

Are you disinheriting your heirs?

Your will does not cover everything. It doesn't govern your 401(k), 403(b), IRAs or other investment vehicles with their own beneficiary designations. This is a painful lesson learned by three grown children last month when their wealthy father willed everything to them, but failed to name them as beneficiaries on his largest single asset: his 401(k).



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Two months after his honeymoon, he suddenly died. Had he asked his bride to sign a waiver to include his children as beneficiaries, he would have avoided effectively disinheriting those children.

You can save for a lifetime, socking a lot of money into retirement accounts only to have the wrong person become your wealthy heir. This can happen if you forget to change your beneficiaries after a major life event, such as a marriage or divorce.

As local family law and estate planning attorney Randy Michel explains, "The law will take care of a will that you executed before divorce, but not contracts. You must take affirmative steps to change those beneficiary designations after a divorce (and before you pass away)."

If you are in a divorce process, ask your attorney if you are allowed to update your life insurance and retirement account beneficiaries. In 2010 Hollywood rebel Dennis Hopper was simultaneously dying of cancer and divorcing his fifth wife. As he lay on his deathbed, Hopper asked the divorce judge for permission to change his life insurance policy to remove his wife as beneficiary. Request denied. He would have to wait for trial. He died first and his life insurance was never changed, leaving his wife as beneficiary.

Beneficiary designations are tied to only part of the wealth you leave behind. How about getting your soon-to-be-ex-spouse written out of your will? What if the distraction and stress of your divorce keeps you from attending to this detail? Michel explains there is some relief in the case of divorce: for a will in Texas, the law will interpret the will as if the now-ex-spouse predeceases you. So if Guinnevere executed a will in 2009

while married, and then divorces Lance in 2014, her will is still valid. Upon her death, it will be interpreted as if Lance died before her, even if he is named in the will. All other provisions of her will are intact.

"So don't worry if you are hit and run over by a car an hour after the judge signs your divorce decree. The Probate Code says that your will will be interpreted as if a car ran over your spouse first!" Michel said.

You need not be involved in a divorce to bequeath a bureaucratic nightmare. A woman in Hawaii named her live-in boyfriend as a beneficiary of her IRA. Years later she was married to another man. As she lay dying of cancer, her husband tried to get the beneficiary form updated, but she was no longer mentally competent to make that change. The ex-boyfriend received the funds from her IRA.

Once a year, get verification of your beneficiaries on all your relevant accounts and contracts. Custodian companies that manage your accounts can be acquired, records can be lost and mistakes happen. Protect your intentions by regularly monitoring your beneficiary designations on your applicable accounts and investments.

In addition to inheritance issues, if you are in a divorce, do you want your soon-to-be-ex making decisions about your health care?

Unless you want your ex-spouse or soon-to-be-ex-spouse to have the power to pull the plug as you lay in a coma, ask your attorney about updating your Durable Power of Attorney for Health Care, as well as other advance directives. Also consider removing your ex-spouse as executor of your will or the trustee of your children's inheritance.

I meet many people who want to shortcut legal matters with do-it-yourself forms. That might work for insanely simple affairs, but if you have lived a full life, you will have a variety of assets and accounts to leave to your heirs. You can pay an attorney now or leave it to your heirs to pay for an even more expensive clean up. Get an inheritance check-up while you are still able to execute documents and control who gets what.

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