

## Who Will Take Care of My Child

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### Why Should I Take Legal Steps to Plan for Who Will Take Care of My Child If I Become Incapacitated or Die?

You are probably the person most able to make a loving, caring decision about who could best care for your child. Taking this difficult step can bring you the peace of mind of knowing that your child will be safe and well cared for. The healthier you are when you make the plans, the more you can do to protect your child. By making arrangements in advance, you are saving the child's future caretaker the grief, expense, confusion and uncertainty of scrambling to make arrangements and get legal approval to take care of your child if something happens to you. This will leave the caretaker more time and energy to devote to the very important task of caring for your child.

Imagine the scenario in which a grief stricken grandmother must deal on the day of her daughter's funeral with out-of-town relatives or a jailed father demanding to take the child, or trying to dictate the living arrangements of a heart-broken, frightened three year old child. Good planning by the child's mother can avoid adding tragedy to tragedy.

Parents owe it to their children and their children's potential future caretakers to give careful thought, and then take decisive legal action to plan for the future. It is not an easy issue to think about, but like our children, it is worth it.

### What legal steps can I take to plan for the care of my child(ren)?

There are several things you can do to prepare for someone else caring for your children. We will list all your choices and attach a separate sheet explaining each choice more fully.

- I. **A special Power of Attorney:** by signing this form, you can give a relative or friend the authority to act in your place while you are alive. The Power of Attorney allows that person to consent to medical care for your child, deal with your child's school and with agencies such as the Department of Social Services.
- II. **Custody:** You could cooperate with a relative or friend getting custody in Family Court. The relative or friend would have to file the custody petition. Once the court grants a custody order, legal custody is transferred to your relative or friend.
- III. **Guardianship:** You or the proposed guardian can file a guardianship petition in Surrogate's Court. At the time the petition is filed, the court can issue a letter saying the petition has been filed. Most agencies accept that letter as proof of your proposed guardians's authority while the guardianship action is pending. When the order is signed, guardianship transfers to your relative or friend.

- iv. **Stand-by Guardianship:** You can file a petition in Surrogates' Court asking that a relative or friend be appointed stand-by guardian. Guardianship does not transfer to the stand-by guardian until you later sign your consent to appointing the stand-by guardian as guardian or the court receives certification that you are incapacitated or have died.
- v. **Designation of Guardian in a Will:** You can have a will prepared which names the person you want to be guardian of your children after you die.
- vi. **Adoption:** You could cooperate with another person or couple adopting your children.

**What if I don't know anyone who is willing to take over the care of my children or who I think would be a good caretaker?**

When you no longer can care for your children, you can contact Catholic Charities Children Services at 856-4494, ext. 3065 or the Department of Social Services Foster Care Intake Center at 858-8736 or 8737 and ask to arrange to voluntarily surrender your children to DSS. Your children will then be placed in foster care.

**What if I don't do anything to arrange for my children's care before I become incapacitated or die?**

During your incapacitation, a relative or friend might file a custody or guardianship petition. The court would appoint a lawyer to serve as your Guardian ad litem. That lawyer would try to figure out what you would have wanted to do if you were capable of appearing in court.

If no relative or friend steps forward to assume the care of your children, the Child Protection Services will probably be called in. They will probably put your children in foster care.