

What happens if a child is orphaned?

An orphaned child needs a custodian. The child may also need a guardian to look after the child's money.

In Ontario, it is the court that decides who will be a guardian or custodian of a child. The court's decision must be what is in the **best interests of the child**.

Some parents plan ahead. They name who they want to have custody of their child and guardianship of their child's property in their wills. The appointment in a will is important, but temporary. It lasts for ninety days after a parent's death. **The court always decides who the permanent custodian or guardian will be.**

There are variables that affect the temporary and permanent arrangements for an orphaned child. Someone has to be willing and suitable to care for the child in the short and long term. The plan for the child's care and upbringing must be in the best interests of the child.

The financial plan for the child will be affected by facts such as whether or not the parent left an estate, whether or not there was a will, and if there is one, what it says. A dependant child may have a claim against a parent's estate even if the parent did not provide for the child in a will.

An orphaned child is vulnerable and in need of protection by the court and caring adults. The Office of the Children's Lawyer represents the personal and property rights of all children in Ontario. A lawyer can also assist in understanding how to help an orphaned child.

It is a tragedy when a child is orphaned. Compassionate family members, friends and members of the community may want to set up a trust fund for the child. There are rules about trust funds. It is a good idea to consult a lawyer about how best to set up a trust fund so that it fulfills everyone's intention to help the child.

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