

TO: Parent(s) of Minor Children
FROM: *Kari A. Schulte, Attorney*
RE: Estate Planning

This memo is a handy way to start the estate planning discussion – but please keep in mind, as individual situations differ, a full conservation is necessary to determine the best plan for a given family.

It is important for parents of minor children to establish Wills.

A Will is the only method for a parent to effectively express their choice as to the guardian(s) for their minor children. When a Will is not in place, an extensive Court process is necessary for the Judge to appoint his/her choice. That process lengthens the time before children are settled, and often brings additional emotional turmoil to the family.

Wills also provide direction for the management of assets. Our firm uses a special type of trust (within the Will) to hold children's assets. The trust is managed by a person appointed by the parent(s). Without such a plan, a court-supervised conservatorship would be necessary (which is burdensome and costly).

The following information is needed to start a draft:

1. Your full name(s)
2. Address and county of residence
3. Child(ren)'s full names and birth date(s)
4. How assets are to be distributed:
 - a. Most people direct assets be distributed to their spouse first (if applicable), then, if minor children survive, to a trust for the benefit of their children – is that your choice?
 - b. In the rare event the entire family were to pass away at the same time, most people direct assets to their extended family, with spouses typically choosing that half be distributed to one spouse's extended family and the other half to the other spouse's extended family – is that your choice?
5. Guardian(s) for the child(ren) --- The person(s) appointed to care for your child(ren)

- a. If co-guardians are named, may either serve independent of the other (for example, if one of the named co-guardians were to pass away or otherwise refuse to serve, then, may the other serve alone?)
- b. A backup person or persons
6. Trustee(s) for the child(ren)'s trust --- The person(s) in charge of the child(ren)'s assets (often the same person(s) as guardian(s), but may be someone else)
 - a. If you name co-trustees, may either serve independently?
 - b. A backup person(s)
7. The age you want your youngest child to attain before trust funds are provided directly to your children in equal shares (most people use around 23). The Trustee(s) are directed to use the funds for all your children's needs until that time, but at that time, the funds are given to the individual children in lump sums. (This is the typical plan, but please let me know if you have a different plan.)
8. Personal Representative(s) - The person(s) in charge of taking your will to an attorney and handling estate matters – usually clients name their spouse first and then a family member as a backup. As it is best to draft wills in a manner that amendments will not be needed, if you appoint someone older than you as a backup, please provide a third backup. (Some clients choose to appoint their spouse first, then appoint their child(ren) – but only if they have attained a certain age (25, usually) – as the backup, and also appoint a parent/sibling/friend as a third backup.)

If you are comfortable working through email and would like me to draft your Will(s), feel free to email me the answers to the above questions. I will reply with a draft unless you ask me to mail you a hard copy instead. Please do not hesitate to email or call with questions - or to set up a time to talk in person.

Most clients with minor children solely establish Wills as their entire estate plan until such time as their children are able to responsibly manage assets. At that time, the plan is revisited to add non-probate tools such as beneficiary designations or a stand-alone Trust. However, some families choose to establish a stand-alone Trust sooner. In that instance, the stand-alone Trust takes the place of the testamentary (in-the-Will) trust to hold/manage the child(ren)'s assets, but a Will is still included in the package to appoint guardians. If you would like more information about a Trust package, please let me know.

My email is kschulte@cvrslaw.com, my office phone is 573-691-4800 and our firm website is www.cvrslaw.com. - Kari