

Updating Your Will When Getting Married

Getting married is a time when there is enough to worry about. There are a million things that need to be done for just the wedding. After the wedding is over a new marriage can have a huge impact on your estate plan. It is always important to review and update your will prior to getting married and at the very least after the marriage has begun.

This all assumes that you have made an estate plan or a will in the first place. A vast majority of the population has no estate plan in place and relies on their state government's plan to distribute their assets. Those that have a will or estate plan going into a marriage should carefully examine how the marriage will affect that plan. If you get married in some states without updating your will or getting a new will your new spouse might receive your entire estate regardless of what is contained in your will.

The laws of some states provide that if your will was made prior to your current marriage before your death and your current spouse is not named in a will as a spouse or provided for otherwise then that spouse may take the share of the estate that would have been available to them if no will was in place. This is called an omitted spouse election. In some states the intestate share the spouse would be entitled to under the omitted spouse election would be fifty percent of the probate estate if you have children or one hundred percent of all probate assets if you have no children. The spouse is already entitled to take a third of the estate according to the elective share in some estates, but this percentage can rise to fifty to one hundred percent if not properly planned for.

The case where this causes the most frequent trouble is when a widowed or divorced spouse gets remarried later in life and already had a will in place. The will in place gave everything to the widowed spouse's children or to someone else. Although the new spouse had no intention of taking away money from the widowed spouse's children, they would be still be entitled to a fifty percent share. It is important to have your will reviewed or updated if you get married to make sure that it still functions the way you intended it to when you made it.

Evan Guthrie Law Firm is licensed to practice law throughout the state of South Carolina. The Evan Guthrie Law Firm practices in the areas of estate planning probate personal injury and divorce and family law. For further information visit his website at <http://www.ekglaw.com>. Evan Guthrie Law Firm 164 Market Street Suite 362 Charleston SC 29401 843-926-3813