

ESTATE PLANNING NEWS



CONTENTS

Choosing a Guardian
Announcements
Tip of the Month
Entertainment



Choosing a Guardian

Who Will Care for Your Minor Child?

It is estimated that three out of four parents with minor children do not have a will. Nearly one third of those parents have never even thought about making one. If something happens to those parents, who will care for their children?

The single most important aspect of estate planning is making a will to name a guardian for minor children. While some people think that a guardianship can be established informally through an agreement, the only way to become a legal guardian is through a court order. In fact, a court-ordered guardianship may be required to register a child in school, open a bank account, receive the benefit of your life insurance policy, obtain health insurance, or apply for public benefits.

(continued on page 3)

Law Office of Nicole A. Davidson

1092 Gardenia Ln., Concord, CA 94520-4485

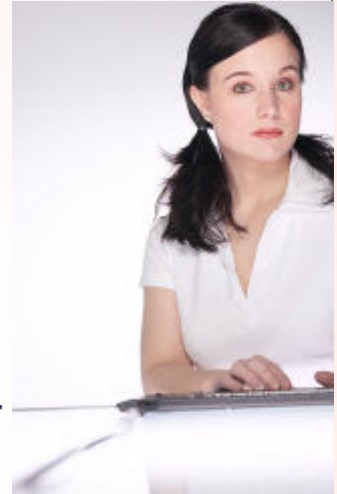
Tel/Fax: 925-689-6890 • Cell: 510-919-8389

E-mail: californiaattorney@hotmail.com

Estate Planning News

Announcements

As President of the Contra Costa County Bar Association, Solo & Small Practice Section, Ms. Davidson invites small firm attorneys to attend "Websites for Solos and Small Firms." Join us on Thursday, June 16, from 5:30 to 6:45 p.m. in the Merrill Lynch conference room, 6th floor, 1331 N. California Blvd., Walnut Creek. Our featured speaker will be local website designer and developer, Shahriar Marachi. To reserve your space, call Christine at (925) 370-2548. Refreshments will be provided.



Tip of the Month

3 Reasons to Keep Assets in Continuing Trusts:

- 1) Insulate assets from creditor claims and divorce proceedings. While an inheritance stays in trust for a beneficiary, it is protected.**
- 2) Keep property in the family. On the beneficiary's death, remaining trust property will be given to the people you selected.**
- 3) Provide a trustee to make investment decisions and control asset distribution.**

Entertainment

A Series of Unfortunate Events (2004)

After their parents are tragically killed, three young orphans are sent to live with a distant relative, Count Olaf (played by Jim Carrey), who tries to kill the kids to secure their parents' vast wealth. Outsmarted by the kids, Olaf reads books on inheritance laws and attempts to marry the oldest child. A comedy filled with suspense!



Estate Planning News



Childhood is not from birth to a certain age and
at a certain age

The child is grown, and puts away childish
things.

Childhood is the kingdom where nobody dies.
Nobody that matters, that is.

-- Edna St. Vincent Millay

Choosing a Guardian

(continued from page 1)

Indeed, the courts are not required to consider oral agreements or handwritten notes. Without a will, there is more room for multiple family members to make a claim to your child. If court fights take place, they will be paid from your estate -- your child's inheritance!

If you want to have a say in the matter, you need to appoint a guardian in a written will. Although the courts are not required to appoint the person you nominate, they will place great weight on your selection.

Who Should You Choose as Guardian?

Choosing a guardian is one of the most difficult decisions any parent has to make. A guardian will be appointed until your child turns 18 years of age. And although the court will be involved in the initial appointment process, the guardian typically has little contact with the court after the guardianship is in place.

Here are 10 factors you should consider when choosing a guardian:

1. The guardian should be equipped to raise a child and provide a stable and nurturing home life.
2. The guardian should love, or have the capacity to love, your child.
3. Consider your own values and how you would want your child to be brought up. The guardian should share your family values and philosophy of child rearing. Try to pick a person who will act in a similar way as you and who can create the same positive influence over your child.
4. Choose someone who has time to help your child develop properly. If you select a guardian who is career driven, she might not give your child the amount of quality time needed to address the issues your child will face growing up.
5. Try to select someone close to your age. While your parents may be excellent grandparents, they are probably too old to manage another set of children -- especially through the teenage years.

Estate Planning News

6. If you believe your child will benefit from having more than one adult role model, choose a guardian who is married or in a committed relationship.
7. Think twice about naming a husband and wife as co-guardians. Half of marriages end in divorce, and you do not want your child being fought over in a custody battle. It is usually better to specify the person you would want your child to reside with (i.e., your sibling).
8. Try not to pick someone who lives far away. Your child may be old enough to have established roots in his home area. If he loses his parent, a move across country may simply be too stressful.
9. Check with the person you want to name as guardian to make sure that he wants the job. If the person you name refuses to be the guardian -- or agrees to be the guardian but resents the job -- choose someone else.
10. The guardian will have a sudden increase in family size. Will she be able to cope with the burden of an additional child?

Can You Choose Someone Other Than Your Child's Other Biological Parent?

The courts consider a child's biological or adoptive parents to be the natural guardians. If one parent dies, the surviving parent normally retains the rights of a natural guardian.

However, it is still important for you to indicate in a will who you would want to act as your child's guardian.



First, you should name multiple guardians in your order of preference. It is always good to have a back-up plan.

Second, if you don't want your child's biological parent to become guardian, attach a letter to your will explaining why he or she is unfit. Keep in mind that this is difficult to prove, unless there is a history of chronic drug or alcohol abuse, mental illness, or child abuse.

Third, even if your "ex" becomes guardian of your child, you don't have to leave your child's inheritance in your ex's hands.

There Are Two Kinds of Guardians

In California there are two types of guardianships for minors: guardianship of the person and guardianship of the estate (property). An adult can be named guardian of a minor's person, estate, or both.

While one adult is often appointed to fill both roles, you can name separate guardians when desirable. For example, if your "ex" would be appointed guardian, and you nominate a guardian of the estate, your "ex" would not control your assets. The guardian you select will be able to ensure that your "ex" fulfills his or her obligation to support your child, thereby protecting your child's inheritance.

Conclusion

Don't put off writing a will because it sounds like a downer -- a way to dispose of your assets after death. Think of it as a way to protect your most precious assets -- your children.

Law Office of Nicole A. Davidson

1092 Gardenia Ln., Concord, CA 94520-4485

Tel/Fax: 925-689-6890 • Cell: 510-919-8389

E-mail: californiaattorney@hotmail.com