

Estate & Business Law Group Articles

Don't Leave Children Unequal Shares By Mistake

Siblings do not always receive equal shares of a parent's estate. Sometimes the inequality is intentional and sometimes it is accidental. Regardless of how it happens, it can cause arguments among the children. However, there are some steps parents can take to promote family harmony.

If you intend to leave your children equal shares of your estate, don't forget to consider any money or property held jointly with a child. Property in a joint account passes outside of your estate. If you add a caregiver child to one of your bank accounts out of convenience, the account will pass to that child alone when you die. This is true for any property held in joint tenancy or any property in a POD (Pay on Death) account. If you don't intend for that child to receive a bigger share of your estate, you can add a provision in estate planning documents stating that any property passing through joint tenancy to a beneficiary will be treated as an advancement of that beneficiary's share.

On the other hand, you may intend to leave one child a different share of your estate than your other children. For example, you may want to reward a caregiver child or you may feel that a child with a disability needs a bigger share. If you do decide to favor one child over another, you should explain in detail your reasoning in your estate planning document. This may help your children understand your decision. You also need to make it clear that it is your decision and not the influence of the favored child. If your children are unhappy with how much they have received, they may try to challenge your will.

A qualified elder law attorney can help you ensure your estate is divided the way you intend.