



WILLS

Matter

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WHO IS LOOKING AFTER MY KIDS?

In this column we consider the issue of what happens to your children when you die without a Will. It is important to make sure your children are financially supported if you should pass away. It is equally important to make sure you are comfortable with who is caring for your children.

It's easy to assume that upon your death your closest family members will look after your children. In fact, if you do not have a Will, the guardian will have to be appointed by the court under the Family Relations Act. There are two main problems with assuming a family member will step forward to apply to the court for guardianship: 1) that family member was likely not planning on raising your child or children; and 2) the family member you think would be best for your children might not necessarily step forward and volunteer. Someone else might do so, and in some cases your children may even be split up between relatives.

If no one is appointed by the court, the Director of Child, Family, and Community Services will become the guardian of the child, and the Public Guardian and Trustee will become the guardian of the child's estate.

You can avoid the uncertain guardianship of your children by discussing the issue with the people you think are best suited to look after your children, whether it be close friends or family. If they welcome the idea, you can name them as guardians in your Will and be comfortable that your wishes will be carried out and your children will be cared for. Communicating with the potential guardian will ensure that you are choosing someone who wants to be guardian, while reducing their surprise and anxiety.

You should also consider naming an alternate guardian in the event that the first guardian is unable to fulfil their role, because the first guardian cannot appoint a successor guardian.

Consult with an experienced Wills and Estates lawyer who can make sure your Will provides for your children. This will allow you to feel comfortable and secure about your children's future.

Contact Fulton & Company's Wills & Estates Team

if you have any questions regarding wills or estate matters.

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