

How Estate Planning Changes After Divorce In New Jersey

New Jersey Estate Planning Attorneys Explain What Needs To Be Updated After A Divorce

[Divorce](#) marks the end of one chapter of life and the beginning of another. As individuals adjust to new financial realities, family structure and personal priorities, it is easy for [estate planning](#) to fall to the bottom of the list. Yet few life events have a greater impact on an existing estate plan.

Wills, powers of attorney, healthcare directives, trusts and beneficiary designations are often created with a spouse playing a central role. Following a divorce, those documents may no longer reflect your intentions or adequately protect the people you wish to benefit.

Does New Jersey law automatically update your estate plan when you get divorced? What documents need to be changed? What happens to retirement accounts and life insurance? And what are the risks of waiting too long to make these updates?

Many individuals assume that a divorce automatically removes a former spouse from all estate planning documents and financial accounts. While New Jersey law does provide certain protections, those protections are limited and do not extend to every asset or designation. In some circumstances, failing to review and update an estate plan can result in assets passing in a manner that is inconsistent with the individual's wishes.

At [Williams Law Group, LLC](#), our New Jersey estate planning attorneys assist clients in evaluating and updating their estate plans following significant life changes, including divorce. We understand how much is already on your plate when a marriage ends. A careful review of your planning documents can help ensure that your estate plan reflects your current circumstances, protects your loved ones and carries out your intentions with clarity and certainty.

Does New Jersey Automatically Update Your Estate Plan After Divorce?

New Jersey recognizes that most individuals would not want a former spouse to continue benefiting under an estate plan after a divorce. As a result, [N.J.S.A. 3B:3-14](#) automatically revokes certain provisions in favor of a former spouse once a divorce or annulment becomes final. In many cases, the law treats the former spouse as though the former spouse predeceased the decedent, thereby preventing the former spouse from inheriting under an outdated will or serving in certain fiduciary capacities.

That sounds reassuring, but the protection is often misunderstood. The law does not automatically create a new estate plan, nor does it comprehensively update every document, account, and beneficiary designation that may have been established during the marriage.

Instead, it serves as a limited safeguard designed to address certain common issues that arise following a divorce.

Particularly important are assets that pass by beneficiary designation rather than through a will. Certain retirement accounts, life insurance policies, annuities, and transfer-on-death accounts may be governed by separate contractual or federal rules under which the beneficiary designation on file remains controlling unless it is affirmatively changed. If a former spouse is still listed as the designated beneficiary, that former spouse may still be entitled to those assets when the account owner dies notwithstanding the divorce.

For that reason, individuals should not assume that a finalized divorce automatically aligns their estate plan with their current wishes. Although New Jersey law provides meaningful protections, it cannot substitute for a comprehensive review of your estate planning documents, beneficiary designations, fiduciary appointments, and asset ownership arrangements. Following a divorce, updating your estate plan is one of the most important steps you can take to ensure that your assets pass according to your intentions and that the individuals you trust are empowered to act on your behalf.

What Happens To Your Will After A Divorce In New Jersey?

Under New Jersey law, a divorce has a significant effect on an existing will. Under N.J.S.A. 3B:3-14 provisions in favor of a former spouse are treated as though the former spouse predeceased the testator. As a result, bequests to a former spouse and certain fiduciary appointments may be voided by operation of law once the divorce becomes final.

While this statutory protection is important, it is often misunderstood. The law does not create a new estate plan, nor does it revise the remainder of your will to reflect your post-divorce circumstances. Instead, it simply removes certain provisions relating to a former spouse, which can leave significant gaps and unintended consequences.

For example, many married individuals structure their wills around the assumption that a surviving spouse will be the primary beneficiary and decision-maker. Once that spouse is removed from the plan, the remaining provisions may no longer operate as intended. Assets may pass to contingent beneficiaries whom you would no longer select, administrative provisions may become impractical, and in some circumstances portions of the estate may pass under New Jersey's intestacy laws rather than pursuant to a carefully considered estate plan.

Below are some of the most common scenarios:

- **The Executor You Named:** Most people nominated their (now former) spouse as executor in their wills. That appointment is not automatically voided by divorce in all circumstances, and even if it is, if the will only nominated the former spouse as executor but fails to nominate a successor, a new will may be necessary to designate a new executor and a successor to handle your estate at death.

- **Guardianship Provisions for Your Children:** The person you and your former spouse may have agreed on when you were married to serve as guardian if both of you should die may no longer be your choice. This is one of the most important provisions in any will involving minor children and it deserves careful reconsideration after a divorce.
- **The Asset Distribution You Chose When Married:** A will written around a two-spouse household may leave assets in ways that no longer make sense for your life as a single person. This may include provisions for shared property that no longer exists or alternate beneficiaries you would now choose differently.

After a divorce, we recommend reevaluating the structure of your estate plan as a whole to ensure it reflects your current circumstances. Rather than relying on statutory revocation provisions, a new will allows you to make deliberate decisions regarding who should administer your estate, who should care for your minor children, and how your assets should ultimately be distributed.

