

The Butler Bulletin

Butler Wills and Estates

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Should I put one child in charge of a trust for another child?

Using trusts in your estate planning can be a great way to achieve your goals, especially when it comes to leaving money for your children. A trust allows you to put aside money for someone without handing it to them in one lump sum. You choose someone to be in charge of the trust (the Trustee), and this person manages the money and doles it out according to the instructions you leave.

For example, you can set up a trust for one of your children that says the child gets a certain amount of money every month, or at certain ages, or at the full discretion of the Trustee. Any trust you set up can be tailored to your needs.

Since being a Trustee is a lot of responsibility, who should you choose? Many parents consider naming one of their children as the Trustee of a trust set up for another child. In some situations this is a great idea, and in others it may be problematic. As with every aspect of estate planning, whether or not this is a good plan for you depends on your family, and how they interact.

If you are thinking about naming one of your children as the Trustee of a trust set up for another child, there are several factors to take into consideration.

Is Your Child Responsible?

Let's be honest - not everyone is good with money. Your Trustee needs to be able to maximize the amounts in the trust. Putting one irresponsible child in charge of another won't work very well.

The Relationship

Do your children get along? Are there childhood resentments that are likely to post a problem? Is one child significantly more aggressive than the other? All of these factors will impact how the Trustee and the beneficiary interact.

Will it Cause Tension?

Think about having to ask one of your siblings for money. Would it be awkward, or uncomfortable? This factor stems from the relationship between your children.

For siblings who have always been on good terms and who respect each other, one asking the other for trust funds might not be a problem.

On the other hand, siblings who do not fully trust or respect each other will likely argue over the distribution of funds.

Age

If the trust is going to be in place for an extended period of time (such as the lifetime of the beneficiary), you should consider the age of the Trustee. If the person in charge of the trust is significantly older than the beneficiary, it is likely that he or she will pass away while still being in charge of the trust.

If you are thinking about leaving money in a trust for one of your kids, be sure to speak with an experienced estate lawyer. Trusts don't need to be complicated, but when they aren't done properly they can cause a lot of issues down the road.

How do I sell a vehicle in an estate?

Selling the vehicle of a deceased person is one of the tasks of the executor. The process is pretty straightforward once you know what to do, and isn't much different from selling your own vehicle while you're alive.

There are two forms you'll need to sell the vehicle of a deceased person – a Bill of Sale and a Transfer of Vehicle Upon a Death Application.

The Bill of Sale shows the details of the transaction, and is the record of the sale. The Transfer of Vehicle Upon a Death Application is the record for the government that the vehicle has left the estate. Once these forms have been completed, they should be filed at Motor Registration.

Bill of Sale

The bill of sale must contain

- date of sale
- buyer's name and driver's licence number
- year, make and model of the vehicle
- plate number and serial number
- purchase price
- name and signature of the seller
- The seller's HST registration number, if tax was collected by the seller (this isn't usually used for individual sales)

There is a Bill of Sale on the back of the current registration permit, or you can make up a new document with this info on it.

Transfer of Vehicle Upon a Death Application

This form can be downloaded from the Service NL website, or [click here](#) for a printable PDF. Section 1 explains who you are and why you have the legal right to sell someone else's vehicle. Section 2 lists all the vehicles you are selling. Section 3 refers to whether or not the person left a will, and if so who the beneficiary of the vehicle is. If there was no will, leave this section blank and proceed to section 4. Section 5 shows the documents that you need to have attached to the application, including the Bill of Sale. Only complete Section 6 if you are transferring the vehicle to a common-law spouse. Section 7 is a sworn document, and must be completed in front a Commissioner for Oaths or Notary Public. If the vehicle is being transferred to a beneficiary, have that person complete Section 9 in front of a witness.

Question from a Reader

"I sent a letter to someone as part of an estate asking this person to reply with some info by a certain date. They never got back to me and say they didn't receive the letter. How do I prove that they got it?"

There is no way to prove that someone did or did not open their mail. Even if you request a signature or package tracking, you can't prove that the person who received the letter is the person you sent it to. Fortunately, you don't need to prove that the person you sent the letter to received it. You only need to prove that you sent it. If you need proof that you sent something, send it as a registered letter.

When you send something as registered mail, Canada Post gives you confirmation that the item was received by Canada Post. You will get a paper receipt that is stamped with the date you sent the item. Using the postal service is acceptable according to the rules of court.

In theory, sending your letter by email also has a time and date stamp on it. However, the rules of the Supreme Court of Newfoundland do not specifically allow electronic delivery of mail, so in order for email to be accepted as a form of delivery you would need to get permission from the judge *before* sending your letter as an email.

Beware of Scams

Most of us have seen or heard about email scams, and many of us have likely received a phishing email.

These scams rely on tricking the recipient in one way or another, in order to collect your personal info or get you to send money to the person running the scam.

Common types of email scams include things like outstanding bills, disaster relief efforts, lottery winnings, speeding tickets, and pre-paid credit cards. A new addition to the list is this pretend subpoena to the right. We'll use this image to break down some of the things you should look for to determine whether or not an email is a scam.

