

# Trigger Events for Changing Your Estate Plan



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**Press Release Summary: An estate plan is your blueprint for where you want your property to go after you die. As part of planning your estate, you might need to write a will, create a trust, and name beneficiaries to your life insurance, among other things. Planning your estate properly ensures that your hard-earned property will be distributed in accordance with your wishes, and can help that your loved ones will be provided for.**



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Everyone should take the time to plan their estate. But even after you've created an estate plan, you cannot sit back and relax. Life does not stand still, and your circumstances are likely to change—you may have more children, acquire more assets, lose some assets, or some beneficiaries under your will may predecease you. Your children will grow up, you and your spouse may split up. Most of these life changes will occasion a change in your estate plan. You may also move to a different state—from New York to Florida, say---and different state laws might affect your tax and estate planning. And state or federal law may change, making some of your estate planning obsolete, or even counterproductive.

Changes in the value of your assets might also be a trigger for changing your will. Many people who had large portfolios in the boom years of the 1990s might have suffered drastic reductions in the value of their stock, and might want to reconsider how much of their diminished estate they want to leave to charity, for example. Or if you left stocks to one child and an equivalent value of real estate to another, those values may change drastically with fluctuations in the stock or real estate market. The law also changes—changes to the estate tax law (which may change again depending on the nation's budget deficit or even military actions) should make many people think about updating their estate plan.

It's a good idea to review your will and your inventory of assets and recipients at least once a year to make sure everything is accounted for. You may want to pick a certain day, such as your birthday or the Fourth of July, or some other date that will jog your memory, to help remind you to do this annually. Remember that this area of the law differs, often drastically, from state to state, so it's especially important to check—or have your lawyer check—how your state's law affects your estate plan.

### **Changing Your Will**

If you have relatively few changes to make, you may be able to change your existing will. An amendment to a will is called a codicil. (It sounds a bit like a cold medicine and you might think of it as a cure for an obsolete will). You can't simply cross out old provisions in your will and scribble in new ones if you want the changes to be effective; you have to formally execute a codicil, using the same formalities you used when executing the will itself. This means that you must have witnesses to your signing of the codicil, and the signatures must usually be notarized. Of course, it's vital that codicils be dated so the

court can tell that they were made after your will. Codicils should be kept with the will.

### **Writing a New Will**

Sometimes when you undergo a major life change, such as divorce, remarriage, having more children, or winning the lottery, it's a better idea to rewrite your will from scratch rather than making a lot of small changes through codicils. It's best to do this by executing a new will that states that it revokes the old one. There are two schools of thought about what to do with the old will. Some lawyers recommend that you destroy it, if possible in front of your lawyers and the witnesses of your new will. Others do not recommend destroying prior wills: A prior will can be very useful in avoiding arguments that there was undue influence in changing a will. If there are a number of wills that have similar provisions, prior wills are often very good evidence.

When you write a new will, be sure to include the date it's signed and executed, and put in a sentence that states that the new will revokes all previous wills. Otherwise, the court is likely to rule that the new one only revokes the old where the two conflict—which could cause problems. If you fail to change or rewrite your will to account for changes in your life, the courts will give as much effect to your old will as possible. Some changes may be accommodated by the law, regardless of what your will says. For example, if you have a new child and don't explicitly say you don't want her to inherit anything, then the law may give that child a share of your estate. Likewise, your spouse is entitled to a certain percentage of your estate (that varies by state), no matter what you say in your will.

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**If you'd like more information about this topic, or to schedule an interview at The Floyd Law Firm, please call (843) 238-5141 or email Brad at [bafloyd@floydflaw.com](mailto:bafloyd@floydflaw.com).**

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