

# Disinheriting A Relative

You may feel that you have given one child more during your life, so he or she should get less in your will. Or you may want to cut out an heir altogether. Whatever the reason, disinheriting a close relative—especially a spouse or a child—can be complicated.

It generally is not possible to completely disinherit a spouse. Even if you don't leave your spouse anything in your will, most states have laws that keep a spouse from losing everything – usually the spouse is entitled to one-half or one-third, depending upon whether you have children. If you live in a “community property” state, your spouse already owns half the community property. Also, the definition of your “estate” varies from state to state; in some states it includes only your probate estate and not trusts, retirement accounts, life insurance or other assets. In some states, all or part of these “non probate” assets are included in the spouse's share.

Even if you don't completely disinherit your spouse, he or she can choose between taking what the will provides or taking what the law in your state says a spouse should receive in any case (the “statutory share,” usually one-third to one-half of the estate). The only solution is to enter into an agreement with your spouse in which you each waive the right to receive anything from the other's estate.

Disinheriting a child is a different story. You will need to check with an attorney in your state to find out what is required. Louisiana is the only state that does not allow an adult child to be disinherited. While other states do not require that you leave anything to your adult children, there may be laws that protect minor children. For example, in Florida you are required to leave your house to either your spouse or a minor child, if they are living. In addition,

there are often laws that protect children born after a will was written. To be safe, even if you are leaving a child nothing, you should specifically mention the child in the will. It may also help to state the reason the child is getting nothing or a reduced amount. If you don't mention a child at all, the state may conclude that you did not intentionally exclude the child.

Disinheriting a close relative can cause fights among family members. Squabbles over wills can drag on for years and prevent your heirs from receiving their inheritance, so if you are planning on disinheriting someone, it is important to take as many precautions as possible and consult with an elder law or estate planning attorney.

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