

Using Trusts as an Alternative to Guardianship of the Estate

Texas Guardianship Association
2024 Annual Conference



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EST. 1946

Goals

- Discuss the basics of a trust.
- Discuss how a trust can be an alternative to guardianship of the estate.
- How is a trust used?
- Discuss things to consider when choosing a trustee.
- What are some questions to ask when considering a trust?

What is a trust?

- A trust is a fiduciary relationship between a trustee and a beneficiary. The trustee holds and manages assets for the benefit of the beneficiary.



Trusts as an Alternative to Guardianship

- **Benefits**
 - Privacy
 - Cost
 - Protect benefits
 - Avoid delays
- **Types of trust**
 - Court Created Trusts
 - Self-settled Trusts
 - Third-party Trusts
 - Stand-by Trusts
 - Revocable/Managements Trusts

How is a Trust used?

- **Distributions**
 - Health, Education, Maintenance, and Support
 - Needs vs. Wants
 - Special Needs Trusts
- **Assets**
- **Duties of a Trustee**
- **Working with a Corporate Trustee**
 - Setting expectations
 - Budgets
- **Termination**
 - Payback

Choosing a Trustee

- Individual Trustee v. Corporate Trustee
- Knowledge/Complexity
- Time
- Family Dynamics
- Cost
 - Is the expense justified?
 - Will a corporate fiduciary accept the trust?
- Assets
 - Are there unique assets like real estate, businesses, oil and gas, etc.
- Co-trustees
 - Does the trust provide for what happens when there is an impasse?

Do you need a trust?

- What about the beneficiaries? Age, health? Needs?
- Reporting requirements for trusts.
- Tax on trust and tax returns.
- How to fund a trust?
- How to name a trust?
- How long does a trust last?
- What about a trust for a minor? To 25? What then?

Thank you!

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