



DESCHENE: Parents, don't let a judge do your work

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BY ROBERT DESCHENE | 0 comments

A parent's most vital role is to protect their children. As we approach Mother's and Father's days, parents of minor children should ask themselves this crucial question: Have we taken the necessary legal steps to name guardians to raise our kids if something bad happens to us?

Many young parents think that estate planning is only for much older people who own a lot of property. But, even you don't own much, you absolutely need a plan to name guardians for children. If you haven't and the worst happens, a judge will decide who will care for your children. Unlike you, this judge doesn't really know your children, their needs or what values you wanted to instill in them. Yet, you have placed this stranger in the unenviable position of deciding what is in your children's best interests. Worse yet, your family members may end up fighting among themselves about who should be guardian.

Procrastination in naming guardians is understandable. Some rationalize that one parent likely will survive if one dies. However, tragic events and accidents that remove both parents prematurely and unexpectedly can happen. And single parents may not have a back-up plan.

Typically, most parents can agree on which family members would make a good guardian, but then they get stymied. They may delay the decision for a variety of reasons and hesitate to consult an attorney because they wrongly believe they must decide on guardians beforehand.

It's precisely when your private discussions reach an impasse that a lawyer can be of most help. He or she can facilitate your decision by explaining state laws about appointing guardians, and as a neutral third party, guide you through the various factors that are important in naming a guardian.

You can't focus on what your family or friends will think of your guardian choice. The sole issue is the best interest of your child. One indispensable factor in naming any guardian is whether they love your child. Attentive grandparents often may be the best choice, but other practical factors must play a role in your decision:

How old are your children? Caring for a toddler may require different skills and temperament than raising a teenager.

Who would your child choose to parent them? While not conclusive, even a judge will ask older children (over age 14) their preferences.

Do your guardian candidates have their own minor children, is it a stable family environment and would your children integrate well?

Do they have a close relationship with your children, and understand their unique personalities and needs?

Are they young and healthy enough to take on the long-term commitment and physical demands of childrearing?

Do they have the maturity and emotional stability to deal with the stress of caring for children?

Do they live nearby, or would they or your children need to be uprooted to a faraway state?

What is their philosophy of good parenting and discipline, and is it compatible with yours?

Do they share your core values or religious beliefs?

Do they have sufficient financial resources to raise your children?

Are they willing to serve as guardians? Just because you choose someone and they are perfect candidates, does not mean they will accept the role.

You should also consider naming alternate guardians, in case your first choices are not available to serve. Likewise, you should periodically revisit our decision as your children age and your family circumstances change. Guardians named when your child was a toddler will have aged, may have new health issues or may no longer live nearby.

For fathers and mothers of minor children, delaying an estate plan isn't an option. Even if you have little or no property, you must have a plan to name guardians to raise your children if the worst happens. You know them best, and shouldn't leave it to a judge or your family to decide what's in their best interests.

Robert Deschene is an estate and elder law planning attorney at Deschene Law Office in North Attleboro, and a member of WealthCounsel and the National Academy of Elder Law Attorneys. Contact him at 508-316-3853, by email at rmd@deschenelaw.com, or online at deschenelaw.com.

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