



WILLS

Matter

NO CHILD LEFT BEHIND?

My mother passed away some years ago, and she left everything to my father. My father just died, and I found out that he left each of my two siblings \$100,000.00, but I only got \$1.00. That does not seem fair. What can I do?

Well, that depends.

In British Columbia, the rights of children who are treated unfairly under their parent's Will are governed by the *Wills Variation Act*. Under the *Wills Variation Act*, a child may ask a Court to change a parent's Will to provide that child with a greater share of the parent's assets.

The first thing to ask is if you qualify as a "child" under the *Wills Variation Act*. The law says that a natural child or a legally adopted child may make a claim under the *Wills Variation Act* to change a parent's Will.

On the other hand, if you are a step-child, you may or may not have the legal ability to make a claim under the *Wills Variation Act* which would change your step-parent's Will. A step-child's ability to challenge an unfair inheritance in her step-parent's Will is limited, and you should talk to an experienced Estate Litigation lawyer to find out more about your possible legal options.

Finally, there is no age restriction on who qualifies as a "child" under the *Wills Variation Act*. You are still a "child" of your parent, even if you are a parent, or grand-parent, yourself. "Child" refers to the nature of your relationship, not your age.

If you are a natural or legally adopted child, and you are legally able to make a claim under the *Wills Variation Act* to change a parent's Will, that is not the end of the story. In future editions of "Wills Matter", we discuss some of the factors and considerations used by the Courts in deciding whether a parent's Will should be changed in favour of a child.

Contact *Fulton & Company's Wills & Estates Team*

if you have any questions regarding wills or estate matters.

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