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Don't Put Off Writing Down Your Last Words

Posted by [Steven Maimes](#), Contributor – on April 27th, 2015

NH Magazine article by Jeff Woodburn

It's easy to put off doing a will, but estate attorneys say don't wait

If you don't have a will, you're not alone. You're actually in the company of the majority of adult Americans and some decidedly wealthy deceased celebrities — a Supreme



Court Justice, a rock star and even a princess among them. Chief Justice Warren Burger, musician Jimi Hendrix and Princess Di died with wills that weren't done right or were terribly outdated.

"Planning for death is a morbid thing to do," admits Kelli Gardner, an estate attorney in Portsmouth. "People don't like to deal with unpleasant things."

But if dying isn't bad enough, parents of young children must face the choice of deciding who will replace them and take over the day-to-day care of their children if the unlikely occurs. Choosing a guardian is one of the toughest estate planning choices people have to make. "It's the reason why many don't have an estate," says Michelle Arruda, an estate lawyer in Concord. For some "it's just not an obvious choice [and others] just can't get it done."

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Investnet Summit Flips Switch on Robot Advisory Platform

Posted by [Scott Martin](#), Contributor – on May 10th, 2015

Promises of "transformative" revelations in Chicago were evidently

Granted, the likelihood of two people who have successfully procreated at least one child under the age of 18 dying simultaneously is very, very rare. The female reproductive system almost guarantees one-half of the couple is young enough to avoid the major contributing factor to death — old age. Add a little wealth and education, and your chance of dying young becomes even slimmer.

For many young parents “death seems like a long way away,” says Attorney Gardner, but she’s seen the horrific happen. Fortunately, those parents had their affairs in order and the transfer of guardianship occurred according to plan.

Choosing a guardian

- Some states allow parents sole discretion in naming guardians, but according to New Hampshire state law, parents nominate a guardian, but the final say is with the probate judge. Rarely is the parents’ choice turned down. You can include in your will who you absolutely don’t want to be your child/children’s guardian. It is always, always good to explain yourself if it is ever contested.

- An ethical will is an increasingly popular idea. It is simply a letter that accompanies the will. While it has no legal standing, it elaborates on your wishes and can guide your chosen guardian.

- What if you make a mistake? People and circumstances change. That perfect guardian may turn into a perfect jerk. Don’t worry, you can and should update your will. The likelihood of death is so rare that the dumped guardian will probably never know.

- If you just can’t decide on a guardian, don’t let this stop your estate planning work. It is better to have this undecided than to die without a will.

A last will and testament is a legal instrument that disposes of real and personal property at the time of death. The state requires that the author of the will, known as the testator, be at least 18 years old (or younger if married) and be of “sane mind.” The will must be in writing and witnessed by two “credible persons.”

There is no requirement that it be written by an attorney, but with varying state laws it’s wise to use one. Clarity is important because, unlike most legal documents, the signer will not be around to fill in the blanks.

Dying intestate or without a will is mess and it is further complicated by minor children. The state’s “law of descent and distribution” (NH RSA 561) stipulates personal assets be transferred first to the deceased’s surviving spouse; if there is not one, then it would be equally split among surviving children.

Without a formal direction, your wishes must be interpreted and your estate must be settled by a probate court judge. The process is expensive and encourages disputes. But divvying up wealth is whole lot easier than handing your children off to the state to determine where they go and how their care will be paid for. Just imagine the two grandmothers fighting over custody of your children?

It is best to nominate two people — one to be the guardian of the children and another to be a trustee of the funds dedicated to the care of the children.

“It’s really an emotional issue,” Gardner says. It is complicated by the age of the children (as children grow older they have increased say in where they live) and by tradition. Remember, strict hierarchical processes — like the line of succession to the royal throne — may not be fair, but it does save a lot of trouble. The breakdown and spreading out of the traditional family unit disturbs some of the old, obvious bonds.

no hyperbole. Investnet has rolled out new benchmarking, integrated retirement plan support and practice automation tools. It’s up to advisors to seize the opportunities. At this point you know that the fear around “robot” advice delivery is almost all hype in search of a clever headline. The reality of this technology revolves ... [Read More](#)



Time to Stop Chasing Cosmetic Innovation and Embrace Transformation

Posted by [John Yackel](#), Contributor – on April 24th, 2015

Bolting features and functions onto a practice or business leads to an institutional version of Frankenstein’s monster. When the incremental fixes stop adding up, wealth managers need to open up to a little deep disruption to improve the chances of long-term success.

