

Jeff Kaplan
Intown Column June 2006

AND BABY MAKES THREE (OR FOUR, OR FIVE...)

It's amazing how married life changes when you become parents -- the dynamics, the responsibilities, and of course, the finances. Gone are the days when you only had to care for your spouse. Now you are responsible for another little person, completely dependent on you for everything. It's enough to make your head spin! And not only must you provide for your child(ren) while you are alive, but you are also burdened with ensuring your child is cared for should you pass away while they are minors.

Parents of minor children are charged with one of the most important decisions in life - choosing guardians to serve in the event both parents pass away. In essence, you are choosing someone to raise and rear your children as your substitute. There are two kinds of Guardians for a minor child: the Guardian of the person of the minor child; and the Guardian of the estate of the minor child. Parents can nominate different individuals to handle the different responsibilities, or the same individual may be charged with both responsibilities. Regardless, nominating Guardians for minor children is typically accomplished in your Last Will and Testament.

The difficult part usually lies in determining who will serve as Guardian. Here are some factors to consider: domicile, values, age, health, wealth, and number of children already in the household of the candidates. You should nominate alternate Guardians in the event your primary choice is unable to serve. Furthermore, it is important to know that in Texas, a former spouse who is the natural parent will have priority over anyone else you might name in your Will.

Although this task may sound simple, it can also present challenges to the parents -- especially, if they cannot agree. Disagreements occur when one spouse thinks their candidates (i.e. parents, siblings, or friends) are better suited for the job than the other spouses' candidates. The disagreements can lead the parents to inaction, which we estate planners typify as your worst case scenario.

Choosing a Guardian should be a priority for ALL new and expecting parents. Remember, it is about the child and ensuring a safe and secure future for him or her.

Jeffery H. Kaplan, JD, CPA is Board Certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization. His Intown area practice focuses on advising individuals and small businesses with tax and legal matters. Contact Jeff at jhk@jhkaplan.com.

This Article should NOT be taken as legal, tax, or financial planning advice for your own particular situation. Instead, you should consult with a qualified professional to seek such advice.