By Mary Chatfield

It's every parent's nightmare: A mother dies in an automobile accident, leaving her two children behind, with no legal guardian appointed to take care of them. Michelle A. Goff is a Sacramento attorney who recently dealt with a case just like that. In fact, according to Goff, who specializes in estate planning, one of "the most common" mistakes parents today make is naming their children as beneficiaries on their insurance policies, or in their estate paperwork, but failing to appoint a guardian.

In the case of the mom who died in the auto wreck, Goff says, "We had to petition to have a grandmother appointed as guardian [for the children] so that she could take the children across state lines to live with her." Goff also had to file petitions to appoint guardians of the estate "to be able to collect the money."

Many parents may not realize that children need a responsible adult guardian to collect and hold those funds, at least until the kids turn 18 and can access that money themselves. But even then, she points out, kids need help managing their assets. "Honestly, we all know what type of money managers we were at 18.

There is usually not much left when the child turns 19." Designating guardianship and setting up an estate plan can protect children from such financial disasters, not to mention the emotional pain of wondering who will take care of them after losing their parents.

What is a legal guardian, and why do I need one?

A legal guardian is an adult designated to care for your child in the event that both parents die before she reaches adulthood. While none of us want to entertain this possibility, if you don't choose a guardian, the courts will do it for you.

Many people assume that a grandparent or aunt will automatically receive custody of their child if they die, but unless you specifically name a guardian in your will, anyone can step up and ask for the job of guardian, and a judge will decide who wins custody.

If you and your child's other parent have separate wills, you should name the same person as guardian in both wills to avoid conflicts. Many parents also name an alternate guardian in case their first choice is unwilling or unable to accept the responsibility.

Choosing the right person.

Many parents say the initial step is to admit that no one can replace you—it just won't be the same, but you can choose the next best person. Start by making a list of all the possible candidates, and then sit down with your partner and talk over the pros and cons of each one. See our sidebar for a list of things to consider in making your choice.

Talk with each candidate to find out how she or he would feel about being your child's guardian. Let them know that this is a serious responsibility and that you want them to carefully consider it before agreeing. The conversations you have with potential guardians may reveal feelings and attitudes that will help you make your final decision.

It's also a good idea to write down your hopes and expectations for raising your child; think about things like education, beliefs, and the kind of adult you hope she will grow into. Put this in a letter and attach it to your will.

Again, no one can ever really replace you as the parent of your child, and hopefully, no one will ever have to, but having a legal guardian designated to care for your child in that worst of worst-case scenarios should provide you, and your family, with more peace of mind.