



THE LAW OFFICES OF
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New Law Changes How Divorce Affects Beneficiary Designations

In 1951, Florida enacted a statute automatically cutting divorced spouses out of each other's wills (F.S.732.507(2)). In 1989, Florida enacted a similar statute for revocable trusts (F.S. 736.1105). But these laws did nothing to automatically eliminate a former spouse as a beneficiary on an asset like life insurance. So, if you got divorced but did not remove your former spouse as the beneficiary and then you passed away, your former spouse would receive the proceeds from the life insurance regardless of your marital status. This was also true for other non-probate assets such as annuities, pay-on-death accounts, and retirement accounts. Due to the inconsistency of the laws, many families experienced unexpected results during estate administration.

Consequently, the Florida Legislature acted, and on July 1, 2012, new F.S. 732.703 came into effect. The new statute generally nullifies, upon divorce or annulment, the designation of a former spouse as a beneficiary of non-probate assets. There are a few exceptions including state-administered retirement plans. If the provisions of the new statute apply, and a former spouse is listed as the beneficiary of one of the above-mentioned assets at the time it is administered, the asset will pass as if the former spouse predeceased the decedent. It will not pass to the former spouse. F.S. 732.703 voids the designation of a former spouse as a beneficiary of an interest in an asset that will be transferred or paid upon the death of the decedent if, first, the decedent's marriage was judicially dissolved or declared invalid before the decedent's death; and the designation was made before the dissolution or order invalidating the marriage.

The new statute is not all encompassing and only applies to specific beneficiary-designated non-probate assets. There are some assets to which the new law does not apply where a former spouse could inadvertently end up as the beneficiary. This only reinforces the importance of periodically reviewing beneficiary designations to ensure they remain consistent with and reflect your overall estate plan and ultimate goals. If you are a client enrolled in our Estate Security Plan (ESP) program we assist you by annually confirming your beneficiary designations are correct and all of your assets are coordinated with your overall intent and estate plan. For those who are not yet ESP members and would like to learn more about the program, please feel free to contact our office for further information.

The Law Offices of Hoyt & Bryan assists families in the protection of their loved ones by focusing their practice in the areas of Estate Planning, Probate and Trust Administration, Elder Law including Medicaid and VA Planning and Special Needs Planning, Pet Planning, Business Succession Planning and Real Estate. The founders, Peggy Hoyt and Randy Bryan, are both dual board certified by the Florida Bar in Wills, Trusts and Estates as well as Elder Law. Hoyt & Bryan is the only law firm in Florida

with the distinction of two attorneys with these certifications. We offer many complimentary educational workshops each week in our Learning Center at The Law Offices of Hoyt & Bryan and monthly workshops in the Auditorium of One Senior Place in Altamonte Springs. For more information please contact our office at 407-977-8080 or visit our website HoytBryan.com.