



KRASA LAW

PLANNING FOR EACH GENERATION

12 Tips For Choosing A Guardian For Your Children

While it's difficult enough to think about not being there to raise your children, imagine a court choosing their guardian with no input from you. Imagine your relatives arguing in court over who gets your children—or having them *agree* but not on the people you would have chosen. That's why it's important to nominate a guardian while it's still up to you. Here are some tips to help you make your best choice.

Tip 1: Think beyond the obvious choices. Make a list of all the people you know who you would trust to take care of your children. You don't need to limit your list to close family members. While siblings and parents can be excellent choices, consider also extended family members who are old enough to raise your children – cousins, aunts, uncles, nieces, nephews, even second cousins once removed.

Tip 2: Friends can make excellent guardians. Beyond family, consider close friends, families with whom your family is close, the families of your children's friends, friends you know from your place of worship, even teachers or child care providers with whom you and your children have a special relationship.

Tip 3: Don't stress about finances or the size of someone's house. Don't eliminate anyone from consideration because you don't think they have the financial wherewithal to take care of your children. You can take care of the finances with what you leave. (That's what adequate life insurance is about.) You can even instruct your trustee to provide funds for your chosen guardian to build an addition to their home or move to a larger home to accommodate your children.

KRASA LAW
704-D Forest Avenue
Pacific Grove, CA 93950
831-920-0205
www.KrasaLaw.com
Kyle@KrasaLaw.com

Tip 4: Focus on love. Consider whether each couple or person on your list would truly love your children if appointed their guardian. If they have children of their own, will your children be second fiddles? Or is the couple sufficiently loving that they will make your children feel loved no matter what?

Tip 5: Consider values and philosophies. Ask yourself which people on your list most closely share your values and philosophies with respect to your:

- religious beliefs
- moral values
- child-rearing philosophy
- educational values
- social values

Tip 6: Personality counts. Consider whether each of your candidates has the personality traits that would work for your children.

- Are they loving?
- Are they good role models?
- Do they have the patience to take on parenting your children?
- How affectionate are they? (If your family is particularly affectionate, a guardian who is loving but not physically affectionate could be damaging.)
- If they're fairly young, how mature are they?

Tip 7: Consider practical factors. For example:

- How would raising children fit into their lifestyle?
- If they're older, do they have the necessary health and stamina? Do they really want to be parents of a young child at their stage in life?
- Do they have other children? How would your children get along with theirs? Are there potential problems if your children were to live with theirs? How easily could the problems be dealt with? (For instance, do you want to place a child who struggles in school with a high-achieving child of the same age for whom everything comes easily?)
- How close do they live to other important people in your children's lives?
- If a couple divorced, or one person died, would you be comfortable with either of them acting as the sole guardian? If not, you need to specify what you *would* want to happen.

Tip 8: Look for a good – but not a *perfect* – choice. Most likely, no one on your list will seem perfect – that is, just like you. But if you truly consider what matters to you *most*, you will probably be able to make some reasonable choices. In the end, *trust your instincts*. If one couple or person meets all of your criteria, but doesn't feel

right, don't choose them. By the same token, if someone feels much more right than any of the others on your list, there's a good reason for it. Make your primary choice, then some backup choices. It's essential that both you and your spouse agree. If you cannot make a decision, or if you and your spouse cannot agree, a good counseling-based estate planning attorney can help you through the process.

Tip 9: Select a *temporary* as well as a *permanent* guardian. Temporary guardians may be appointed if both parents become temporarily unable to care for their children – for example, as the result of a car accident. Depending on your choice for permanent guardians, you may want to designate different people to act as temporary guardians. If your choice for a permanent guardian lives a considerable distance away, choose someone close by to serve as temporary guardian. If you're temporarily disabled, you'll want your children close by. And you won't want their lives unnecessarily disrupted by moving them to a new town and school. If you have no relatives or close friends nearby, consider families of your children's friends.

Tip 10: Consider a Guardianship Panel. Because it's difficult to predict what your children's needs will be as they grow older, consider appointing a "Guardianship Panel" to decide who would be the best guardian when and if it becomes necessary. Choose trusted relatives and friends to make up the panel. This allows for maximum flexibility, so the most appropriate choice can be made at the time a guardian is actually needed. The Panel can consult with your children and assess their needs and desires to make the most appropriate choice based on the current situation.

Tip 11: Write down your reasons. If you've chosen friends over relatives, or a more distant relative over a closer one, be sure to explain your decision in writing. That way – in the unlikely event your choice is challenged by people who feel *they* should have been chosen – a court should readily uphold your decision, knowing you've made your choice for good, solid reasons.

Tip 12: Talk with everyone involved. If your children are old enough, talk with them to get *their* input as well. And be sure to confer with the people you'd like to choose, to ensure they're willing to be chosen and would feel comfortable acting as guardians.

Once you've made your choice, there are steps you can take to make sure the potential guardians you've chosen will have guidance and support they need. Here are a few ideas:

- Create a set of guidelines to convey information about your children, your parenting values and your hopes and dreams for your children. (See or ask for our "Guidelines for Guardians" handout.)

- Set up a trust that will hold the assets you pass to your children, and instruct the trustee to provide necessary financial assistance to the guardians. You can also create specific instructions about special things you'd like the trust funds used for (for example, annual trips for your children to visit close friends and relatives, a particular summer camp, putting in a swimming pool at the guardians' house).
- Designate "mentors" consisting of special people in your children's lives to help guide them in ways for which the "mentor" is particularly well-suited. For instance, the person you choose for trustee may also be a good "financial" mentor for your children. Or you may want to designate a "spiritual" mentor, particularly if the guardians you choose have religious philosophies that differ from yours. You can also name in your estate planning documents people who you simply want to have ongoing involvement in your children's lives. This can be a good way to include both sides of the family.