

wills and the wayward child

Estate planning can help bring your black sheep back into the fold. On your terms.



Every family has a skeleton or two in the closet; a grandson with a history of substance abuse; a daughter who married someone careless with money; a ne'er-do-well brother with a string of petty crimes in his past. Maybe your family doesn't have a skeleton, so much as a black sheep or a child who marches to a different drummer. Maybe it's a child who struggles with mental illness, or one who simply doesn't live up to the expectations of a successful family. You may disagree about politics, religion, values, work ethic – any number of things – but you're still family, and that bond runs deep. These challenging family relationships make every day a balancing act, leaving you to find just the right mix of support and protection without enabling your loved one. It's these most challenging relationships that make estate planning all the more, well, challenging.

Difficult decisions

While you are alive, you can monitor your financial support to help recipients of your generosity develop a healthy relationship with money. After your death, however, your money no longer comes with loving guidance and good advice. So what choices do you have when you're struggling with family dynamics and have some estate planning decisions to make?

1 Leave them nothing

Disinheriting someone is more common than you may think, and it's not just among wealthy families who disapprove of a child's lifestyle. Some families make the decision to disinherit a successful child in order to dedicate more assets to a disabled sibling or to balance out distributions if one child received more financial support during their lifetime. Those assumptions can prove risky though, as situations can and will change in ways you can't foresee.

Of course, you don't always need a reason. If you don't want to bequeath anything to anyone, you don't have to. Many people choose to leave their assets to organizations outside the family. It's your prerogative.

But if you disinherit someone without an explanation or understanding, expect very real feelings of hurt and betrayal, which could be enough for that person to make a claim against the estate when you're

no longer in the picture. If appropriate, explain your rationale in the will so there can be no claims of attorney drafting errors or other grounds to contest the will.

Potential litigation is just one problem that may arise. It's likely that a family feud will erupt, even if the discord doesn't exactly come as a surprise. It's just difficult to accept the truth that your family has cut you off. Can you imagine the awkward family dinners that could result when some siblings inherited and others didn't? Disinheriting someone could sow resentment that may last generations.

If you ultimately decide this is the path to take, re-evaluate that decision every so often. As mentioned before, situations change. Your loved one may be making strides toward a better life – and you may decide your support can help them stay on the right track.

2 Leave them something outright

Another option is to stipulate an outright gift for your "wild child," perhaps something smaller than you would have in better circumstances, or make them the beneficiary of a small life insurance policy. The amount may be hard to determine – somewhere between large enough to avoid resentment and small enough to alleviate some of the worry that the gift will be squandered or potentially cause harm. Your professional advisors can help you find that fine line using the specifics of your estate and other beneficiaries involved.

Finding harmony

Repairing relationships isn't easy. It takes work from every side, if everyone is willing. But research suggests you can bridge the divide over time. Here are some tips.

1. Try, try again. While some conflicts may run too deep to resolve, many can be reconciled if you keep the door open, reach out with empathy time and again even if rebuffed, and get professional help, if needed.
2. Keep enough distance. Not to be contradictory, but sometimes, you both need space to cool off. Face-to-face interactions may be too emotionally fraught and counterproductive to healing. So texting or email may be the first olive branches, allowing the receiving party time to think before responding.
3. Adjust. Your adult children are just that, adults. They need independence. Some parents struggle with showing them the same respect as other adults, even when they're making decisions you don't agree with. You may not like their choices, but be honest with yourself about whether you should weigh in.

Trust in a trust

When your heart wants to share your wealth with those you love, but your head knows that outright gifts might enable them rather than help, you may want to consider a trust. If you have a legitimate need for control – such as avoiding giving a drug user carte blanche access to substantial funds – a well-structured trust may offer the flexibility you need to accomplish your estate planning goals without permanently disinheriting someone.

Certain types of trusts allow you to nominate someone responsible enough to help your beneficiary manage their inheritance. There are costs involved to

set up and maintain the trust, but that may seem a small price to pay for the comfort of knowing your loved one will get their inheritance under the right circumstances. Discretionary trusts, for example, leave the assets at the mercy of the trustee and your heir has no legal claim to any assets. But given the proper structure and a well-chosen trustee, the assets can be distributed with your intentions in mind.

Incentive trusts, on the other hand, formalize those intentions and make any distributions contingent on your child achieving certain goals or milestones, say successfully completing rehab or holding a job for more than a year. The point is stipulations can be built in to the trust to encourage more responsible behavior.

Trusts can also be structured to stagger distributions at intervals or certain ages to prevent the child in

Proving capacity

If you think your will may be challenged later, you can arrange for an outside professional who can attest to your mental health when you write a will.

question from burning through their inheritance. The hope is that your heir will eventually learn how to manage money wisely. In the meantime, you can ask the trustee to make distributions on behalf of your beneficiary to cover certain health, education and living expenses.

No matter which type of trust you select, it's important to choose a trustee who will be objective and fair; a professional may be just the thing. Often, that makes it easier for all parties; relatives and siblings won't get caught in the middle.



Celebrities have been known to have estate planning drama, too. Take a peek.

The sting. Pop singer Sting publicly declared he has every intention of spending his money and leaving nothing for his six children. The intention is really to help them become self-sufficient with a strong work ethic.

Big money, big charity. Billionaires Bill Gates and Warren Buffett plan to give away their wealth to causes they care about instead of their children. Former NYC Mayor Michael Bloomberg followed suit saying, "If you want to do something for your children and show how much you love them, the single best thing – by far – is to support organizations that will create a better world for them and their children."

Those '70s kids. Ashton Kutcher and Mila Kunis revealed they have no plans to create trusts for their children, but they will support a good business plan. The goal? To motivate their children to work hard.

Loving an imperfect person isn't always easy, and estate planning for one comes with issues of its own. The good news is that comprehensive estate planning has many tools to help a loved one thrive even after you're gone. While it may be difficult, it's not impossible. And it won't do to avoid the challenges altogether. Instead take the time to put in some careful thought and planning, with guidance from professional advisors, attorneys and accountants. 

Sources: marketwatch.com; nextavenue.org; theglobeandmail.com; Raymond James research; themckenziefirm.com; yourestatematters.com; thebluntbeancounter.com; cushingdolan.com; Journal of Financial Planning; bravotv.com

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