

## **What Happens If Your Spouse Dies While You're Finalizing Your Divorce?**

Being in the middle of a divorce can be a stressful and emotional experience. But if you're part of the small group of people who lose their spouse during a divorce case, things can get more complicated and confusing. Many questions arise: Does the divorce or separation case stop? And, most importantly, what is your legal status? Here are answers to some of the questions that you might have.

### **Does the Divorce Case Stop?**

The answer to this question depends on whether the divorce was finalized by a family court or not. If a final judgment has not been issued by the court, the divorce case will stop or be withdrawn. This is true even if you and your spouse had drafted a settlement agreement. Legally, you'll be considered a widow or widower since you and your spouse were still married at the time of their death.

If the judge has granted you and your partner a divorce, your marriage is legally over.

### **Will You Inherit Any of Your Spouse's Assets and Benefits If You're Considered a Current Spouse?**

Yes. If the law considers you as a current spouse, you'll still retain the survivorship and community property rights. This means that you are entitled to all the [community property](#). You may also be entitled to some of your partner's separate assets pursuant to your spouse's estate plan or intestacy laws. If your spouse had written an estate plan disinheriting you, you have the right to file litigation that seeks to invalidate the estate plan.

What's more, if your spouse died in a car or workplace accident, as the current spouse, you have the right to pursue a wrongful death lawsuit.

### **What Happens to Child Custody Proceedings?**

If the divorce has not been finalized, any child custody proceedings and court orders will be withdrawn or terminated. You will obtain sole physical, legal custody. Any visitation with your spouse's family will be subject to your consent.

### **Do You Still Need an Attorney?**

Yes, you do. Here's how a lawyer can assist you.

#### *Provide You with Emotional Support*

You'll experience feelings *of sadness* or grief after losing your spouse. A family lawyer will provide you with all the emotional support you need during this difficult time. They'll also give you tips that will help you recover *from the* shock of the loss of your spouse.

#### *Help You Draft a Solid Visitation Agreement*

Your spouse's parents can file a lawsuit and ask the court to grant them visitation rights. If you retain your family lawyer, you and your spouse's parent will be able to come up with a visitation agreement that does not threaten your custody rights.

#### *Help You Win Custody*

When your right to custody comes into question, your family attorney will help you convince the court you are the right person to stay with your child.

#### *Help you transfer assets smoothly, successfully*

When transferring the assets that you'll inherit from your spouse to your name, a family lawyer will ensure the procedures that you use comply with property transfer laws and tax regulations. The lawyer will also help you solve any legal issues that may arise after you transfer the properties.

#### *Help you fight your spouse's will*

If you disagree with your spouse's will, a family can review the will and identify loopholes that you can use to challenge its validity.

#### **Final Thought**

If you lost a spouse while in the middle of a divorce, you're probably confused and wondering what to do. Lucky for you, the guide provided above will give you an overview of what you should expect and do. Be sure to keep it in mind.

If you are planning to divorce, going through a divorce or have a family law question, don't hesitate to contact our experienced family law attorneys.

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