

What Automatic Revocation Leaves Unfixed After Divorce in New Jersey

Divorce Can Change an Estate Plan, But It Does Not Rebuild One

Divorce affects more than marital status. It can change who should inherit, who should manage money, who should make medical decisions, who should receive life insurance proceeds, and who should control assets left for children.

New Jersey law does address some estate planning issues after divorce. Under state law, divorce or annulment can revoke certain revocable transfers, property appointments, and fiduciary nominations involving a former spouse or the former spouse's relatives, unless an exception applies through the governing document, a court order, or a contract relating to division of the marital estate. The statute also treats certain revoked provisions as though the former spouse or former spouse's relative died before the divorce.

That legal rule is important, but it does not mean a divorced person's estate plan is finished. Automatic revocation can remove a former spouse from parts of a plan, but it does not decide who should replace that person, how children should receive assets, whether beneficiary forms are correct, or whether the estate plan conflicts with the divorce judgment. A [New Jersey estate planning lawyer](#) can help identify those gaps before they create problems later.

A Revoked Gift Can Create a Gap

When a former spouse is removed from a [will](#), [trust](#), or beneficiary structure, the next question is what happens to that share. The answer may depend on how the document was written.

If the document names a clear backup beneficiary, the asset may pass as intended. If it does not, the asset may fall into a residuary clause, pass to unintended relatives, or create uncertainty during probate or trust administration. The result may be legally valid but still completely different from what the person would choose after divorce.

This is where post-divorce estate planning becomes more than updating names. A New Jersey estate planning lawyer can review what the old document actually does after the former spouse is removed. That includes checking contingent beneficiaries, executor appointments, trustee appointments, residuary clauses, survivorship language, and whether children are receiving assets in a way that creates new problems.

Beneficiary Designations May Not Follow the Will

Beneficiary designations can control major assets outside a will. A person may rewrite a will after divorce and still leave life insurance, retirement funds, bank accounts, or investment accounts governed by separate beneficiary forms.

New Jersey's revocation-by-divorce statute can affect certain non-probate transfers, but that does not make beneficiary planning automatic. The result may depend on the account type, plan documents, divorce judgment, court order, contract terms, and whether the beneficiary designation was changed directly.

Accounts that may need careful review after divorce include:

- **Life Insurance Policies:** A divorce judgment may require coverage for alimony, child support, or children's financial protection.
- **Retirement Accounts:** Employer plans, pensions, 401(k)s, and similar accounts may involve plan rules, beneficiary forms, or division orders.
- **IRAs:** IRA beneficiary forms should be updated directly so the account does not depend on an outdated designation.
- **Payable-on-Death Accounts:** Bank accounts with payable-on-death beneficiaries may pass outside probate.
- **Transfer-on-Death Accounts:** Brokerage accounts may transfer directly to named beneficiaries even if the will says something else.

Beneficiary forms should be compared against the divorce judgment and the estate plan together. Otherwise, one document may say one thing while an account form or court order points in a different direction.

Life Insurance Can Become a Legal Obligation After Divorce

Life insurance is one of the biggest estate planning traps after [divorce](#) because it may serve two different purposes. One policy may be part of a person's private estate plan. Another may be required by a divorce judgment or settlement agreement.

A divorce agreement may require life insurance to secure alimony, child support, college expenses, or other obligations. In that situation, the policy is not simply an asset the person can change freely. Canceling coverage, reducing coverage, or changing beneficiaries may violate the divorce judgment.

That means life insurance should be reviewed in two layers. First, the person needs to know which policies are tied to court-ordered or negotiated obligations. Second, any remaining coverage should be coordinated with the updated estate plan. This distinction matters because the person may have freedom to change one policy but not another.

Leaving Assets Directly to Minor Children Can Create Court Involvement

After divorce, many parents want assets to pass directly to their children instead of a former spouse. That instinct makes sense, but it can create problems if the children are minors.

Minor children generally cannot manage inherited assets on their own. If a parent names a minor child directly on a life insurance policy, retirement account, or will, the family may need court involvement to manage the money until the child is legally old enough to receive it. That can add delay, expense, and oversight that the parent may have wanted to avoid.