1 – Spelling and Grammar Mistakes

For emails that are pretending to be from a professional organization, the biggest giveaway is spelling and grammar errors. This includes random capitalization, missing punctuation, and sentences that seem to be made using Google translate.

In the example above, several of these issues are present. The sentence "You are invited to the Federal Court by the judge in that of crime undertaking" is gibberish. Also, in the bottom paragraph, "which" is misspelled, and "details is not provided" contains incorrect pluralization.

These are the types of mistakes that organizations like banks, court houses, the police, and law firms catch before sending out anything.

3 – Strange Email Addresses

Quite often, scammers use free email addresses. Anything that ends in a common email, such as hotmail.com, outlook.com, or gmail.com is a free email. This is fine for personal correspondence, but every business that offers professional services will send emails from a private host.

In the example, the email address is "mail@zettaspeed.com". Since this email is supposedly coming from the Federal Court, there is no reason for the address to reference any site other than the court's. If the email address is not easily recognizable, search for the name (e.g. Zetta Speed on Google) and see what comes up. If it happens to be a real website, click on "contact us" to what their email address looks like. If the email contains a link to the website, don't click it until you are sure it is real. You may end up accidentally downloading a virus.

From: Federal - Court [mailto:mail@zettaspeed.com]
Sent: Tuesday, November 28, 2017 8:41 PM
To: Member
Subject: You have recieved a subpoena



You have recieved a subpoena

You are invited to the Federal Court by the judge in that of crime undertaking.

Case: #284356
Date: 20/11/2017

[VIEW YOUR CASE DETAILS](#)

You must give all the necessary details to the Court within 6 days, starting from the time at wich this message was recieved. If the details is not provided, the court can take place without your involvement.

© Federal Court (Canada) - Coat of Arms

2 – Misappropriation of Images

The crest in the example above is the real logo for the Federal Court in Newfoundland. However, anybody can copy and paste a logo from any company, so the presence of a real logo is not an indication that the email is real.

Also, the logo is in the middle of the page, before any of the information. This suggests that the person who made the email was attempting to appear legitimate – real organizations focus on getting their message across, not promoting their logo. A real email would most likely have the email at the bottom of the page, after the signature.

Our Goals for 2018

Every year we try to find different ways that we can improve our service. We're always open to feedback, and the information that we receive from our clients is incredibly useful.

Based on what we've heard this past year, here are our goals for 2018:

1 - Put the episodes of *The Law Show* on our website.

Our radio show is complete, but a lot of people want to listen to the episodes again since it is a lot of information. We're working to put each episode up on our website so you can listen to them whenever you like.

2 - Hold more seminars.

We've found that seminars are a great way for people to find the info they need without spending a ton of money for a one-on-one appointment with a lawyer. This year we're planning to bring back some of our most popular topics, as well as add some new ones.

3 - Host Webinars

Seminars are great if you live in the area, but a lot of the people we talk to live outside of St. John's, or out of Newfoundland altogether. A webinar allows for us to provide people who are further away with wills and estates information.

4 - Provide our services in areas outside of St. John's.

This goal will be a bit harder to achieve, but we would love to be able to provide our services in neighboring communities. We are working on sorting out the logistics of providing some of our services across the island.

If you have suggestions or questions, please feel free to let us know!

Thank you to everyone who helped us gather donations for Iris Kirby House in December!

We were able to drop off clothing, hygiene products, children's toys and colouring books, and some gift items for women.



Iris Kirby
House



TAKE 20% OFF ALL BOOKS, GUIDES, AND KITS

For January we'd like to offer something to our readers to start the new year off right. Until the end of the month, everything in our online bookstore is 20% off.

Enter code **JANUARY20** at checkout to get the

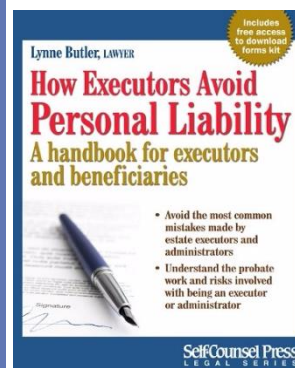
discount on all books,
kits, and guides.

All orders are processed
within one business day.

Visit

butlerwillsandestates.com

to order.



Free Seminar!

We'll be hosting a free seminar on **Friday, January 19 at 4:30 pm.**

Come by to learn about:

- Wills
- Tips for choosing an executor
- Enduring Powers of Attorney
- Advance Healthcare Directives
- Probate
- Taxation and principal residence
- Mental incapacity
- And more!

This seminar will be held in the conference room at Regency Towers, at **80 The Boulevard**, St. John's (by Quidi Vidi Lake).

There is plenty of free parking, and the room is on the main floor.
Light refreshments will be provided.



Did you know...?

"The ancient Babylonians are said to have been the first people to make New Year's resolutions, some 4,000 years ago. They were also the first to hold recorded celebrations in honor of the new year—though for them the year began not in January but in mid-March, when the crops were planted."

- History.com

Please feel free to share this newsletter with others.

*If you have any questions, comments, would like to suggest a topic, or to **unsubscribe**, please email us at chelsea@butlerwillsandestates.com*