

# Using a No-Contest Clause in Wills and Trusts

If you are worried that disappointed heirs could contest your will or trust after you die, one option is to include a “no-contest clause” in your estate planning documents. A no-contest clause provides that if an heir challenges the will or trust and loses, then he or she will get nothing.

A no-contest clause may be a good idea if you have a beneficiary who may be upset by the property distributed to him or her. However, no-contest clauses (also called in terrorem clauses) only work if you are willing to leave something of value to the potentially disgruntled heir. You must leave the individual enough so that a challenge is not worth the risk of losing the inheritance.

Most states allow no-contest clauses, but there may be restrictions. In many states, if the contest is based on probable cause or good faith, then the no-contest clause is unenforceable. That means that if the court determines there is a good reason for the contest, the clause won't prevent the challenging heir from inheriting. In addition, a no-contest clause may apply to some portions of your estate plan, but not others. For example, your heirs may be able to challenge your executors without violating a no-contest clause.

Two states –Florida and Indiana – will not enforce no-contest clauses no matter what. If you write your will in a state that enforces no-contest clauses and then move to Florida or Indiana, the no-contest clause will be void.

If you include a no-contest clause in your estate plan, you need to be sure there are no mistakes. If you leave out important property or aren't clear about property in your possession, your heirs could be completely disinherited if

they try to fix any mistakes.

While a no-contest clause can be a good tool, there are other ways to discourage a will contest. To learn more, [click here](#). Talk to your elder law attorney to determine the best method to protect your wishes.

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