

## Did You Know? The Effect of Marriage and Divorce on Your Will

Until recently in Alberta, Canada, when someone got married her current Will was automatically invalidated; however, her current Will remained valid when she got divorced. Sound a little backwards? Well, lawmakers in Alberta agreed, and the law was recently changed to reflect a more logical approach. Now, when a person marries in the province, her Will remains valid and unchanged; however, when she gets divorced, her former spouse is treated as having predeceased her when the Will is probated. These basic rules are also the law in Texas, and they highlight a few issues to keep in mind when if you have recently married or divorced:

- 1. If you have gotten married since you last updated your Will, you should update your estate plan to take your new spouse into consideration.* In Texas, marriage has no effect on a current, valid Will. If you wish to appoint your new spouse as the executor of your estate or add your spouse as a beneficiary, you must change your Will to do so. If your will is not updated, your spouse's only option may be to "take against the Will," which involves filing a lawsuit to establish her right to a portion of your estate.
- 2. If you have gotten divorced since you last updated your Will, you should alter your estate plan to include new beneficiaries and fiduciaries.* In Texas, divorce does not invalidate a Will. However, if a divorced individual dies before writing a new Will, any reference to the former spouse is read as if the former spouse had predeceased the individual. If the former spouse had been the executor and/or beneficiary in the individual's Will, this could lead to some serious gaps in the estate plan. Following a divorce, it is best to meet with an estate planning opportunity to make sure that you have appointed new fiduciaries for your Powers of Attorney and chosen new executors and beneficiaries for your Will to ensure that your wishes are accurately reflected in your documents.
- 3. Any time your family experiences a major change in circumstances – a marriage, divorce, death, birth, inheritance, loss of assets, or even a move to a different state – it is a good idea to have an estate planning attorney review your planning documents.* Your estate plan should grow and mature with you.