

Adoption and Inheritance in PA

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As many of you may know, November is Adoption Month. For those of you in Allegheny County, you may also know that Saturday was Adoption Day here at the Family Division of the Court of Common Pleas. Four judges presided over dozens of adoptions, and the children were celebrated with balloon artists, Princes and Princesses, caricatures, cakes, gifts, and more. In honor of Adoption Day, we are going to talk about one of the many important implications of adoption— inheritance rights.

If someone dies without leaving a will, they are said to die “intestate.” Since the decedent has not provided any means of determining who should inherit his property, default rules of intestacy are applied. Intestacy laws govern who is entitled to inherit the decedent’s property, and in what amount. In Pennsylvania, if the decedent is married and has children with the surviving spouse, the surviving spouse inherits \$30,000 plus ½ of the remaining balance of the estate. The couple’s children would be entitled to what is left. If the decedent was not married, under Pennsylvania intestacy laws, the children would inherit everything.

An adoption is said to sever the parent-child relationship between the child and his or her biological parents, meaning that the child can no longer inherit through them. Instead, the child will inherit through his or her adoptive parents. This can have important implications for families, particularly in cases of stepparent adoption. Take the following example: Pete and Pam were married and had one child, Cole. Pete dies soon after Cole is born, and Pam remarries Sam, who loves Cole like his own. If Sam dies without a will, and he has not adopted Cole, Cole has no inheritance rights under Pennsylvania law. In contrast, if Sam did adopt Cole, he would be entitled to inherit ½ of Sam’s intestate estate (minus \$30,000 off the top that Pam would take).

Notwithstanding the fact that Cole’s adoption would preclude him from inheriting through his biological father, he might still be able to inherit through his biological paternal grandparents. If Pete’s parents remained present during Cole’s life, and maintained a close relationship with him, Cole would still be entitled to inherit from them under Pennsylvania law. This exception fairly reflects the loving relationship between the biological grandparents and child, and promotes a policy of favoring the maintenance of such relationships in cases concerning stepparent adoption.

Many of these rules catch people off guard during the probate process, when it is already too late. Oftentimes, intestacy laws do not reflect the decedent’s wishes. And in many cases, estate planning is not exactly a top priority. If you need help planning your estate, or need help with an adoption related matter, contact an experienced attorney at Notaro & Associates for help today. (Blog by: Kim Seskin)