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ARTICLES & INSIGHTS

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How Does Remarriage Impact Wills and Inheritances?

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Divorce and remarriage are common in the United States, and most legal professionals place these issues squarely within the family law realm. However, people who remarry should also carefully revisit their estate plan documents to ensure their planning keeps pace with the financial needs of their newly “blended family.”

In an article titled “The Second Time Around: Smart Estate Planning Can Reduce Snags and Maintain Harmony in Your Second Family,” Fidelity emphasizes the need for clarity and comprehensiveness in estate planning when dealing with a blended family.

Things to Consider:

1. **Obligations with former spouses through divorce agreement.** Many divorce settlements and agreements include provisions that may impact retirement accounts, savings, and other assets. You may not be able to change the terms of any of these prior documents, and it’s important to know where your assets stand before creating a new estate plan. Your new spouse may not be entitled to a certain asset based on the terms of a divorce agreement. It’s also important to adjust any prior wills, trusts, or beneficiary designations from a previous marriage where you can. Otherwise, your former spouse may be legally entitled to assets that you’d rather your current spouse receive.
2. **Long-term goals for support of your spouse and any children or other family members.** Because the complexity of a blended family can create confusion in the estate planning arena, you and your current spouse should be clear and honest with each other about where you intend for your assets to go. If there are children from a prior marriage and you’d like for them to be included in your estate planning (or not), it’s best to have that conversation with your current spouse, so he or she is in the loop with your long-term goals and plans. Conversations, even difficult ones, are necessary to ensure that everyone’s wishes are carried out.
3. **Guardianship issues.** When young children and former spouses are involved, guardianship issues may become particularly crucial. Discussing your plans with your current and former spouses about guardianship of young children is important to ensure that they are taken care of by the person who will best fit their needs.
4. **Marital assets from the second/current marriage.** In order to create a detailed and

accurate estate plan in a blended family, every single asset needs to be categorized in terms of what is separate or commingled. Criteria can be impacted by anything tied to a previous marriage like certain trust accounts or even what is set aside for a child from a previous marriage. The type of marital property law in your state is also worth considering—this may influence what you can and cannot leave to your spouse or others. Additionally, the way you title accounts and the way that you designate beneficiaries in certain policies come into play when determining what assets are available to you in a remarriage. You want to be sure that all accounts and policies that are payable or transferable on death go to the person you designate. If you left a former spouse's name as beneficiary on a certain account, he or she may be entitled to those assets, even if you are no longer single.

5. **Form of legal documents.** Once you and your spouse have decided what you want and need from an estate plan, choosing the form in which you address your assets comes into play. If you choose to draft a will, make sure that it is very specific so that your wishes are carried out. In a blended family where conflict may exist among widespread family members, even the smallest things should be addressed to ensure a smooth execution. Establishing a trust is also something to consider; this allows you to specifically allocate assets in particular ways so that multiple family members are taken care of in multiple ways. Trusts offer some degree of flexibility, and many remarried individuals will use them to set aside assets for children from a prior marriage.

After remarriage, there are many things to think about when planning your estate. The complexity of a blended family means that all details need to be discussed and decided upon because multiple areas of the law may come up, requiring the assistance of different experts. It's important to be clear about your intentions and address all possible concerns, so your assets are distributed the way you want them to be.

CONTACT US

919.250.2000
mail@smithdebnamlaw.com

RALEIGH OFFICE

The Landmark Center
4601 Six Forks Road, Suite 400
Raleigh, NC 27609

Phone: 919.250.2000
Fax: 919.250.2100

CHARLESTON OFFICE

171 Church Street
Suite 120C
Charleston, SC 29401

Phone: 843.714.2530
Fax: 843.714.2541