

PROVIDING FOR GRANDCHILDREN IN ONE ESTATE PLAN



By Ann-Margaret Carrozza, Esq.

The overwhelming majority of testators leave assets and property to their spouses. Upon the death of the surviving spouse, a will typically provides that children inherit the estate. The prevailing rationale is that the grandchildren will be taken care of by their parents. After all, most of us are not sure what our estates will actually consist of at the time of our demise. There is thus a reluctance to list a large number of beneficiaries who will each receive proportionately smaller shares of our remaining assets and property.

Those who do wish to include grandchildren in the will, typically give them a specific dollar amount off of the top, leaving the bulk of the estate to children.

Alternatively, one may set up educational plans for grandchildren such as a §529. This will alleviate the probate delays engendered by naming a minor in one's will. An added benefit of the §529 plan is that the assets contributed to the plan are removed from the grandparent's taxable estate. This is a valuable benefit for those who have estates in excess of \$1.0 million, which is the current New York State threshold.

Another concern that may arise is the desire to treat grandchildren- or children for that matter- differently. For example, I may be particularly close to a certain grandchild or I may have a daughter who has greater financial needs than the others.

In my experience, the best way to bestow an unequal gift upon a loved one is to do so outside of the will. It is very easy to set up an 'In Trust For' or 'Pay on Death' account at a bank or brokerage house. I can thus give my special designee an extra gift while at the same time preserving the 'equal distribution' under the will.