

THE ESSENTIAL GUIDE

A Parent's Guide

to Naming Guardians

ALL THE BASICS YOU NEED TO KNOW



BROUGHT TO YOU BY:



A Parent's Guide to Naming Guardians for Your Children

IMPORTANT DISCLAIMER

This guide is provided for general educational and informational purposes only and is not legal advice. Reading this guide does not create an attorney-client relationship. Guardianship laws vary by state and individual circumstances, and the information contained here may not apply to your specific situation.

You should consult with a qualified California estate planning attorney before making legal decisions about guardianship, estate planning, or the care of your children.

This material may be considered **attorney advertising** under California law. Past results and examples do not guarantee a similar outcome.

Why Naming Guardians Matters

Naming a guardian for your children is one of the most meaningful decisions you can make as a parent. While it's difficult to imagine a time when you wouldn't be able to care for your children yourself, having a clear plan in place ensures that—no matter what—your children are raised by people you trust, in a stable and loving environment, according to your wishes.

Without clear nominations, a court—not you—may decide who will raise your children.

What Does a Guardian Do?

A **guardian of the person** is responsible for the day-to-day care of your child, including:

- Where your child lives
- Education and schooling decisions
- Medical care
- Daily supervision and emotional support

A guardian is **not automatically in charge of your child's inheritance** unless you specifically name them to manage assets. Financial management is often handled by a trustee instead.

Guardians Are Named in Order of Priority

When you name guardians, you are not choosing just one person—you are creating a **ranked list**.

You name:

1. A **primary (first-choice) guardian**
2. One or more **backup (alternate) guardians**

If your first choice is unable or unwilling to serve, the court looks to the next person you named. This is why we **always name backups**.

Life happens. People move, get sick, change careers, or simply may not be in a position to serve when the time comes.

Guardians Can Decline the Appointment

Naming someone as a guardian does **not** legally require them to accept the role.

At the time a guardianship is needed, a nominated guardian may decline for any reason, including:

- Health or age
- Family responsibilities
- Financial or emotional capacity
- Life circumstances at that time

This is normal—and another reason why naming multiple backups is essential.

Naming a Couple as Guardians: What You Must Decide

Many parents choose to name a couple (for example, siblings and their spouses or close friends) to serve together. If you do, it is important to think through what should happen if circumstances change.

Specifically, you should consider:

- What happens if the couple **separates or divorces**
- What happens if **one of them dies or becomes incapacitated**

Your document should clearly reflect your wishes so there is no confusion later.

Example: How Guardian Ordering Works in Real Life

Let's look at a few common scenarios to show how guardian nominations can be structured.

Example 1: You Want a Couple to Serve Together, but Not Separately

You want your brother **Jim** and his wife **Zara** to raise your children **together**, but if they are no longer together, you want your sister **Laura** to step in instead.

Your guardian list would look like this:

1. **Jim Morgan and Zara Morgan, to serve jointly**

2. **Laura Morgan**

This means:

- Jim and Zara must serve together
- If they cannot serve together for any reason, Laura is next in line

Example 2: You Prefer One Spouse Over the Other If They Separate

You want Jim and Zara to serve jointly, but if they separate, you would prefer **Zara** to serve alone. If neither Jim nor Zara can serve, then Laura should serve.

Your guardian list would look like this:

1. **Jim Morgan and Zara Morgan, to serve jointly**
2. **Zara Morgan**
3. **Laura Morgan**

This creates a clear order of priority and removes uncertainty.

Example 3: You Are Comfortable With Either Spouse Serving Alone

You want Jim and Zara to serve together, but if one of them dies or cannot serve, you are comfortable with the surviving spouse continuing as guardian. Laura is your backup.

Your guardian list would look like this:

1. **Jim Morgan and Zara Morgan, or the survivor of them**
2. **Laura Morgan**

This allows either Jim or Zara to serve alone if necessary.

Talk With Your Chosen Guardians

While not legally required, it is strongly recommended that you:

- Talk to the people you are naming
- Share your parenting values and expectations
- Let them know it is okay to decline now—or in the future

These conversations often provide clarity and peace of mind for everyone involved.

California Execution Requirements for Guardian Nominations

In California, a **Nomination of Guardian** must be properly executed to be valid and enforceable. Under California law, a parent's nomination of a guardian for a minor child is generally valid if it is **either**:

- **Signed in the presence of witnesses, *or***
- **Acknowledged before a notary public**

This means the document does **not** require both witnessing and notarization—**one or the other is sufficient**—as long as it is completed in compliance with California law and incorporated into, or attached to, your estate planning documents.

Because execution requirements can vary depending on how the nomination is structured (for example, as part of a will, trust, or standalone document), it is important to ensure your guardian nomination is properly signed and stored as part of a comprehensive estate plan. We have attached a sample Nomination with both witnessing and notarization - **but only one of these is required**.

There are both notary and witness versions of the Nomination of Guardians Form - you only need to execute one. Spouses need to execute their own, individual Nomination of Guardians.

