

## **Estate Planning and Guardianship Considerations for Families of Minor Children or Children with Special Needs**

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Estate planning for families with minor children and/or children with special needs requires an additional set of considerations when compared to families with older children or 'typical' families. Often, estate planning attorneys will help parents to identify an individual to step in as guardian for their minor children or children with special needs yet forget to consider the 'burden' this role will place upon the guardian named to step into the parents' role.

This very circumstance came up in my own family's estate planning. While we are very fortunate to have close-knit and harmonious relationships in our family, we do not have extended family living nearby. Twenty five years ago, when my parents were thinking of who would be the best person to be my, and my two younger brothers guardian, including James who has Down Syndrome, the obvious choice was our close family friend, Rose. When my father, a Certified Financial Planner Professional, met with an estate planning attorney to draft a fairly basic estate plan for his young family, he became concerned not about who to appoint as guardian- Rose was by far the best choice- but about what life would be like for Rose should she be required to take on this responsibility.

Their estate plan, like those of many young families, was set up originally to provide for the children's health, education and maintenance until the magical age of 30, when the assets would be distributed evenly amongst the children with Special Needs Provisions in place for James. What did the plan call for Rose to do in her role as guardian? The plan was to have her move into our family home and care for us until we reached adulthood. Once I reached adulthood, I would have then taken over the role of guardianship for James. Rose would have given up her career and most likely some of her highest income earning years, health insurance coverage through her employer and other financial benefits, not to mention changing her day to day life forever.

My parents went back to the estate planning attorney and shared their concern for Rose and the responsibility and life changes that would occur if something were to happen to them. They reviewed their financial picture and identified that there would be enough resources to also provide for Rose during those years, she would have been able to contribute to an IRA on an annual basis, pay for her health insurance with the trust assets and other financial resources to compensate Rose for her time and devotion to our family. The last thing my parents wanted was for Rose to suffer with a weakened financial situation because of her love for us. Luckily my parents are still here today, we have grown into adulthood and Rose, although never to be our guardian, is still a loving friend and a big part of our adult lives.

There are a lot of details involved when creating an estate plan, the emphasis for our Special Needs Families should be focused on the details of living and how the overall estate plan will be implemented. It is important to coordinate the estate plan with the

financial plan to know what assets there will be to provide for the most important element of the plan, the important people in your life.

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