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**New Jersey Elder Lawyer**

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## **ESTATE PLANNING FOR MINOR CHILDREN**

### **Assistance in New Jersey Estate Planning**

A very important component of NJ Estate Planning is how to make distributions to children or other underage beneficiaries.



Outright distributions of assets to children (or underage beneficiaries) is generally not advisable. Instead, it may be prudent to delay such distribution until such beneficiary reaches age 21, 25, or 30).

Even if such distribution is delayed, until a later age, most people would agree that such funds should be made available, at any time, for that individual's health, education, maintenance and support.

**In our experience, we have found that many estate plans do not achieve these objectives. There are generally two reasons for this failure:**

- For whatever reason, many wills do not provide for prudent distribution to minors.
- There are non-probate assets which will pass outside the age-specifications of the will (i.e. insurance policies with the minor children as named beneficiaries).

In many form wills, we may see an age stipulation (i.e. 18, 21, or 25).

Unfortunately, said estate plans do not said forth any criteria for appropriate distributions prior to such age.

In addition to the above, many form wills may not typically appoint an individual to oversee such funds until the age of distribution.

A trustee is an individual or entity that can manage said funds for an underage beneficiary. Said person should be sensitive to a child's needs, but should also understand the value of a dollar.

For larger estates, distributions may be staggered: i.e. 1/3 at 21, 1/3 at 25, and the remainder at age 30. These trusts will also allow for distributions (between such intervals) for the minor's health, education, maintenance and support.

For assets which pass outside a will (i.e., insurance policies, retirement plans etc), the beneficiary designations should be changed to name your estate as beneficiary. If such is done, the assets will pass pursuant to the trust provisions in your will.

If such beneficiary designations remain unchanged, the assets may be held, under the jurisdiction of the Surrogate's office, until the minor reaches 18.

The **NJ elder law firm** of James E. DeMartino concentrates their practice to **Estate Planning**, Elder Law, Estate Administration and Medicaid Planning. They exclusively make house calls to most areas of NJ.

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## **James E. De Martino, Attorney**

**Elder Law and NJ Estate Planning Strategies**

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