A qualified California estate planning attorney can help make sure your nomination is executed correctly so your wishes are clearly documented and respected if they are ever needed.

Review Your Choices Over Time

Guardian nominations should be reviewed whenever there is a major life change, including:

- Birth of another child
- Death or illness of a named guardian
- Moves to a different state
- Changes in family relationships

Your plan should evolve as your family evolves.



Peace of Mind Planning is a Santa Barbara–based estate planning law firm dedicated to helping families make thoughtful, loving, and legally sound decisions for the people they care about most. Led by attorney **Jillian Cardona**, the firm takes a warm, family-centered approach to estate planning—going beyond documents to ensure your plan actually works when your family needs it most. From naming guardians for your children to protecting your assets and values, Peace of Mind Planning is here to guide you every step of the way.

Visit us at <https://www.peaceofmindplanning.co>



Declaration of Appointment of Guardian for My Children in the Event of My Death or Incapacity

I, Patricia Presley, make this Declaration to appoint the guardian for my children, listed as follows, in the event of my death or incapacity:

1. Lucy Presley
2. Lucky Presley
3. Logan Presley
4. _____

I designate the following persons in the order listed as guardian of the person of my children:

1. Todd and Tilda Presley, to serve jointly
2. Tilda Presley
3. Tracy and Talbot Haggard, or the survivor of them
4. Winnie Catenger

If any guardian or alternate guardian dies, does not qualify, or resigns, the next named alternate guardian becomes guardian of my children.

Signed: November 25, 2024.

I, Patricia Presley, sign my name to this instrument consisting of 2 page(s) on November 25, 2024 and do declare that I sign and execute this instrument as my Declaration of Appointment of Guardian for My Children in the Event of My Death or Incapacity, that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Patricia Presley

Patricia Presley

ACKNOWLEDGMENT OF WITNESSES

We declare under penalty of perjury under the laws of the State of California that on the day and year written above, Patricia Presley, published and declared this instrument to be her Declaration of Appointment of Guardian for Children in the Event of Death or Incapacity, that she signed this instrument in our presence, that each of us, in her presence and at her request, and in the presence of each other, have signed our names as attesting witnesses. We also declare that each of us is now more than eighteen years of age and a competent witness.

We also declare that at the time of our attestation of this instrument, Patricia Presley was, to our best knowledge and belief, of sound mind and memory, eighteen years of age or older and under no duress, menace, fraud, misrepresentation, constraint or undue influence.

Executed on November 25, 2024 in the County of Santa Barbara,
Santa Barbara, California.

Willy Wagon

Willy Wagon, Witness

Betty Bison

Betty Bison, Witness

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

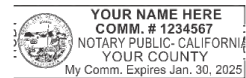
State of California)
County of Santa Barbara)

On November 25, 2024 before me, Notarizing Nelly, Notary Public, personally appeared, Patricia Preslet who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Notarizing Nelly* (Seal)



Declaration of Appointment of Guardian for My Children in the Event of My Death or Incapacity

I, _____, make this Declaration to appoint the guardian for my children, listed as follows, in the event of my death or incapacity:

1. _____
2. _____
3. _____
4. _____

I designate the following persons in the order listed as guardian of the person of my children:

1. _____
2. _____
3. _____
4. _____

If any guardian or alternate guardian dies, does not qualify, or resigns, the next named alternate guardian becomes guardian of my children.

Signed: _____, 20__.

I, _____, sign my name to this instrument consisting of 2 page(s) on _____, 20__ and do declare that I sign and execute this instrument as my Declaration of Appointment of Guardian for My Children in the Event of My Death or Incapacity, that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____, Notary Public, personally appeared, _____ who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Declaration of Appointment of Guardian for My Children in the Event of My Death or Incapacity

I, _____, make this Declaration to appoint the guardian for my children, listed as follows, in the event of my death or incapacity:

1. _____
2. _____
3. _____
4. _____

I designate the following persons in the order listed as guardian of the person of my children:

1. _____
2. _____
3. _____
4. _____

If any guardian or alternate guardian dies, does not qualify, or resigns, the next named alternate guardian becomes guardian of my children.

Signed: _____, 20__.

I, _____, sign my name to this instrument consisting of 2 page(s) on _____, 20__ and do declare that I sign and execute this instrument as my Declaration of Appointment of Guardian for My Children in the Event of My Death or Incapacity, that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

ACKNOWLEDGMENT OF WITNESSES

We declare under penalty of perjury under the laws of the State of California that on the day and year written above, _____, published and declared this instrument to be her Declaration of Appointment of Guardian for Children in the Event of Death or Incapacity, that she signed this instrument in our presence, that each of us, in her presence and at her request, and in the presence of each other, have signed our names as attesting witnesses. We also declare that each of us is now more than eighteen years of age and a competent witness.

We also declare that at the time of our attestation of this instrument, _____ was, to our best knowledge and belief, of sound mind and memory, eighteen years of age or older and under no duress, menace, fraud, misrepresentation, constraint or undue influence.

Executed on _____, 20__ in the _____,
_____.

_____, Witness _____, Witness