

Change Beneficiary Designations Following Divorce

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When a person gets **divorced in Michigan**, it is especially important to change beneficiary designations to remove an ex-spouse. Sometimes people mistakenly believe that they can change beneficiary designations with a last will and testament, but a beneficiary designation can only be changed directly with the financial institution or insurance company which holds the assets.

Some retirement assets, (i.e., employer-sponsored plans such as ERISA plans) have requirements that a spouse must receive his/her marital share of the asset. That means the account holder cannot leave the entire asset to the children, or anyone else. The marital share of the retirement account may vary from state to state and from case to case. For example, if a couple has been married since the husband started working, and his retirement assets are held in one account, he cannot give away more than half of the account assets because half legally belongs to the wife. It is her marital share of the retirement account. If the account holder signs a beneficiary designation leaving the entire account to someone else, the spouse would get half under law.

A spouse cannot be removed from an ERISA beneficiary designation until a divorce is final. If a spouse dies during a divorce, the soon-to-be-ex-spouse would be entitled to his/her marital share. Once a divorce is final, the account holder should change the beneficiary designations if s/he does not want to leave the asset to the ex-spouse. Sometimes parties are required to leave a share of an asset as part of the divorce agreement.