

## Trust Fund Security

Illinois judges, in some circumstances,<sup>1</sup> have the power to require the supporting parent to secure the continuation of child support by maintaining life insurance policies. Most divorcing couples enter into such agreements – and a good many judges compel such arrangements – without giving thought to the finer points of life insurance and support security. Worse, most divorcing couples simply purchase life insurance and name the children as beneficiaries. Imagine the situation where the child is 17 years and eleven months old and one parent dies with a significant life insurance policy. By the time the estate is probated, the child will likely take all of the death benefit of the policy – probably at least \$100,000. What will an 18 year old child do with that kind of money? College is probably not on the top of the list.

An even more disastrous situation arises where the insuring parent names the other parent as the beneficiary. The insurance proceeds usually end up being a windfall for the surviving parent and the child rarely sees much of the money. If your case is large enough or important enough to require life insurance to secure child support, don't try to represent yourself -- hire an attorney to help avoid disaster. Consider the case of the Osborne divorce:<sup>2</sup> where the former husband agreed to maintain five – that's right, five – life insurance policies naming his former wife as the irrevocable beneficiary. He forgot to include language in the settlement agreement saying that the policies were only intended to secure his child support. After his kids had all turned 22, he tried to stop paying on the insurance. The court noted that there was no language in the agreement permitting him to stop paying once the kids were all 18, and so he had to continue to maintain the policies on his own life – for the benefit of his former wife, not his kids. His sloppy agreement left him with an unfair burden, and left his wife with a windfall.

The better practice is to establish a trust fund<sup>3</sup> with the insurance proceeds – the trustee can see to the proper use of the insurance money (child support? college education?) and make sure that the surviving parent doesn't abuse the child's funds. To avoid these pitfalls, and to secure your child's future, be sure to work with an experienced and knowledgeable divorce attorney who can help with the financial planning and estate planning you will need once your divorce nears its conclusion.

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This article was written by the law office of Cowell Taradash, P.C., whose attorneys are familiar with the latest court decisions, recent changes in the law and even the tendencies of many judges. We can help. Contact us at 866.987.6723 or [info@illinoisdivorce.com](mailto:info@illinoisdivorce.com).