



Leaving Your Estate to Minors



Please note this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultations with a Legal Assistance Attorney.

Many people ask “do I need a trust in my will or is there some other way to ensure my children get life insurance proceeds and other large sums of money without the trouble of a trust and a trustee?” As is often the case, the answer is: “It depends.” The following information details the pro’s and con’s of designating an individual as a custodian under the Uniform Gifts to Minors Act/Uniform Transfer to Minors Act versus creating a testamentary trust.

Source: Army Regulation 27-3

Designations of Custodians and Trustees: Although designating a custodian for minor beneficiaries or a trustee for minor and/or adult beneficiaries may be preferable to designating some persons directly by name (or by relationship) as SGLI beneficiaries, these methods require certain steps to be taken before such designations can be made. A service member, however, should not delay -- nor should the service member be counseled to delay -- completing the SGLV 8286 to complete those steps. For example, it is preferable that service members designate a minor beneficiary directly by name or by relationship and later execute a

Designation of a Custodian: A service member who desires to name a custodian for a minor as the principal or contingent beneficiary under the UGMA or the UTMA will be advised that prior to completing the SGLV 8286, they should contact and obtain the approval of the friend, relative, or financial or other institution they want to serve as the UGMA/UTMA custodian for distribution of the SGLI proceeds. Transfer of SGLI benefits under the UGMA/UTMA may be for the benefit of a minor child or children, regardless of their relationship, if any, to the service member. The service member will be further advised of the following advantages and disadvantages:

(1) Advantages:

- (a) There is no requirement for court involvement. The court appointment of a custodian and the probate of a will is not required in order to pay SGLI proceeds. If the SGLI proceeds are the only major asset in the service member’s estate, the delay and expense involved in probate may be avoided altogether.
- (b) The service member, not a court, determines who will act in the minor’s best interest with regard to the use of SGLI proceeds.
- (c) The UGMA/UTMA custodian can use the SGLI proceeds, as the UGMA/UTMA custodian determines is appropriate, for the benefit of the child(ren) during the period of time the child(ren) remain minor(s).
- (d) Ordinarily the UGMA/UTMA custodian will not be required to pay for a surety bond to receive the SGLI proceeds.
- (e) There ordinarily will be no delay in the distribution of SGLI proceeds to the designated UGMA/UTMA custodian.

(2) Disadvantages:

- (a) All SGLI proceeds will usually have to be paid to the minor at age 18, regardless of the minor’s maturity, or lack thereof.
- (b) There is no automatic court supervision of the UGMA/UTMA custodian.
- (c) There is no surety bond required that could protect the minor’s funds from theft, fraud, waste, and other such acts by the UGMA/UTMA custodian.

Designating a trustee under a trust established in a will. A service member who wishes to designate a trustee under a trust established in a will (a testamentary trust) as a primary or contingent beneficiary will be advised that

before completing the SGLV 8286, the service member must have a will prepared that contains a trust, and the service member must sign (execute) the will. The trust in the will may be established for minors or adults, regardless of their relationship, if any, to the service member. The service member will be further advised of the following advantages and disadvantages:

(1) Advantages:

(a) The need (and related expense) of maintaining a surety bond may be waived in the will.

(b) The trustee can use the SGLI proceeds for the benefit of the minor for the period of time, and in the manner specified, in the will. Direct distribution of SGLI proceeds may be delayed beyond the 18th birthday of the minor (for example, upon completion of college, or age 25, whichever occurs first).

(2) Disadvantages:

(a) The will, which might not have otherwise required probate (for example, because of the small amount of other property in the service member's estate), will have to be probated and the court will need to appoint the trustee before the designated trustee may receive the SGLI proceeds. Court and legal expenses will have to be paid.

(b) The distribution of SGLI proceeds will be delayed.

(c) There is no surety bond required that could protect the minor's funds from theft, fraud, waste, and other such acts by the trustee.