



ALL IN THE FAMILY

Legal blog on all aspects of Family Law and Divorce in Massachusetts and Rhode Island

Why Single Parents Should Not Ignore Estate Planning

BY CHARLES R. HUNSINGER • JULY 16, 2026

Single parenthood can present myriad challenges. With the onslaught of everyday tasks, planning for who might care for your child in the event of your death might not be at the top of your list. But even if it is less pressing than figuring out what your child is willing to eat today, planning for who will take care of your child if something happens to you is an essential part of your estate planning.

Dying without nominating a guardian or conservator means your child will be the subject of a court-ordered guardianship or conservatorship – legal processes where a court appoints a person to assume responsibility for a child under 18 or their finances when parents are unable to provide care. When there is a surviving legal parent, that parent will have the right to sole custody of the child, absent a determination that the surviving parent is unfit. However, if there is no surviving parent, the court must appoint a guardian or conservator based on its determination of the best interests of the child. Obviously, what the court determines to be the best interests of your child might not be in line with your wishes.

With that said, here are four reasons why it is better to be prepared with a comprehensive estate plan nominating a guardian and conservator.

1. AVOIDING CONFLICT WITH EXTENDED FAMILY

Having a will nominating a guardian and conservator can prevent conflict. If the child does not have a second or third legal parent, nominating a guardian and conservator in a will is the only way to have any input into who will care for your child after your death. Your nominee is not entitled to automatic appointment, but the court will generally give the nomination some weight in deciding who to appoint. The nomination may prevent extended family from fighting over who is to assume the role of guardian or conservator for your child after your death.

Communicating with your nominee beforehand is key. If your nominee does not know beforehand that you have chosen them, they may not be prepared to take on the role of guardian or conservator. Going to the trouble of preparing a comprehensive estate plan is useless if your chosen nominee is unable or unwilling to serve.

2. PLANNING A CHILD'S FINANCES

In Massachusetts, minors cannot directly inherit money or real estate. If your child may inherit assets, you may want to nominate a conservator for your child as well. A conservator is someone the court appoints to manage and control the child's assets until the child reaches the age of majority. If you do not nominate someone, the court will appoint someone suitable. As in the case of a guardian nominee, a nominated conservator may not be appointed but is entitled to first consideration by the court, provided there is no other parent.

A conservator can be the same or a different person as your child's appointed guardian. Conservatorships of minors typically end at age 18, so nominating a conservator might not be sufficient to ensure that your assets are protected until your child is mature enough to manage them alone.

3. UNDERSTANDING YOUR OPTIONS: ALTERNATIVES TO APPOINTING A GUARDIAN IN A WILL

First, you can nominate a guardian and a conservator in a document other than a will. A document nominating a guardian must be in writing, notarized, and witnessed to be valid. Interestingly, the statute does not contain similar requirements for nominating a conservator, noting in the comments that "there are many mechanisms available to the nominating individual to protect the property besides a conservatorship."

Another alternative is that Massachusetts law also allows a parent to delegate parental authority during their lifetime under certain conditions and for a limited time. This delegation of authority occurs by completing a Caregiver Authorization Affidavit, which is only valid for two years and thereafter must be renewed. With such an affidavit, the parent and the caregiver have authority, but in cases of disagreement, the parent's decision controls.

4. WHAT HAPPENS IF YOU DID NOT NOMINATE SOMEONE?

If a person did not nominate a guardian or conservator before death and there is no other parent, the proper procedure is for someone who is interested to petition the court for the appointment of a guardian and/or conservator. There are three key areas of attention in petitioning for the appointment of a guardian or conservator.

1. **Notice:** Whoever is seeking guardianship of the minor(s) must notify the child, if the child is over the age of 14, and any other interested party. At age 14, a child is given the right to object to a guardian or conservator and the court will consider their preference. What makes a person interested? Usually, a close family relationship, but there are other circumstances that might give someone an interest.
2. **Surety Bonds:** Both guardians and conservators need surety bonds, unless waived by the court, which act as insurance policies to protect the child. In the case of a guardianship, the bond is to protect the guardian of the child. In the case of a conservatorship, the bond is to protect the child's assets. Bonds are also an important protection for the guardian or conservator.
3. **Representation from a Guardian ad Litem (GAL):** When the court is confronted with a petition for appointment of a guardian or conservator, the court will usually appoint a GAL to evaluate and report on a child's best interests. The GAL and their report are intended to ensure the child is placed in the best possible situation.

When planning for your child's care, consult with an attorney about your options.