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Issue

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**Virginia Beach (Main Office)**

500 Viking Drive, Suite 202

**Norfolk Office**

319 W. 21st St., Suite B

**Suffolk Office**

3345 Bridge Road, Suite 916

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**UPCOMING SEMINARS & WEBINARS**

	<b>Why Wills Are Obsolete</b>	<b>Wednesday, September 5th at 11:00 AM</b>	 Scan to register
	<b>Plan Now To Protect Your Loved Ones</b>	<b>Thursday, September 11th at 11:00 AM</b>	 Scan to register
	<b>The Corporate Transparency Act</b>	<b>Thursday, September 12th at 10:30 AM</b>	 Scan to register
	<b>The ABCs of Successfully Acting as Successor Trustee</b>	<b>Wednesday, September 19th at 2:00 PM</b>	 Scan to register
	<b>7 Secrets You Need To Know</b>	<b>Thursday, September 24th at 2:00 PM</b>	 Scan to register

**What Conditions Can I Put on My Child's Inheritance?**

You have two primary options for leaving an inheritance to a child. The most straightforward is to give it to them in a single lump sum, with no strings attached. But this might not be the best option for some children. You may be concerned about the child's ability to handle the money responsibly, fear they will spend it in pursuit of a cause you do not support, want to avoid the need for a court-ordered conservatorship to manage the funds if the children are minors, or have some other reason for wanting to set conditions on their inheritance.

**Ways to Use Conditional Gifts**

When raising children, most parents hope to shape their children's behaviors, provide them with specific values, and help them become productive members of society. Parents often use a "carrot and stick" approach to get the desired outcomes, incentivizing approved actions with rewards and discouraging unapproved actions with punishments.

An estate plan allows parents to require or disincentivize specific actions before a child receives all or a portion of their inheritance. This type of provision is known as a conditional gift. There are two main types of conditional gifts:

- A condition precedent gift is only given upon a beneficiary meeting a stated requirement (i.e., the "carrot" approach).
- A condition subsequent gift refers to gifts that are given unconditionally but can be later revoked if a specific event transpires (i.e., the "stick" approach).

Whether a parent is trying to develop a sense of purpose in their child, discourage bad behavior, or align their child's values with theirs, any number of strings can be attached to a bequest.

Consider these less common conditions:

- Making an extra distribution for a perfect grade point average or doing volunteer work
- Setting distributions that match amounts given to charity or earned at a job
- Restricting distributions if the child is not working
- Providing seed money to start a business
- Conditioning a gift on the ability to pass a random drug test
- Incentivizing work in the family business
- Making sure a child caregiver does not place a surviving spouse in a nursing home

**Ask an Estate Planning Attorney Questions About Conditional Gifts**

Parents and children do not always see eye-to-eye—in life or in death. Each may have questions about conditional gifts in an estate plan that may be best answered by a discussion with an attorney.

For parents, as long as the conditions you set are in the best interest of your child, phrased appropriately, and do not contravene public policy or the law, the court should uphold them. On the other hand, if a condition is unclear and left open to interpretation, even the best-meaning condition can lead to a lengthy and costly court proceeding that undermines your intent.

These issues tend to be personally sensitive and legally complicated, involving not only family dynamics but also state law and court decisions. Whether you are a parent setting a conditional gift or a child receiving one, our estate planning attorneys can help you understand your rights, obligations, and options.



## Can I Leave My Spouse Out of My Estate Plan?

The relationship between spouses is special in all contexts, not the least of which is the estate planning context. In many instances, you can exclude people from your estate plan, including your parents, siblings, and adult children. But there are special protections built into the law that may help protect a spouse from being disinherited. No matter which state you live in, your surviving spouse is entitled to a specified share of what you own at your death. While state laws vary on the particulars of this protection, they are aligned on the basic premise that each spouse has a statutory claim to a portion of the deceased spouse's money, property, and income. You may have a legitimate reason for wanting to leave your spouse out of your estate plan. That reason may not even be related to bad blood. For example, your spouse may be independently wealthy and may agree that it would be better to leave your accounts and property to your children or a charity. However, unless your spouse has waived their statutory claim in a prenuptial agreement or postnuptial agreement (if legally recognized in your state), you may not be able to leave your spouse out of your estate plan entirely.

### State Laws on Disinheriting a Spouse

No state allows a spouse to be disinherited against their wishes. The amount surviving spouses are legally entitled to receive, however, varies by state and depends on the following key factors:

- How the state determines the size of a spouse's elective share. An elective share, also known as a spousal share, statutory share, or forced share, gives a surviving spouse a fixed portion—typically around one-third to one-half—of the deceased spouse's estate.
- In some states, the elective share applies only to the probate estate, which comprises accounts and property held solely in the deceased spouse's name that did not have a beneficiary designation.
- In other states, the elective share applies to the augmented estate. The augmented estate includes the property that makes up the probate estate in addition to accounts and property that have transferred outside of probate by beneficiary designation (e.g., life insurance and retirement accounts), by certain types of joint tenancy ownership, or because they are owned by the decedent's revocable trust.
- Some state laws also factor in how long the couple was married and whether they had children during their marriage.
- In some states, a surviving spouse may have to petition the court to request their elective share if it was not provided in a will or trust.
- Whether the state is a community property state. Nine states—Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin—have community property laws.
- In these states, married couples equally own all accounts and property acquired during marriage prior to a spouse's death, with some exceptions. Spouses in community property states are automatically entitled to one-half of the property covered by this rule.

