

7 Factors to Consider When Choosing Guardians for Minor Children

Article

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One of the hardest decisions estate planning clients face is naming the guardians of their minor children. In fact, in my experience, the inability to reach such a decision can greatly frustrate the estate planning process for clients, leading them to delay, postpone, or even abandon the process entirely. Although this decision is incredibly important, it can be modified in the future should circumstances change. It is far better to nominate a guardian in your will and then modify it in the future, as needed, rather than having nothing in place should the worst happen.

Below are some important factors to consider when choosing a guardian:

1. **Beliefs and Values.** One important factor is naming a guardian who shares (or understands) your beliefs and values to ensure your children are raised in alignment with your wishes. For example, if your religious or cultural beliefs are important to you, it is important to find a guardian who will respect and uphold them. The same applies to parenting, discipline, and communication styles. You want to ensure the person you are nominating will honor your wishes in your absence to the best of their ability.
2. **Willingness and Ability to Serve.** It is imperative that the person you are nominating agrees to serve in this capacity. By acting as guardian, they will assume a huge responsibility by caring for each of your children until they reach the age of majority. You should have an in-depth conversation to confirm that anyone you are hoping to name as guardian is willing to serve in this role should disaster strike. Having such a conversation is also extremely important to ensure the person you are considering naming has the time and availability to serve as guardian, and is not facing certain circumstances that would impede their ability to serve such as health issues, financial struggles, a demanding job, or other personal commitments including caring for their own family.
3. **Relationship to Children.** Another important consideration is whether the person you are nominating as guardian has a good relationship with your children and your children would feel comfortable residing with them, especially during such a turbulent time in your children's lives. Additionally, the better acquainted the proposed guardian is with your children, the higher

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the likelihood they will understand your children's specific needs. This consideration is likely why many clients tend to name the children's grandparents as guardians. Adult siblings of minor children or close family friends are other good options to consider.

4. **Geography.** If you have children who are well established in their school and/or community, geography is another consideration. Uprooting a child from their friends, mentors, other family members, etc. in the wake of losing a parent could compound the child's grief and trauma. It is also worth considering whether the person you are nominating would relocate for your children.
5. **Health of the Proposed Guardians.** You want to ensure the people you are nominating as guardians are in good health and realistically could care for your children until your youngest child reaches the age of majority. As mentioned above, it is a natural (and extremely common) choice for grandparents to be named as proposed guardians of minor children, however, it is important to contemplate the viability of such guardians, especially if you have very young children.
6. **Financial and Emotional Stability of Proposed Guardians.** You may want to address the financial stability of the proposed guardian. While ideally you will have assets available after your death to pay for your children's care, in the event such resources are insufficient, you will also want to consider whether the proposed guardian has the financial stability to pay for your children's basic needs and to provide a safe, stable home environment.
7. **Successor Guardians.** Lastly, in addition to the above considerations, you should name at least one successor guardian to ensure longevity in your plan and to account for any unforeseen circumstances that may prevent the primary guardian from acting in that role. You will also want to consider whether to name a married couple or just the name one of the partners in the event of a separation or divorce.

Although this is not a comprehensive list, hopefully it provides factors you should consider when naming a guardian and successor guardian of your minor children. This decision is very important, and requires great care and consideration. Having an estate plan in place, and especially the nomination of guardians for your minor children in your wills, can provide guidance, support, and even solace for your loved ones as they navigate how to care for your children in the wake of your unexpected death or incapacity.