

## When Minor Children Inherit

When a parent, grandparent, aunt, uncle, or friend wants to leave money to a minor child in their will, they should utilize a testamentary trust. Why? Because you avoid the expenses of court supervised management of the minor child's inheritance, you avoid the mandatory appointment of a tutor and undertutor, and you protect the child's inheritance from depletion by a divorced parent or from a parent who does not know how to manage money. Additionally, some parents view the money inherited by their children, especially from grandparents, as their own personal money to do with as they see fit for themselves or their children.

Louisiana law provides for the protection of a minor child's money, and that is a good thing. However, when the money is not left in trust to the child, the law has strict requirements that must be followed, which involve court supervision, meaning the court (Judge) will be involved in the management of the minor's interest until he reaches the age of majority (18 years of age).

In a court supervised administration of a minor's interest all activities are filtered through the court. In the selection of a tutor or undertutor which must be appointed in these proceedings there are certain guidelines set out statutorily that must be followed. The law even determines the Parish where the legal proceeding must be filed.

All actions affecting the minor's interest during his minority require that the tutor file a petition setting forth the subject matter to be determined with his recommendations and his reasons. The undertutor must agree in writing to the actions the tutor is petitioning the court to allow. If the Judge is agreeable, he can render a judgment approving the transaction. In the event that the undertutor does not agree with the tutor's recommendations there will be an additional hearing before the court to rule on the subject matter.

Hopefully, you are beginning to understand why it is preferred to leave money to a minor child in trust. Additionally, a minor's mortgage must be filed in the mortgage records for the minor equal to the amount of money inherited plus any additional costs and expenses that the court believes are appropriate. As an alternative, a surety bond can be purchased to protect the minor's interest until he reaches the age of 18.

With court approval the law provides that a checking account in the name of the tutor for the account of the minor's interest can be set up for necessary expenses of the minor child. The total transfer per year can not exceed \$5,000.00 per minor child.

The tutor under these proceedings is obligated to provide an annual accounting until the child reaches 18 at which time the tutor must give a final accounting. The tutor is entitled to receive payment for his services on a yearly basis from the minor's interest. This payment cannot be more than 10% of net revenues generated from the minor's account.

On the other hand, when a trust is used in a will, the inheritance of the minor child will be controlled by a trustee until the minor children reaches a specified age. Another good thing about the use of the trust is that you determine what age the minor child gets his money. Some children should not get all their money at age 18. Remember yourself at age 18, how would you have handled an inheritance at 18 as compared with 25 or 30?

At the age specified in the trust, the trust will terminate and the individual will receive any income that has not been distributed as well as the remainder of his account. The trustee may be an individual, a bank or a trust company. In the selection of an individual as trustee, the individual should know how to manage assets. The trustee must follow certain guidelines as a trustee, however, the supervision by the court is not required; and therefore the court costs and legal fees are saved, and the child's inheritance is protected.

In conclusion, the use of testamentary trusts for the inheritance of a minor child will save time and money and eliminate court supervision of all actions involving the minor child's inheritance.