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## Courtside *Legal Update*

### California Uniform Trust Decanting Act: Changing an Estate Plan



BY: ROBERT H. TYLER, ATTORNEY AT LAW  
R. TODD FRAHM, ATTORNEY AT LAW

In September 2018, the Uniform Trust Decanting Act was passed in the state of California. This act is designed to allow trustees to make modifications to the terms of a trust through the process of “decanting” the trust. As a result, these changes can be implemented without court approval or the consent of beneficiaries.

#### What is Decanting?

Decanting is an option that moves assets from an original trust to a new trust. When the assets are “poured” or “decanted” into the new trust, new terms are created to accommodate changed or changing circumstances for trustees and beneficiaries. In some cases, the benefits of decanting could include a trustee’s ability to modify an original trust’s terms, without setting up a new trust altogether.

Twenty-eight states have implemented decanting acts, with California being one of the most recent states to jump on board. Specific details are outlined in each state’s act in an effort to regulate this type of modifiable trust.

#### When is Decanting Needed?

The new law allows those placed in charge of an estate to amend sections of the estate plan based on changed circumstances. If the deceased had a detailed estate plan in place, changes could be made to address issues that arise between the time the estate plan is written and the time of death.

For example, if one of the beneficiaries develops an addiction of some sort, and there arises a concern about how large sums of inheritance money might be used (i.e. in effort to fuel that addiction), the executor of the estate can implement changes to manage how the money is distributed.

#### Talk to an Attorney

If you think that the estate of a loved one needs to be decanted, the first step is to speak with an experienced estate planning attorney. Not only will a legal professional help you determine if decanting is appropriate, but they can also guide you through the process if necessary.

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