

Post-Divorce Planning



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Divorce is common in America. An estimated 50% of first marriages end in divorce after approximately 11 years. Divorce affects relationships. Each year about 1 million children will experience the divorce of their parents. Divorce is expensive. The average divorce takes one year from initial filing until final decree, costing the parties \$15,000. Typically, both divorcing parties experience a reduction in their standard of living. Against this backdrop it is no surprise that researchers consistently rank divorce as one of life's most stressful experiences. While many effects of divorce are obvious, others are less obvious, but warrant careful consideration. In that regard, here are some common pitfalls you may want to avoid in your Life & Estate Plan following your divorce.

Your children are your most valuable assets. Absent proof of unfitness, a surviving parent remains the natural guardian of their minor children. What if your ex-spouse predeceases you? Have you made proper legal plans to appoint a successor guardian of your own selection? If not, then a successor guardian may be appointed to rear your children, either through the legal plans of your ex-spouse or by a court.

Who will handle the inheritance you leave your minor children? Unless you have made proper legal arrangements to appoint a custodian or trustee of your own selection, then your ex-spouse may be appointed by a court to manage the inheritance until your children reach the age of majority (e.g. age 18 in most states). Then, once your children reach the age of majority, the court will require your ex-spouse to distribute what is left directly to your children without any strings attached. Once in the hands of your children, the inheritance may create or attract problems.

Wealth Planning

Few young adults are mature enough to manage an inheritance. Should you wish to protect the inheritance for and from your children, then you may want to consider having the inheritance administered through Testamentary Trusts. These Trusts can manage and distribute the inheritance according to your instructions. Additionally, Testamentary Trusts containing special Spendthrift Provisions may help protect the inheritance from the potential squandering, divorces, lawsuits and bankruptcies of your children.

Should your children fail to outlive their inheritance,

Testamentary Trusts may even provide for contingent beneficiaries. This can avoid unintended and unpleasant consequences. For example, in the absence of careful Testamentary Trust planning, your ex-spouse may become one of your heirs. Here's how. Suppose one of your children survives you and receives their inheritance outright. If that child then dies, without leaving a spouse or child, then their *next-of-kin* would be their surviving parent...your ex-spouse. To make matters worse, your ex-spouse's new spouse (and the new spouse's children) could enjoy the inheritance upon the death of your ex-spouse. Accordingly, properly prepared Testamentary Trusts can provide invaluable inheritance protection for your children and peace of mind for you.

Another excellent method of unintentionally enriching your ex-spouse is the failure to review your beneficiary designations. While married, most spouses designate one another as the beneficiary of their respective life insurance policies and retirement plans. However, after your divorce, you should ensure that all beneficiary designations are updated. Otherwise, your ex-spouse may be entitled to receive the funds intended to benefit your children or other loved ones.

Health Planning

If you are incapacitated, who will make your health care decisions? Considerable confusion may result should an emergency arise and your ex-spouse is appointed as the decision-maker on your health care directive. Do you really want your ex-spouse making *end of life* decisions for you? It is far simpler to revoke an existing health care directive by executing a new one that appoints family members or friends to serve in this important role.

Have you considered your potential need for long-term care in the future? Without a spouse as caregiver, who would take care of you at home? Would you need to move to an assisted living facility or to a nursing home? Long-term care insurance is a common method of funding this risk. Seek expert advice in evaluating your options.

Summary

Proper post-divorce planning can protect your relationships, wealth and health. A careful review of your Life & Estate Plan is essential following your divorce.