

Why It Is Important to Select a Guardian For Your Children And What Factors To Consider When Choosing That Guardian

By Sarah Cohen

From the time a baby is born the parents think about the future. They worry about which toys will be the safest, which elementary school is the best, and whether the child is making good choices at school, and which college the child will attend. They also dream about the things their child might accomplish. They dream that they are raising the next President, the next heart surgeon, or even the next Roger Clemens.

However, in all of the planning and dreaming of the future, many parents forget one important detail. They forget to decide who will take care of that child should something happen to both parents. True, it is a hard subject to think about. Who wants to think about their own death when they could be thinking about their child's next accomplishment? And yet the consequences of not thinking about this could be far-reaching.

Briefly, the Texas Probate Code states that if a guardian is not appointed by the last surviving parent, the nearest ascendant in the direct line of the minor is entitled to guardianship of both the person and the estate. If the minor has no ascendant, the nearest kin shall be appointed. In either case, if more than one person qualifies, the court will appoint one person according to circumstances and considering the best interest of the minor. Finally, if no relative can be found, the court shall appoint a qualified person.

At first glance, it may seem like the failure to appoint a guardian does not have severe consequences. But, imagine the following scenario: Bobby is a twelve year old boy in 7th grade. Both of Bobby's parents were killed in a tragic accident, and they failed to appoint a guardian for Bobby. Now the Probate Court must take the matter into consideration. Bobby is lucky-- he has two aunts who love him very much and are willing to take him into his home. One aunt lives in Bobby's hometown of Houston, the other aunt lives in Amarillo. The problem arises when they cannot agree which aunt should take Bobby. So, the court battle begins. After several months of fighting and going to court, the judge finally awards guardianship to the aunt living in Amarillo. Now, in addition to having his life disrupted by the loss of his parents and the constant battling between his family members, he has to pick up, move to Amarillo, make new friends, and start at a new school.

Could this whole situation have been avoided? The answer is yes, and it would have been a very simple process. All it takes is choosing a guardian and executing the documents. Once this simple task is done, the focus can once again be on the child's bright future.

Not only is selecting a guardian important, but so is selecting a guardian that is the best fit for your children. There are many factors to consider when choosing the person that will raise your child in your absence.

1. Location, Location, Location. Business owners will tell you that it is all about location. This is also true when selecting who will raise your children. Ideally, you would like your children to stay in the same neighborhood and at the same schools. However, realistically that is not always possible. So, you have to consider how far the children will have to move. You will also have to consider the safety of the location where they would be moving, as you would never knowingly place your child in harm's way. You will also want to examine the schools and other education options. Do you live in the big city or in a small town? Placing a child in a big city after living in a small town can be a huge adjustment, just as moving to a small town after living in Houston or New York City would be a big change. When thinking about location, you want to find the place where adjustment will be the easiest and not present too many immediate challenges.

2. A guardian that is a mirror image of you. When choosing a guardian, look for someone who has similar ideas about values, religion, child rearing, and discipline. If you are not going to be the one raising your children, you are going to want someone that will treat your children as you would. Not only will you know that your children will be raised the way you want them to, but this will also be an easier adjustment for the children.

3. The guardian has a compatible lifestyle. Not only do you want to make sure that the guardian you choose has similar child rearing ideas, but you want to make sure that their lifestyle will fit with your children. You do not want to pick someone that travels 48 weeks out of the year. You also need to make sure that the person has a stable job and income, and has a social life that is also compatible for raising children. You want to make sure that the person is going to be at home, be able to spend time with the children, help with homework, and participate in extra curricular activities with your children.

4. "But I don't like Aunt Jane." You need to make sure that the guardian you pick for your child is someone your child is comfortable with. If your child has constant conflict with the person you are thinking of appointing as guardian, then you can probably guarantee that the conflict will continue. As stated before, you are going to want the adjustment for your children to be as easy as possible. If you place them with someone they do not like, are not comfortable or familiar with, then the adjustment may be a tough one.

5. The guardian says, "I do." After you have thought about who you would like to raise your children, it is crucial to discuss the idea with the person you have chosen. Make sure that they are willing and able to take on that responsibility should it arise. Be open and honest with the person, and make sure they are open and honest with

you. If they do not feel that it is a responsibility they can handle, then it is better to know that now.

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