

**EXCERPTS FROM
APPOINTING A GUARDIAN IN YOUR WILL**

Paragraph 1...

Imagine the following scenario: John and Jane Doe have gone out for the evening leaving their children with a baby-sitter. On their way home, both John and Jane are killed in a traffic accident. For one reason or another, neither John nor Jane has made a Will and both of them have a variety of relatives, each of whom thinks him or herself the best choice as guardian for the children. Now what?

Paragraph...5

Managing the Children's Property

In the case of John and Jane's children, once a person is appointed by the Court as their guardian, an Application must be made if that guardian also wishes to become guardian of the children's property. Since there are no testamentary instructions to be guided by (or protected under), the guardian must tread a very fine line in deciding how much to spend on the children and how much to retain for distribution at their majority--a position of obvious conflict of interest.

Paragraph 9...

At the same time, parents often are concerned over the potential burden of saddling a guardian with their children. Many are having their Wills drafted to *encourage* guardians to spend estate money and not their own, fearing that guardians may somehow feel duty-bound to raise the children at their own expense. In these cases, a non-guardian trustee is essential for assuaging the consciences of guardians and encouraging them to put aside their otherwise well-meaning intentions.

Final Paragraph...

Although it cannot diminish the tragedy of losing parents, a well drafted Will can ensure that family members and others who want to care properly for children left as orphans will have the best legal tools for doing so.