

Disinheriting A Child

It's an emotional attorney-client conference – Father wants to discuss disinheriting a child. Legally, that can be done in Florida, however, emotional issues are set in play that can last for several generations. Mother may not have been completely on-board with the decision, so it becomes a source of controversy for their relationship. Also, you can imagine that neither Father nor Mother is anxious to share their decision with the disinherited child, or their other children, so this “family secret” burdens their hearts for the rest of their lives.

The child learns of the decision only after the death of his or her parents. At that point, there is no opportunity for explanations or resolution. Resentment is created between siblings with the result that grandchildren don't interact with their cousins. The fracture is often deep and permanent. It is unlikely that Father was trying to accomplish that.

There are many reasons given for disinheriting a child – substance abuse, estrangement, bad spending habits, a lifetime of poor judgments, daughter/son-in-law issues, failure of the child to bond with Father's second/third spouse, perhaps there have been disputes with a brother or sister since childhood that cause the child to withdraw from family functions, perhaps there is a mental illness, family dysfunction that Father may never have know about.

I encourage my clients to understand exactly why they have chosen disinheritance. There are often other solutions for addressing their concerns – trust provisions that will protect the assets from the child's spouse, provisions that will withhold disbursement unless substance abuse issues are being addressed and a long period of sobriety has been achieved, “spendthrift provisions”, provisions that will provide only for medical care or only begin to provide funds when the child reaches retirement age. It's a tough thing to do – be sure to think it through, and be aware of alternatives.