
Contesting a non-probate transfer

Posted by norton - 2011/11/28 18:08

How hard is it to contest a transfer of a life insurance beneficiary designation where the decedent had filed for divorce and prior to the completion of the divorce he died and forgot to change the beneficiary designation to his kids from a prior marriage. Is there a way to stop that transfer by petitioning the probate court that the non-probate transfer was against the decedent's wishes? What proofs would you need?

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Re:Contesting a non-probate transfer

Posted by GelRon - 2011/12/13 22:53

Probate Court will require clear and convincing evidence of the decedent's intent to change the beneficiary prior to death. Lets say the decedent did file the standard change of beneficiary form provided by the insurance company, but did create his or her own version of a change of beneficiary form or directed in his or her will that the will control and change the beneficiary designation.

If there is no other clear or convincing evidence, then you are SOL.

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