ESTATE PLANNING & ELDER LAW CENTER

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Plan for Tomorrow, Today

5 Reasons to Avoid Joint Ownership With Kids

Estate planning mistakes happen to people on a regular basis. The end result is often is an ugly and expensive family fight in court. One of the most common estate planning mistakes people make is ***joint ownership***.

We're not talking about when a husband and wife have joint bank accounts or the title to their home is held in both of their names. This arrangement is quite common and can often be used without problems (except, perhaps in second-marriage situations).

The area where significant problems arise is when a parent adds a child's name to an asset, such as a bank account, investment, or real estate. The addition of a child's name to a bank account is often arranged for assistance with bill paying, or to as part of an estate plan to avoid probate.

But let's say that Mom adds Johnny's name as a joint owner on her bank savings accounts, brokerage account, and even the family home because she's getting up in age and needs assistance with her finances and she wants to avoid probate. When can this be a problem?

Here are the Top Five Reasons To Avoid Joint Ownership:

1. **Creditors** – Johnny may have creditors and file for bankruptcy. As joint owner of Mom's accounts, the creditor or bankruptcy estate can try to claim some or all of the assets. Adding Johnny's name to the account gave Johnny equal rights to the assets. Johnny's debts can become Mom's debts too.

2. **Divorce** – Johnny's wife can file for divorce and claims the joint assets as part of the marital estate. Or, what if Mom wants to sell her house or take out an equity line of credit? Johnny's wife may have to sign off on the sale or mortgage, even though her name isn't on the real estate.

5 Reasons to Avoid Joint Ownership With Kids (cont'd)

3. **Borrowing/Temptation**. It's pretty tempting to see Mom's savings account sitting there, with his name on it, and a trusting mother who may not be watching very carefully. "I'll pay it back," Johnny may say to himself. "She won't even know it's gone."

4. **Doesn't Have To Share** – Sadly, Mom passes away. Johnny's siblings want to discuss her estate, but Johnny says there is no estate, his name is on everything. Johnny may, or may not, be allowed keep everything. If Johnny won't share, his siblings can sue him and claim that Mom's actual intent was not for him to keep the money and his name added for convenience. Maybe Mom really wanted Johnny to keep the assets since he was the one there for her, taking care of her day in and day out. But do the siblings know that?

5. **College Aid**- Most often overlooked by Johnny is his wish to qualify his child for student aid. Financial aid eligibility is often based on assets titled in the applicant family's name. While he may not treat the jointly titled assets in his name as his, the college looking at the aid application often will.

When you add someone's name to any asset of value, you are giving up control and risking complications. It's much better to use good estate planning — including a will, revocable living trust , financial and health care powers of attorney — which can accomplish all of the same goals as joint ownership, without the risks and complications.

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