

Designation of Children as Beneficiaries

Children may be designated by name: "James Doe, Michael Doe and Ann Doe, children of the Insured, equally or the survivor."

If it is possible that children will be born or adopted after the designation, it's preferable to use a generic designation, such as one of the following:

- "the children of the Insured"
- "the children born of the Insured's marriage to _____"
- "the children born of, or legally adopted during the insured's marriage to _____"

Legally-Appointed Guardians and Informal Trusts

If a minor child is named as a beneficiary and if the beneficiary is still a minor at the insured's death, carriers will not pay the minor beneficiary directly since a minor cannot give a legally valid release for the payment. They will pay the proceeds to a guardian, **appointed or approved by a court**, or will hold the proceeds at interest until the beneficiary is of legal age.

In some cases, the policy owner may not wish to have a court-appointed guardian and may prefer to name an informal "trustee" in the beneficiary designation, using the following language:

- "RICHARD, ROBERT and WILLIAM DOE, children of the insured. However, any payment due before the beneficiary entitled to it is of legal age shall be paid, in trust for such beneficiary, to **(name), (relationship)** of the insured."

There is a disadvantage in using an informal trustee. The policy owner must have complete confidence that the trustee will use the proceeds for the benefit of the minor beneficiary and there is potential for litigation with a court-appointed guardian. Consequently it is not a good idea for the policy owner to name informal trustees.

As an alternative to an informal trustee, the policy owner may establish a trust for the benefit of a child (see **Formal Trusts**) or the policyowner may name as a beneficiary a Custodian under the Uniform Gifts/Transfers to Minors Act, if enacted in the state in which the policy owner resides.

Formal Trusts

There are two general types of trusts:

- living
- testamentary

All trusts include:

- A **grantor**, the person who established the trust;
- A **corpus**, the assets put into the trust;
- A **trustee**, who manages those assets as directed in the trust document; and
- A **beneficiary**, for whose benefit the trust was established.

The policy owner may be both the grantor and the trustee.

The trust may be either revocable (the grantor may "uncreate" or change the trust) or irrevocable.

A "**living trust**", also called an "**inter vivos trust**", is a trust established by a living person. Assets are put into the trust and a trustee named to manage those assets.

A **testamentary trust** is created by the insured's last will and testament. It does not exist until the insured dies and the will is in probate. It is unnecessary to provide the carrier with the name or date of a testamentary trust since it does not exist until the insured's death.

To name the trustee of a **living trust** as beneficiary, use the following designation