

# The DAILY PLAN-IT<sup>TM</sup>

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## **What to do when a client wants to disinherit an adult child.**

Most of your clients would never fathom themselves purposely disinheriting one of their children. However, sometimes, a parent decides to leave one child assets and another one absolutely nothing out of a loving intention.

When advising parents on this issue it, it's worth bringing up to them that any child discovering that he or she was disinherited *after the death* of the parent will likely be devastated by the news - even if there had been an estrangement or major disagreement between the child and parent.

### **Addictions, financial troubles and bad marriages**

Addictions, financial mismanagement, and choosing a bad spouse are often reasons why a parent would consider disinheriting a child. The parent is worried over what may happen if the child inherits a large amount of money. The parent fears that the money will be used to fuel destructive behaviors, will be lost to creditors or perhaps to a bad spouse. In addition, parents of children with disabilities are often vexed by the thought that their child will lose their inheritance to a spend-down and see disinheritance as their only choice.

What many parents fail to realize is that with proper estate planning, these dangers can be prevented. In cases where a parent is looking to leave an inheritance without directly giving a child access to it, creation of a trust to control the heir's inheritance is often the best solution.

The trust provides the trustee specific instructions about how and when distributions can be made to beneficiaries. This can include incentives (i.e., attending college, working at a full-time job, or staying drug and alcohol-free) and provisions to ensure disabled children are not forced to spend-down their trust fund or lose their public benefits.

One child might be financially successful while another is struggling to support himself, and the inheritance could make a huge difference in his quality of life. Or, there may be a need to disinherit a child in order to shelter assets from that child's creditors or even a substance or gambling addiction.

A well-drafted trust and the right trustee can help provide for the child and help deal with the consequences of whatever the child is confronted with in life.

## **Hearts and Politics**

The decision to disinherit a child is not an easy one and should be carefully considered. If this is your client's wish, then they must work with an experienced estate planning attorney.

There are numerous cases where an individual created a do-it-yourself will that was challenged by a child or grandchild, and the document was later declared invalid by a judge. An experienced estate planning attorney who knows how to prepare the estate plans to prevent and withstand a post-mortem challenge should be consulted.

It is vitally important that if a client chooses to disinherit a loved one, his or her reasons must be explicitly laid out in estate planning documents. Depending on the situation, it can also be a good idea for the parent to inform the child of their plans to not leave them any assets. Ultimately, whether or not the parent chooses to inform the child, the parent must make their intentions clear.

We hope this information is useful to you and helps your clients and their families. If you have a specific case or a question, please don't hesitate to call our office.

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