



## OK to Disinherit a Child – Here’s How to Handle It

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### **PRACTICE AREAS**

Estate Planning

### **DEAR JONATHAN:**

I have four children, but I only want three of them to share in my estate. The fourth child I have given money to all my life, and I feel I have given her enough. If I disinherit this child, I am afraid that this might impact her relationship with my other children. Is there any way to avoid this? Is there a right way to disinherit a child?

### **JONATHAN SAYS:**

Making a decision to disinherit a child is never easy and is not something to be taken lightly. You are correct in your concern that disinheriting your daughter might impact her relationship with your other children. This is because a disinherited child often becomes angry and resentful about being left out and can blame his or her siblings for his or her misfortune.

Now that you have made the decision to disinherit your daughter, there are two things you should do to minimize any potential problems with her down the road. First of all, you need to state in your last will and testament, as well as any trust you prepare, that you are intentionally omitting your daughter as a beneficiary, i.e., intentionally disinheriting her. You don't have to give a reason why, and I suggest you don't; all you have to indicate is that you are not unmindful of your daughter, but you are intentionally omitting her as a beneficiary. By doing this, she will not be able to legally claim that she was accidentally left out as a beneficiary of your estate.

In addition, I recommend that you tell your daughter now that you are disinheriting her. This will avoid having her being surprised by this after you pass away. Further, it will give her the opportunity to express to you any feelings she has about being disinherited. This will open the door for you to have a frank conversation with her as to why you are doing what you are doing, which might stop her from blaming your other children later on.



In summary, stating in your will and any trust you create that you are intentionally disinheriting your daughter will serve to negate any legal challenge by her that she was omitted accidentally. Also, by having a conversation with your daughter about your decision to disinherit her and the reasons why will hopefully serve to defuse any potential anger she may otherwise harbor toward your other children. Good luck.

**DEAR JONATHAN:**

What is the difference between a "living trust," a "living will" and a "last will and testament?"

**JONATHAN SAYS:**

A living trust, which is also known as a "revocable trust" or an "inter vivos trust" is a trust an individual creates during their lifetime. One of the main purposes for creating a living trust is to allow a person to transfer assets into that trust while they are alive so that those assets avoid probate at that person's death. Another reason why this type of trust is created is to allow for the management of assets during the settlor's (the person who creates the trust) lifetime and after the settlor's death for the beneficiaries of the trust.

A living will, also known as an "advance directive," is a directive or declaration wherein an individual instructs physicians and those in charge of his or her medical care as to what types of medical treatment he or she wishes to receive in end of life situations, i.e., having a terminal illness or having irreversible brain damage.

A last will and testament is a document where an individual indicates, among other things, who is to receive the individual's estate upon his or her death.