What Happens To Powers Of Attorney And Health Care Directives After A Divorce?

A comprehensive estate plan addresses not only what happens after death, but also who will make important decisions on your behalf if you become incapacitated. For many married individuals, those responsibilities are entrusted to a spouse. Following a divorce, however, those appointments should be carefully reviewed to ensure they continue to reflect your wishes and circumstances.

A durable power of attorney authorizes another person to manage financial and legal matters on your behalf if you are unable to do so yourself. Under N.J.S.A. 3B:3-14, a former spouse's authority under a power of attorney is generally revoked upon divorce. Nevertheless, the existence of an outdated document can create uncertainty and administrative complications, particularly if no successor agent has been designated or if the document no longer reflects your preferred decision-maker.

The same issue applies to health care directives and health care representative designations. This document authorizes a trusted individual to make medical decisions if you are unable to communicate your wishes. Although New Jersey law provides certain protections when a former spouse is named, divorce is an appropriate time to reevaluate who should serve in that role and to execute updated documents that clearly identify the individual you wish to act on your behalf.

A living will, or advance directive, should be reviewed as part of the process. Unlike a health care representative designation, a living will focuses primarily on your preferences regarding medical treatment and end-of-life care. While those preferences may remain unchanged, a divorce often presents an opportunity to revisit these important decisions and confirm that the

instructions set forth in your directive continue to reflect your values, goals, and personal circumstances.

More broadly, divorce is a reminder that incapacity planning should evolve as life changes. Updating powers of attorney and health care directives helps ensure that the individuals entrusted with making financial and medical decisions on your behalf are those you currently trust to carry out your wishes.

What Happens To Beneficiary Designations After A Divorce?

Beneficiary designations are one of the most important – and most frequently overlooked – components of an estate plan following a divorce. Unlike assets that pass under a will or trust, many financial assets transfer directly to the individual named on a beneficiary designation form. As a result, those designations can have a significant impact on who ultimately receives an asset at death.

Retirement accounts, life insurance policies, annuities, and accounts with payable-on-death or transfer-on-death designations are all commonly governed by beneficiary designations. In many cases, those designations operate independently of a will and may control the disposition of an asset regardless of what an outdated estate planning document provides.

Attention should be given to employer-sponsored retirement plans, including many 401(k) plans and pension plans governed by federal law. For these accounts, the beneficiary designation maintained by the plan administrator often plays a decisive role in determining who receives the asset at death, regardless of state law or a divorce decree. New Jersey's automatic revocation statute does not apply to these types of accounts. Consequently, a former spouse who remains listed as a beneficiary may continue to have rights to those assets unless appropriate changes have been made or other legally effective arrangements are in place.

Individual Retirement Accounts (IRAs) present somewhat different legal considerations. IRAs are not governed by the same federal rules as employer-sponsored retirement plans. Nonetheless, individuals should not assume that a divorce alone will produce the desired result with respect to any beneficiary designation. The interaction between beneficiary designations, state law, divorce agreements, and federal law can be complex and highly fact-specific.

For that reason, one of the most important steps following a divorce is a comprehensive review of every asset that passes by beneficiary designation. Retirement accounts, life insurance policies, investment accounts, bank accounts, and annuities should all be examined to ensure that beneficiary elections remain consistent with your current wishes and overall estate planning objectives. An estate plan can only function as intended when beneficiary designations and estate planning documents work together as part of a coordinated strategy.

What Specifically Needs To Be Updated After A Divorce?

Because estate planning documents, beneficiary designations, and asset ownership arrangements often work together as part of a coordinated plan, a divorce should prompt a comprehensive review of your entire estate planning structure. Depending on your circumstances, the following documents, accounts, and arrangements may warrant attention:

- **Will:** Review beneficiary designations within the will, fiduciary appointments, and guardianship provisions for any minor children to ensure they continue to reflect your wishes.
- **Durable Power of Attorney:** Confirm that the individuals authorized to make financial and legal decisions on your behalf remain appropriate in light of your current circumstances.
- **Health Care Directive and Health Care Representative Designation:** Reevaluate who should make medical decisions for you if you become incapacitated and confirm that your treatment preferences remain consistent with your values and goals.
- **Retirement Account:** Review beneficiary designations for all retirement assets, including 401(k) plans, 403(b) plans, IRAs, and pension plans.
- **Life Insurance Policies:** Examine beneficiary designations for all individual and employer-provided life insurance coverage.
- **Bank And Investment Accounts:** Review payable-on-death, transfer-on-death, and similar beneficiary arrangements to ensure they remain consistent with your overall estate plan.
- **Trusts:** Evaluate existing trust arrangements, including trustee appointments, successor fiduciaries, and distribution provisions, to determine whether revisions are appropriate.
- **Digital Assets:** Consider whether your estate plan adequately addresses digital assets, online accounts, cryptocurrency holdings, and electronically stored property.

