

Am I To Young To Write A Will?

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At the age of 28, you would think that one of the last things on my mind would be making a will for myself. However, with two kids to think about, you could not be further from the truth.

Just recently I had a medical scare, which lead me to really think about life and death. While death is not something everyone wants to think about, it is a natural part of life. One in which, especially as a parent, people need to think long and hard about!

There are many misconceptions about drawing up a will. "People should not be afraid of creating a will," says Les Kotzer, family estate attorney and co-author of the book *The Family Fight; Planning to Avoid It*. There is a misconception out there that a will is a complex thing that only applies to wealthy people or older people, and that is just not true.

Why should YOU have a will?

With me, my first thought besides my kids was, "What do I have to leave behind?" Being a young woman with two young children. I did not think about having a lot besides debt. However, it seemed I was overlooking some things. I was over looking one of my biggest assets, Life Insurance. "Most young parents have life insurance policies, especially if they are employed," says Larry Lipiec, a wills attorney. "If the parents die without a will, the government will manage the inheritance for a fee. The children then receive the money when they reach the age of majority, which is 18 in most states."

Now my first thought when I read that was; "Great, my son and daughter will be 18, and get a 'semi-big' lot of "free" money. Ummmmm; I don't think so!!!" This is/was not exactly what I wanted for my children, would you? Would they choose to continue their education, go on with their lives, or invest? Or instead would they want to "buy a sports car, party, and tour the world."

Not only that but imagine your parents in court litterly fighting for the right to raise your kids, all the while your husband's parents are fighting for the same thing. Or if you're like me, you have more than one "family" member vying for a "piece" of your kids. For me, not only do I have my ex-husband's parents, but my ex-husband's new wife, her family, my sister, and my parents!

Each of them "bashing" the other, relations would never be the same within the family or for your children. Without a will, these situations not only could happen, but also are more likely than not TO happen, in the event that your husband and you die at the same time. Or in the case like me, where your single!

Where do you start?

"The best way to create a will is to see an attorney," say Lipiec. However, with this the "information age" and knowing that parents don't always have the time or money to sit down with a lawyer, there are other options.

There are many places on the internet for good information and also user-friendly software such as WillMaker; lots of people are opting to create their own wills.

Scott Mann of Virginia states that, "WillMaker is pretty simple, and easy to use. It provided a fast and inexpensive solution for my family of five's needs. My wife and I not only have the will we needed but spent less than 3 hours total doing it."

Lipic also designed a great tool called America's Plan Language Will Kit. In order to help people who choose to create their own wills. This kit is created in two different versions to suit a lot more people; including one for single people, with or without children, and one for people in their first marriage with at least one child.

However, the kit, as with the software has its limitations, it is a "one size fits most" kind of program. When dealing with people (such as myself) we can have all kinds of different needs and wants that require all kinds of special and different considerations. There are times when a kit, or program of any kind are not appropriate, such as in situations when you're on your second marriage, or have children from 2 different father's, or own your own business. These situations call for an attorney.

This is something I can touch on from personal experience; Attorney's are not as scary as one might think. Lawyers are not out to intimidate you, and just like with your pediatrician, if you don't trust them they can't help you. Start by asking around, your friends and family will most likely be the "place to start" when finding a lawyer. Though Lawyers are often not the most "friendly" people, they do get a bad wrap for being "money grubbing." Most Lawyers I have found are pretty easy to talk to, and really do just want to help you!

There are a few things to know before you go in to that first appointment, or even sit down with your "do it yourself"

program. Below are some concepts and terms to familiarize yourself with.

A Guardian.

A guardian is the person that you select to raise and look after your children should both parents die before the children turn "of age" (which is 18 years of age in all states, any child under 18 needs a guardian).

Without a will, a judge in court, depending on your states laws, will set the guardian. Basically what that means, is if there is no will in place; your children and family will be subjected to going to court, for a judge to decide who will raise your children; there's no way around it.

