adequately provided for if you become incapacitated or die. This article discusses the importance of naming a guardian for your children, designating an agent to make healthcare decisions for them, and making sure they are properly provided for in your Will.

## **Declaration of Guardian for Minor Children**

If you died or were incapacitated, who would you want to be the guardian(s) of your children and their estate? If you have not appointed a person to be guardian of your children in your Will or other document, you are leaving it up to a judge to decide among your nearest ascendants (i.e. parents and grandparents), as to who will raise your children. However, if you have appointed a guardian for your children, the judge must appoint your named guardian(s) in preference to any person otherwise entitled to serve unless the court finds such person is disqualified, dead, refuses to serve, or would not serve the best interests of the minor children. TEXAS PROBATE CODE §676(e). It is equally important to document who you do not want to be named guardian of your children. In choosing your children's guardian, you should take into account the guardian's own situation and whether they desire to serve as guardian. Other factors to consider are 1) the health and age of the guardian, 2) the age the

guardian will be when your youngest child becomes an adult, 3) how many children the guardian has of their own, 4) the guardian's current financial status and any hardships it may cause to the guardian, and 5) the guardian's current living arrangement. Obviously, this is a major decision for not only you but for the guardian(s) you wish to care for your children if you are no longer able.

## **Designation of Healthcare Agent for Children**

At some point, you might take a trip without your children for a certain period of time. What if you cannot be reached and one of your children needs medical attention. Before you go on such trip, you might consider designating a healthcare agent for your children while you are gone. If an emergency arises where you cannot be reached, the agent named in your document can make medical decisions for your children.

## **Contingent Trusts for Minor Children**

Because minor children inheriting under a Will would otherwise receive their share outright once they reach age 18, a contingent trust of some form is often used to hold such children's inheritance until they reach a more appropriate age, such as age 30. During the duration of the trust, the named trustee may make distributions to the children or their guardian for the child's health, education, maintenance and support. Once the child reaches the appropriate age, the trust will terminate and the remaining income and principal of the trust will be distributed outright to such child. A properly drafted Will with a contingent trust goes a long way to making sure that the inheritance you leave your children or

grandchildren will not be squandered because of lack of maturity.

overall estate plan. Because we are never promised tomorrow, make sure you plan for your children today.

When planning your children's future, these documents play an integral part of your

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