Not every update requires the same level of time and effort. Some changes, such as updating a beneficiary designation, may be accomplished directly through a financial institution or plan administrator. Others, including revisions to wills, trusts, powers of attorney, and health care directives, typically require the preparation and execution of new legal documents.

Most importantly, estate planning updates should not remain on a to-do list. Beneficiary designations, fiduciary appointments, and dispositive provisions generally remain effective until they are formally changed. A comprehensive review followed by timely implementation helps ensure that your estate plan continues to reflect your wishes and functions as intended following a significant life transition such as divorce.

What If You Are Still Going Through the Divorce Process?

Many individuals postpone estate planning updates until their divorce is finalized, and in many cases the approach is appropriate. However, it is important to recognize that until a final judgment of divorce is entered, you and your former spouse remain legally married. As a result, existing estate planning documents, beneficiary designations, and other arrangements continue to operation according to their current terms.

The period during which a divorce is pending often presents unique planning considerations. Temporary court orders, negotiated agreements, or other restrictions may affect a party's ability to change beneficiary designations, transfer assets, or implement certain estate planning strategies before the divorce is concluded. These measures are intended to preserve the status quo and protect the interests of both parties while the matter remains before the court.

For that reason, estate planning during a pending divorce should be undertaken carefully and in coordination with your matrimonial attorney. Before making changes to beneficiary designations, ownership arrangements, trusts, or other estate planning documents, it is important to understand whether any existing court orders, agreements, or legal obligations may affect those decisions.

Once the divorce becomes final, however, a comprehensive review of your estate plan should become a priority. Life is unpredictable. The sooner your documents, beneficiary designations, and fiduciary appointments are aligned with your post-divorce circumstances, the greater the likelihood that your wishes will be carried out as intended and that unnecessary complications for your loved ones can be avoided.

What Happens to Joint Tenancy Property After a Divorce in New Jersey?

Many married couples own assets jointly, including homes, investment accounts, and bank accounts. Frequently, these assets are held with a right of survivorship, meaning that upon the death of one owner, the surviving owner automatically becomes the sole owner of the property without the need for probate.

Under N.J.S.A. 3B:3-14, a divorce generally severs the survivorship rights that previously existed between former spouses. As a result, property that was once owned as tenancy by the entirety is typically converted by operation of law into a tenancy in common, unless otherwise addressed through the divorce process or by agreement of the parties.

This distinction is significant. Before the divorce, the surviving spouse would ordinarily acquire the deceased spouse's interest automatically. After the divorce, each former spouse generally owns a separate interest in the property and that interest becomes part of his or her estate at death. Rather than passing automatically to the former spouse, the owner's interest will pass according to the terms of a will, trust, or other estate planning arrangement, or, in the absence of an estate plan, pursuant to New Jersey's intestacy laws.

In many cases, jointly owned property is specifically addressed in a marital settlement agreement and ownership is formally transferred as part of the divorce process. However, situations do arise in which title remains unchanged, property is inadvertently overlooked, or ownership arrangements are not fully implemented. When that occurs, the legal consequences of divorce can affect both ownership rights and the ultimate disposition of the property.

For that reason, a post-divorce estate plan should include a careful review of all jointly owned assets and their underlying title. Understanding how property is owned is just as important as reviewing wills, trusts, and beneficiary designations, as ownership structure often determines how an asset will pass at death.

How Can a New Jersey Estate Planning Attorney Help After a Divorce?

Divorce often necessitates far more than a few isolated changes to an estate plan. Because wills, trusts, powers of attorney, health care directives, beneficiary designations, and asset ownership arrangements are interconnected, a change to one component of the plan can have unintended consequences for others. It is about rebuilding a plan that reflects who you are now, what you own and who you want to protect going forward. A comprehensive review helps ensure that all aspects of your planning continue to work together to achieve your objectives.

An estate planning attorney can evaluate your existing documents, identify provisions affected by the divorce, review beneficiary designations and ownership structures, and recommend any revisions necessary to align your plan with your current circumstances. Just as importantly, an attorney can help identify planning opportunities that may arise following a divorce, including strategies involving trusts, long-term asset protection, tax planning, and provisions for children and other beneficiaries.

For many individuals, divorce represents a significant personal and financial transition. Estate planning provides an opportunity not only to address what has changed, but also to thoughtfully consider future goals and priorities. A carefully designed estate plan can help provide clarity, protect loved ones, and ensure that decisions regarding your assets and personal affairs remain in the hands of the people you trust.

At [Williams Law Group, LLC](#), our New Jersey estate planning attorneys work with individuals and families at every stage of life, including those navigating the challenges and opportunities that often accompany divorce. We can help review your current plan, identify areas that may require attention and implement a coordinated strategy designed to reflect your wishes and protect the people and interests that matter most to you.

If you have recently divorced or are in the process of divorcing, we invite you to [contact](#) our office to schedule a consultation and discuss whether your estate plan continues to meet your needs and objectives.