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Wealth Management Convergence Through Technology

Posted by [William Thomas](#), Contributor – on April 23rd, 2015

Modern systems support expanding capabilities for trust companies, banks, advisors and broker-dealers. As many of us in the wealth management industry know, the past decade has seen a significant blurring of the lines between two separate approaches to wealth management. Banks and trust companies have had to adapt to compete with advisors by adding front office, client-facing capabilities such as ... [Read More](#)

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Many attorneys, like Jeff Crocker of Jaffrey, rely on firsthand, personal experience to help clients navigate this question. "I can relate because I was there," he says. It took him and his wife, a circuit court judge, two years to decide on a guardian. Crocker encourages parents to "dig deeper and don't just accept [the first name offered]. I make sure they truly understand their preferences."

Some parents feel obligated to pick family members and others still get caught in "your family" or "my family" disputes. Sometimes a friend is a better fit than a family member. "It is important sometimes to expand the scope," Crocker says, and then for him and his wife the answer became apparent — and they chose — close friends with children at about the same age.

Does your guardian reflect your parenting philosophy, religious or personal values? Do they live nearby? Do they have children and how will your child or children fit in? Is the household stable? If it is a couple, what happens if they break up? Is age of the guardian an issue? Crocker advises, "Don't hold potential guardians to an unrealistic standard. Nobody is perfect."

He also warns not to exclude someone because they don't have excess financial resources. A trust can be established, funded through assets or life insurance that can ensure the day-to-day care, health care needs and college expenses. Parents will also need to determine how and when to distribute funds. Depending on the extent of the trust fund, it can stretch beyond basic needs — food, health care, clothing and housing and include maintaining a comfortable standard of living and college and advanced education. If funds remain after the child reaches legal maturity, the fund balance can be released in its entirety or in increments over time, at a different age or in some other way.

Once you decide on a guardian, review your plans and expectations with them (including the financial trust arrangements) and allow them the time to consider your requests. "Some parents," Crocker says, "worry that it is an imposition [and] it's a big thing to ask." It may well be, but in the end, Crocker says, remember that "it's all about what's best for the children."

This article appears in the May 2015 issue of New Hampshire Magazine

Source: nhmagazine.com

Posted by: [Steven Maimes](#), The Trust Advisor

Permalink: <http://thetrustadvisor.com/headlines/last-words>

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Portfolio Achieves Critical Mass

Posted by [Scott Martin](#), Contributor – on April 13th, 2015

A full 40% of advisors have embraced automation as the key to more effective client prospecting and increased AUM. By this point you should know whether you want to join the revolution – the real question is which platform you want as your dance partner. This looks like the year that advisors get serious about focusing on what they are ... [Read More](#)



Nevada Supreme Court Approves 365-Year Dynasty Trusts in Landmark Decision

Posted by [Steven J. Oshins](#), Contributor – on April 9th, 2015

The Supreme Court of the State of Nevada has shot down a Harvard law professor's claim that Nevada's 365-year rule against perpetuities is ineffective. In an article published last year in The Vanderbilt Law Review titled *Unconstitutional Perpetual Trusts*, co-authors Steven J. Horowitz and Robert H. Sitkoff called the constitutionality of certain longer-term dynasty trust statutes into question. Horowitz ... [Read More](#)

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I personally know one Nevada family that is into the 5th generation of its trust. Every generation, one child is cut from it while the other gets control of it in its' entirety. I can't say that's...

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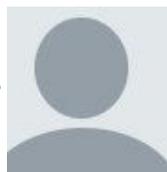
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Simon Algar

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