

PARENTS WITH YOUNG CHILDREN

The Wills Lawyer

Since I have started my wills practice, I have done many wills for couples with young children. One couple, in particular, had such an impact on me that I decided to write an article about what parents with young children need to know about wills.



Michelle Kotzer

While I was taking notes in our first meeting, the wife looked at me and said “we have been wanting to do this for so long, but we put it off, and now I can finally sleep at night.” The husband then said “since our first child was born, we’ve always been worried about what would happen to our children if we were in a catastrophic accident. We feel so much better that this is being done.”

What happens if you pass away without a will leaving young children?

Firstly, there is no executor in place to look after your estate on your death. Secondly, there is no guardian named who can look after your children. In fact, there could be a custody battle between your family and your spouse’s family over who should raise the children. As far as inheritance, your children will inherit everything you own at the age of eighteen. Remember how you were at eighteen. Do you think you could have handled a large inheritance? By law, your children would automatically receive their inheritance at eighteen regardless of their level of maturity. These are only some of the issues that occur, if you pass away without a will. No parent wants to leave a mess for their family.

When making a will what are some things you should consider?

First, who should you appoint as your executor? You can appoint your spouse as your primary executor. In fact, this is what is usually done. What about the back up executor? Who will look after your estate in case your spouse is not alive when you die? You can appoint someone else you trust like your parents or siblings.

You should also consider whether the person you are appointing as executor has the time to take on the task. An executor may be trustworthy, but he or she may be unwilling to accept the appointment. Executors have the right to decline the appointment at the outset when they find out that they have been named. It is advisable to obtain your executor’s consent.

What about the guardian?

If you have minor children your will should appoint a guardian to look after them in the event that you and your spouse both pass away before your children reach the age of majority. Be careful about appointing a married couple as guardians. You should feel very confident about their ability to get along together before concluding an appointment of this nature. If they get separated or divorced, who will have custody of your children? For example, if you appoint your brother and his wife as guardians, and after your death they separate, will there be a custody battle for your children? To solve this, it might be prudent to appoint your brother alone.

Your parents are not always the best choice as guardians because they may not out live you, and if they do, they may be elderly and unable to act.

I would be pleased to offer a free will consultation, if you do not have a will and do not know where to start. I also offer a free will review for those that have a will and want to make sure it is up to date and not a recipe for a family disaster.

I am a wills lawyer at the office of Fish and Associates, 7951 Yonge Street, Thornhill, Ontario. You can contact me directly at **905-881-1500 (Ext. 22)** or email me at **mkotzer@fishlaw.ca** or visit **www.michellekotzer.com**.