



WARNER'S TIPS FOR CHOOSING FIDUCIARIES FOR YOUR WILL

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There are three major jobs to fill in your Will: Executor, Trustee, and Guardian. While a surviving spouse will be the primary choice for those roles, you will need to choose one or two backups in case your spouse is not able to serve. Make these choices based on the best person for the job TODAY.

Guardian: The guardian is the person who will be caring for your children until they are no longer minors. Your children will live with the guardian, and this guardian will make all health care decisions for the children.

- I typically recommend that you choose only one person as the guardian rather than choosing a couple (unless you are choosing your parents or your spouse's parents).
Example: If your sister and brother-in-law are your choices to be the guardians, just list your sister. This way, if your sister were to die before you, the backup guardian that you list can be the next in line to serve rather than your brother-in-law. I have nothing against brother-in-laws, but most people do not want that result.
- Choose the guardian of your children as if something had happened to you yesterday.
Example: If you would want your children to live with your parents right now if you were unable to physically care for your kids, list your parents as the primary guardians. Your backup can be someone closer to your age, and they can take over if your parents become unable or unwilling to serve at some point. These decisions are not final and can be changed as long as one spouse is living. We can always update your documents later if you decide that you think someone else would be a better fit. Even if you don't update your choices, your parents have the ability to decline the role and allow the next person in line to serve.

Trustee: The Trustee's job is to be in charge of your children's inheritance. The Trustee will pay for education, healthcare, and day-to-day expenses for your children until each child takes over as trustee for his or her share of the trust (usually age 30). Your children can request for the Trustee to distribute funds for anything, but the Trustee makes the final decision and can deny a child's request. There are three schools of thought on choosing a trustee:

1. The Trustee is the same as the Guardian – "If you trust them with the kids you trust them with the money" (the choice I made in my Will)
 - In this case, the same person who is the guardian of the children has access to the funds that will be used to care for the children. This option is the most streamlined because it keeps the guardian from needing to ask someone else for funds to care for the children.
2. The Trustee is a person, but not the same as the Guardian – "I want checks and balances, please!"
 - In this case, someone other than the Guardian of the children is the Trustee. This option provides good checks and balances because the Guardian has to ask the Trustee for funds before spending them on the children. This eliminates the possibility that the Guardian spends Trust funds on their own children (funding a family vacation on the Trust, etc.)
3. Corporate Trustee
 - A Corporate Trustee is an independent party who is in charge of the assets for your children. Corporate Trustees charge a fee based on the assets they manage. They are a good option in complicated situations, when you can't think of someone qualified to take the role and when there are sensitive family dynamics. They will typically file all tax returns and do the necessary reporting.

Executor: The Executor is the most short-term job that you will be selecting. The executor will hire a lawyer to probate your will and get letters testamentary from the court. The executor gathers all of the assets and follows the directions of your will to divide them among the beneficiaries. The Executors are almost always the same as the Trustees you chose because it is such a similar role.

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