

## **TEN ESTATE PLANNING IDEAS FOR DIVORCED OR SEPARATED PERSONS**

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Under the law in New Jersey, if a person dies without a Will and without children, their spouse will inherit all assets, even if they are separated from the spouse. In addition, if you have children from a previous marriage, but no Will, your separated spouse will get half your estate. In planning, make sure your assets go to your loved ones or favorite charity. Therefore, you may wish to do the following:

- 1) Have an Elder Law attorney prepare a Will to distribute your assets to the people you care the most about. If you already have a Will, prepare a new Will and have the old Will revoked. ( Your estate planning attorney will explain this to you.)
- 2) Prepare a Power of Attorney to select someone to handle your finances if you become disabled. Have your old power of attorney revoked.
- 3) Prepare a Living Will prepared
- 4) Change your beneficiary on assets you may own, such as stocks, bank accounts, IRA, and other financial assets. Change your beneficiary under your own life insurance, whether whole life insurance or term insurance.
- 5) Contact your employer's human resources and change the beneficiary on life insurance, pension, stock options or other employee benefits. Note that if you are not yet divorced, your spouse may have to sign a written waiver permitting you to change beneficiaries.
- 6) Keep your personal papers at a location where family can find them.
- 7) Have your attorney prepare a prenuptial agreement if you decide to get married.
- 8) Make sure the trustee for any funds designated for your children is the "right" trustee.
- 9) In New Jersey, if you are married and living with your spouse, under certain instances the surviving spouse has a right to "elect against the Will" The disinherited spouse may like to elect against the Will and try to obtain one third of the estate. Your attorney can explain how you can protect yourself and your children.
- 10) If you have minor children, nominate someone under a Will to serve as guardian to the children. Although the surviving parent obviously has first right of custody of children, they may not even want custody.

## **CONCLUSION**

Planning can only be done if someone is competent and/or alive. Make sure your assets can be passed directly to your loved ones.

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