### Prenuptial and Postnuptial Agreements

In some states, a prenuptial or postnuptial agreement can override spousal inheritance rights in both elective share and community property states. Prenuptial agreements (signed before a couple is married) and postnuptial agreements (signed after marriage, but not legally recognized in all states) are contracts in which each spouse gives up their rights to the other spouse's accounts and property in the event of divorce or upon their death (which includes a waiver of their right to the elective share). The provisions can be general and can waive inheritance rights to all of their spouse's accounts and property, or they can include carve outs for some accounts or property.

### Estate Planning That Does Not Require Spousal Considerations

The laws outlined above limit your ability to leave your money and property at your death to people other than your spouse. You have far more latitude to exclude your spouse, however, when it comes to selecting who manages your affairs when you are alive but cannot manage them yourself or who winds down your affairs after your death. Namely, you do not have to include your spouse in powers of attorney and healthcare directives.

- A power of attorney addresses who can act on your behalf for financial and medical matters. In some cases, a power of attorney takes effect only if you are unable to manage your affairs; at other times, it can take effect immediately. A power of attorney can be general and grant another person broad authority to handle your affairs for you, or it can describe only those specific matters you want another person to handle on your behalf.
- An advance directive denotes the types of healthcare you would like to receive if you are badly hurt or seriously injured and cannot communicate your wishes. It allows you to specify your wishes related to life-saving treatments and other end-of-life matters as well as your spiritual beliefs about death.

If your spouse is currently named as your power of attorney, you can change the designated agent on the document and give this power to a different individual. If you do not have a power of attorney and are unable to manage your affairs, your spouse could petition the court to be appointed as your guardian or conservator, and spouses have priority to be appointed to such positions under most state laws. If the court does not know your wishes, it could very well allow your spouse to act in these very important roles.

## A Word From Laura Gadsby: Caring For Aging Family Members

As our population ages, more and more individuals are finding themselves in a position where they are caring for their aging parents or other family members. This presents a number of challenges that can be both emotionally and physically demanding.



Historically, the responsibility of caring for aging family members fell primarily on their children. In many cultures, this was seen as a natural part of life and an important duty to be fulfilled. However, as society has evolved and families have become more geographically dispersed, this responsibility has become increasingly challenging. Balancing work, family, and personal life while also caring for aging parents can be overwhelming.

The impact of caring for aging parents can be significant. It can put a strain on relationships, cause financial stress, and lead to caregiver burnout. Many individuals find themselves having to make difficult decisions regarding their parents' care, such as whether to place them in a nursing home or hire a professional caregiver. These decisions can be emotionally taxing and can lead to feelings of guilt and uncertainty.

Caring for aging parents is a complex and challenging responsibility that requires dedication, compassion, and support. While the challenges can be daunting, there are individuals and resources available to help caregivers navigate this journey. By staying informed, seeking help when needed, and maintaining open communication with loved ones, caregivers can provide the best possible care for their aging parents or family members.

Alperin Law and Senior Care Connections are your partners in planning for the future and managing current concerns and issues. From ensuring good legal documents are prepared, financial planning is in motion, education regarding the resources and care options available in our community we are able to provide support that is individualized for your family's needs.

### RECIPE: HONEY CHIPOTLE CHICKEN SKEWERS



#### Ingredients

##### Chicken:

- 1 pound chicken breasts, cut into bite-sized pieces
- wood skewers (optional)

##### Honey Chipotle Mix:

- 1 1/2 tablespoon honey
- 1 chipotle pepper in adobo, minced
- 1 clove garlic, grated
- 2 tablespoons taco seasoning (I like the Siete brand)
- 1 orange, zest and juice (1-2 teaspoons zest and 1 tablespoon juice)
- 1/2 teaspoon kosher salt
- 1 tablespoon avocado oil

#### Directions

1. **Soak:** Soak the skewers in water for 15-30 minutes while you prep the chicken.
2. **Mix:** Using your hands or tongs, mix the chicken with the honey chipotle mix. It'll look saucy and messy, in a good way.
3. **Skewers:** Thread the chicken pieces onto skewers (usually I get 4 skewers with a pound of chicken).
4. **Cook Em Up:** You can cook these a number of different ways – I air fry them at 400 degrees for 10 minutes or until internal temperature reaches 165 degrees. Grilling would also be amazing! Finish with a drizzle of honey, or (yum) 2 tablespoons of melted butter mixed with honey. It's so good!