

Not only does divorce impact your life in nearly every conceivable way, it also affects what happens after your death, too. Even if you don't want it to.

If you are divorced or nearing the end of the divorce process, it is a good idea to talk to your attorney about updating your estate plan so that it aligns with your wishes for the future.

How Divorce Affects Your Will

If you executed a will while you were married, your divorce does not automatically invalidate the will. If you left money to a charity that you hate but that is near and dear to your ex, that bequest remains in force.

However, Texas law will apply the terms of your will as if your ex and all relatives included in the will are already dead. Nothing you bequeathed to them will actually go to them. This is only true for relatives of your ex that are not relatives of yours. Property left to your own children, for example, will still go to them.

If you want money to pass to your ex (or any of their family members) after the divorce, you will need to include language in your will stating that you still want them to inherit despite the divorce.

The Effects of a Divorce on Your Trusts

If you have a revocable living trust, the divorce has the same effect as it does on your will. Texas law will read the provisions as if your ex (and their relatives) are already dead. Property will pass to alternate beneficiaries.

Irrevocable trusts operate differently. They are essentially set in stone at the time of creation. If your ex is the beneficiary, they will retain that status even after the divorce. The law presumes your understanding and that you intended this outcome despite the possibility of divorce.

What if Your Ex is Named as the Beneficiary of Your Life Insurance Policy or Retirement Plan?

When a couple divorces after one of them has designated the other as the beneficiary on a life insurance policy, retirement account, stock option plan, or other plan offered through an employer, that designation is generally void. However, you can take specific action to keep your ex as a beneficiary. You can either name your former spouse as a beneficiary in your divorce decree or make a new designation after the divorce is finalized. Also, if your ex is named to receive proceeds in trust for the benefit of a child or dependent, that designation will stand despite the divorce.

Details Matter—So Talk to Your Estate Planning Attorney After Your Divorce

In addition to the items discussed above, you will also probably want to update your estate plan if your former spouse is given authority in power of attorney documents or privacy authorizations. You might have other documents that need addressing as well.

Working with an experienced estate planning attorney familiar with the impact of divorce can ensure that your interests are protected far into the future. To discuss

How Divorce Affects Your Estate Plan

changes to your estate plan, contact The Nordhaus Firm today to schedule a confidential consultation.