A trust can solve that problem more cleanly. The parent can name a trustee to manage funds for the child, set rules for how money may be used, and decide when distributions should be made. The trustee does not have to be the same person who has custody of the child. That separation can matter after divorce.

A Former Spouse May Still Control Money Indirectly

Removing a former spouse from estate planning documents does not always remove that person from every practical role. If the children are minors, the former spouse may still be the surviving parent. That can affect who has day-to-day responsibility for the children and who may seek authority over money left directly to them.

This is one of the reasons direct beneficiary designations for minor children can backfire. A parent may think they have kept the former spouse away from an inheritance, but if the money passes directly to a minor child without a trust, the former spouse may still end up involved in managing or seeking control over those funds.

A trust allows the parent to choose a [trustee for inherited assets](#). That can give the child financial protection without assuming the former spouse should manage the money. It can also prevent conflict between personal custody decisions and financial management decisions.

Powers of Attorney and Health Care Directives Need More Than a Name Change

A [power of attorney and health care directive](#) do not only name decision-makers. They control who can act during incapacity, what authority that person has, and how easily financial or medical decisions can be made in an emergency.

After divorce, the concern is not just whether a former spouse appears in the document. The document may also name former in-laws as backups, contain outdated addresses, omit a trusted replacement, or fail to match the person's current finances and family structure.

A power of attorney should reflect who can manage separate accounts, real estate, bills, taxes, business interests, and financial responsibilities after divorce. A health care directive should

reflect who may receive medical information, make treatment decisions, and serve as the emergency contact if the person cannot communicate.

Remarriage Changes the Estate Plan Again

Remarriage after divorce can create a new set of estate planning issues. A new spouse may have legal rights that affect the estate plan, and children from a prior relationship may need clearer protection.

New Jersey's revocation-by-divorce statute also includes a revival rule. Provisions revoked solely by divorce may be revived if the divorced person remarries the former spouse or if the divorce or annulment is revoked, suspended, or nullified.

A new spouse may also have elective share rights. Under New Jersey law, a surviving spouse, civil union partner, or domestic partner may have the right to claim an elective share of one-third of the augmented estate, subject to statutory conditions and limitations.

That makes remarriage planning more complicated than changing a beneficiary name. A person may need to coordinate a will, trust, beneficiary designations, property ownership, and any prenuptial or postnuptial agreement so a new spouse and children from a prior relationship are not left in conflict.

The Divorce Judgment May Control More Than the Estate Plan

An estate plan cannot be reviewed in isolation after divorce. The divorce judgment or settlement agreement may create continuing obligations that affect what the person can do with assets, insurance, retirement accounts, and beneficiary designations.

This is where family law and estate planning overlap directly. A document that looks correct from an estate planning perspective may still create problems if it ignores obligations from the divorce.

Post-divorce estate planning should account for:

- **Life Insurance Requirements:** A divorce agreement may require a policy to remain in place to secure support or child-related obligations.
- **Retirement Division Orders:** Certain retirement assets may be subject to QDROs, plan rules, or other division requirements.
- **Property Settlement Terms:** Real estate transfers, buyouts, deferred sales, or shared obligations may affect what the person actually owns.
- **Support Obligations:** Alimony, child support, or arrears may affect estate administration.

- **Children's Expenses:** College, medical, or other agreed expenses may need to be reflected in the plan.

The goal is not to use estate planning to work around the divorce judgment. The goal is to build a plan that reflects the person's wishes while also honoring legal obligations that survived the divorce.

Williams Law Group Helps New Jersey Clients Avoid Post-Divorce Estate Planning Gaps

[Williams Law Group, LLC](#) helps New Jersey clients address the legal changes that follow divorce, including estate planning issues that affect children, property, health care decisions, beneficiary designations, trusts, and future relationships.

As [The Firm For Your Life](#), our legal team understands how family law and estate planning can overlap after divorce. A plan that only updates names may miss the larger issues, including life insurance obligations, [minor-child inheritance](#) problems, trust administration, remarriage risks, and conflicts between estate documents and divorce judgments.

Our legal team provides practical guidance for clients who need more than a document review. To update your estate plan after divorce, [contact us](#) to schedule a consultation.