In many states once the parents are gone, the next person "in line" to take care of your children will be the grandparents. However if there are two sets of grandparents this will ensure a heated court battle. One in which both sides not only have to prove that they are "better" for your children but also that the "other side" is not as good. In doing so, this tears even the closest of families apart, your children could loose one set of grandparents along with that whole side of the family; which is not what you would want.

Not only that, but your parents are also put though the "ringer" with stress and undo expense.

Robert Baumgartner of Robert B. Baumgartner & Associates in Fairfax, VA also suggests that you name one person as guardian; with that person most likely being a blood relative; as opposed to a married couple. Why you may ask (I did). Baumgartner states, "After your death, what happens if your sister and brother-in-law decide to divorce? There very well could be a custody battle over the children. By naming one person, your sister for example, she then has custody of your children no matter what her martial status is."

It is one of the hardest decisions as a parent to choose a guardian for your children; no one is going to parent the exact way that you do, tell the same stories or even tie there shoes "just the same." It's hard coming up with that "perfect fit," and sometimes there is no perfect fit. For me I had to sit down and decide what features I needed/wanted in the person who would be raising my children, and how those values ranked. My criteria came down first to, values and family relationships then I thought about things like monetary concerns and location.

To me making sure that my children would be treated the same as I treat them, with the same value "pack" was most important; though each parent has there own concerns. You must decide them for yourself!

An Executor.

The executor or representative will be the person who looks after your estate after you die. Usually this person is your spouse, however in the event that both of you died; someone should have the authority over the monetary elements of your estate.

Baumgartner recommends this person being the same age or younger than you are. This person could be your parent however, there would need to be a back up. He also recommends you talking with this person, make sure they are ok with your decision as well as understand your wants and wishes.

The final recommendation is to keep your executor and your guardian two separate people. By doing this you create a sort of "checks and balances" system.

A Trust.

A trust is a living thing, it allows funds to be invested and managed until your children reach a designated age, which can be determined by you, the parent. A trust can be set up so that the executor and/or guardian has full control, and also has the ability to withdraw moneys needed in the raising and care of your children.

There are also "special" trusts that you can set up, one being a trust for a special needs child, which will allow your child to still qualify for state and federal programs.

A Power of Attorney.

A power of attorney is a person, who can speak for you, should you become incapacitated. In other words, if you fall into a coma, or are in another way unable to make decisions for yourself, your children, or your will the power of attorney can make these decisions. If you choose not to list a power of attorney, your will, can become null until you pass away. Without a person named your holdings, including your children basically become frozen, until someone goes to court to become appointed with the power to act on your behalf.

This person also needs to know and understand what this means to you as it means different things to everyone. For me it was vital for my power of attorney to know my wants and wishes in regards to organ donation, my children, as well as being kept alive by machines. This person, needs to be someone you trust very deeply to do not what they "feel is right" but rather what you have decided is best for you and your family.

In closing, I found creating my will to be much harder on me emotionally than it was on paper; it was an empowering

effort on my part, and time very well spent. It was a journey in self-discovery as well as a journey in discovering what a wonderfully tight nit family network I have at my fingertips.

Don't take these decisions lightly, research, talk with family and friends; then trust yourself, and know that a will is a way to help take care of the most precious things you have to share with the world, your children.

Now please do your family a favor, sit down, figure out what your wants for the future of your children and assets are, and write a will. You're not doing it for yourself; you're doing it for them. Imagine your 18 year old hot roding around Europe on a motorcycle blowing all that hard earned money, just because he can! Jennifer Sprague, co-owner of "Attachment Parenting Products with High Top Baby Designs" High Top Baby Designs. She has several years of teaching experience, working with infants through adults. As a nanny, daycare provider, teacher, and is currently studying to become a Doula and a Lactation Consultant. She enjoys spending time with her two wonderful children, Aubrey and Zachary. "Contact Jenn of High Top Baby Designs" Jennifer is also an advocate for peaceful parenting everywhere she goes. © 2005 High Top Baby Designs. All rights reserved.