

## ESTATE PLANNING

### With a Will and Trust

Who will handle your estate?

The Personal Representative is appointed based on the will with your preference and knowledge of your family

Who will take care of your children?

A guardian will be appointed based upon your selection in the will. You know who will best care for your children, and give them the most love at a time when they need it the most.

Who will handle the money in your estate?

A trustee will be appointed by your testamentary trust in the will. The trustee will not be required to report to the court for how the money is spent, nor ask the court for permission to spend money for the child. A trustee has more flexibility in how the money is handled.

A trustee is not always compensated for services performed, particularly if the trustee is a family member. The trustee often hires an investor, then pays the expenses for the kids

What happens when the children turn eighteen?

The trust continues to operate

### Intestate (No will/trust)

A Personal Representative appointed by the probate judge depending on who asks the court to be appointed

A guardian will be appointed by the court. The person appointed depends on who petitions the court to be appointed. If a suitable person does not come forward, the State will assume guardianship and place the child in foster care.

A conservator will be appointed by the probate judge, depending upon if anyone comes forward to be appointed as conservator. If a suitable family conservator is not found, the court appoints a paid conservator, usually a bank or an attorney, who is entitled to compensation for services in handling the estate.

A conservator must request funds from the court for the children, as well as prepare annual accountings to the court which must be approved. An attorney is hired for this process

All funds not distributed will be

according to the trust instructions. Usually a trust will remain open to pay for college, then distributed at differing ages according to your wishes, as set up in the trust.

distributed directly to the child at age eighteen after final accounting to the court.

What if you have children from a prior marriage?

The estate is distributed according to your wishes as set out in the will, whether it be to take care of your current spouse, to take care of your children from the prior marriage, or any other direction from the will

One-half of your estate will go to your children from the prior marriage, one-half of your estate will go to your present spouse. Children from your present marriage do not receive any direct distributions.

What assets go into your probate estate?

Only assets which are held in your name only. If you hold assets in joint tenancy with your spouse, that asset will belong to your spouse, and will not be distributed according to the will. If your total assets is under \$600,000, and you want all your assets to go to your spouse without probate, this is a way to accomplish this. It still leaves open the question of what will happen to the assets after the death of your spouse.