LAST WILL AND TESTAMENT WITH TESTAMENTARY TRUSTS VERSUS UNIFORM TRANSFERS TO MINORS ACT (UTMA) PROVISIONS

Without a Last Will and Testament (Will) with trust or UTMA provisions, your child could end up with unsupervised discretion over how to spend the money you leave him or her at your death. You can avoid that possibility by (1) leaving assets to a trust that forms at your death, or (2) creating a custodianship for your minor beneficiaries under the UTMA.

Distribution Using a Testamentary Trust

Your Will can direct that some of your assets be held in trust for someone's benefit. The trust can control distribution of the assets to the beneficiaries for as long as you desire, under the supervision of a trustee. This type of distribution is useful for more than just the "minor child" scenario. Beneficiaries who are disabled or have special needs may lose benefits if they receive distributions outright, and some beneficiaries would benefit from additional assistance in managing their inheritance.

Distribution with UTMA Provisions

As an alternative to testamentary trusts, your Will can specify that if any beneficiary under the age of 21 years is receiving an outright distribution, the personal representative of your Will may place that distribution into an UTMA account; with the personal representative, parent, or guardian of the beneficiary acting as custodian until the beneficiary turns 25.

The following chart illustrates important differences between testamentary trusts and UTMA accounts:

Testamentary Trusts	UTMA Accounts
Customizable (flexible duration and terms) Rigid accounting requirements Trustee manages assets More expensive	Limited customization Distribution occurs at age 25 Less expensive

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