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Personal Finance

All the right moves

Michael Jackson wowed audiences with his singing and dancing, but his best performance may have been the handling of his will, which he nearly got perfect

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Despite the high drama over Michael Jackson's estate, the late pop singer did many things right when it came to end-of-life planning.

The big thing is that the 50-year-old had a will - critical to anyone with young children. Jackson's will named business associates as executors to carry out his wishes and designated guardians for his three young children. He also set up a family trust that can keep the division of his estate out of the public eye.

More people could learn from him.

Too often people don't get around to making a will. "The problem is there is no April 15 deadline to make sure you do it like with your tax return," says Steve Spitzer, a Texas probate lawyer. "People don't like to think about dying."

But if you die without a will, state law dictates who gets your money and a judge will determine who will have custody of your young children - without any input from you. For your children's sake, get a will.

Besides drawing up a will, here are other lessons to learn from Jackson:

Tell people about your will For days after Jackson's death, it wasn't clear whether he had a will or, if he did, where it was.

Don't leave your family in the dark. Let those named in your will - or at the very least the executor - know where the document is kept. A good place is in a fire-proof box in your home.

"A safe deposit box is a bad place," says Beth Kaufman, a Washington estate planning lawyer. "Once a person dies, you need court approval to open a safe deposit box."

Some lawyers suggest sharing copies - not the original - with family members or letting them know what's in the will.

This way you can explain how you decided to divide assets and possibly avoid hurt feelings when you're gone, says Stephen C. Hartnett, associate director of education with the American Academy of Estate Planning Attorneys in California. You might, for example, explain why you are leaving children unequal amounts, giving more to a child with a low-paying career and less to the doctor in the family, he says. "The way to avoid fights is to be upfront about it," he says. And heirs may be less inclined to contest a will if they understand your motives.

Appoint a guardian and backups Jackson named his 79-year-old mother as a guardian of his three kids, ages 7, 11 and

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12. And if she isn't up for the job, singer Diana Ross is the designated back-up.

Naming a guardian and alternate is prudent. But Jackson's choices are up there in age. His mother will be 90 by the time his youngest son is 18. Diana Ross is 65.

Lawyers suggest choosing guardians close to your own age who have the stamina and desire to care for youngsters. Also, choose guardians who already are in your children's lives and, ideally, in the same locale so the children don't have to change schools or communities, Spitzer says.

Your choice of guardian is a recommendation and a judge can choose someone else if it's in the child's best interest. A judge will give more weight to your choice of guardian if a child is under age 14, Hartnett says. With older minors, the court will take a child's wishes more into account, he says.

Choose a money-wise executor An executor administers the estate - paying off debts or selling assets - so you need someone who is trustworthy and good at making business decisions. "If they can't balance their own checkbooks, they shouldn't be executor of your estate," Spitzer says.

A court will go along with your choice of executor as long as the person isn't obviously unsuitable, like a felon.

A judge last week gave two executors named in Jackson's will temporary control of the estate, despite concerns raised by Jackson's mother.

Jackson split the duties of managing the estate and caring for the children, which is a good move, Kaufman says. Jackson's mother filed for bankruptcy a decade ago and may not be the best person to manage potentially hundreds of millions of dollars, she says.

Most estates require only one executor, which makes the job easier, says Rockville estate planning lawyer Gary Altman. But if you have a huge estate, you might want more than one to act as a check and balance on each other, he says.

Avoid challenges The New York Times reported Jackson's trust contains a "no contest clause," which can disinherit a beneficiary whose challenge of a will fails.

A majority of states, including Maryland, will honor no contest clauses in a will unless the person bringing the challenge has sufficient cause, such as the deceased being incompetent at the time the will was written, says Kenneth Aneckstein, a Baltimore estate planning lawyer who, like other lawyers quoted here, is not involved in the Jackson case.

Another effective way to prevent challenges is to make sure the will is properly executed with the required witness and, in some cases, having a videotape of yourself to show that you were competent when drawing up the will, says Karin Kinney, a vice president with Bryn Mawr Trust Co. in Pennsylvania.

Keep matters private Wills are public, but trusts escape prying eyes. You can find Jackson's five-page will on the Internet. But Jackson shifted all his assets to a family trust to be distributed according to the trust's terms.

"We will never know what the terms of the trust are, unless someone decides to release that," Hartnett.

Apparently someone has. Published reports say Jackson's trust awards 40 percent of the estate to his mother, 40 percent to the kids and 20 percent to charities.

Trusts also can help avoid the probate process, where title of the deceased's assets are transferred to heirs. "It's time consuming," and can be pricey, Hartnett says. Creating a trust doesn't avoid federal and state estate taxes, though.

Update documents periodically Jackson's will was written in 2002. "That's not particularly old for a will," Hartnett says. Review your will periodically, and update it when you have had big life changes, such as a marriage, divorce or birth of a child. Jackson's will is seven years old, the age of his youngest son.

