



A Family Law Newsletter from De Gennaro Law Firm

The Family Law Newsletter is provided by De Gennaro Law Firm to help individuals and families navigate through the myriad of legal concerns they will confront in both life and death.

Part 2. More Estate Planning Mistakes to Avoid.

1. Owning Property Jointly with a Child.

Elderly parents will often put their child's name on the deed to their home and their bank accounts for convenience and to avoid probate after their death. Think carefully before doing so. Here are a some bad things that can happen when you create a joint tenancy (joint ownership) with a child:

- When you put your child's name on your home or bank account, your child's creditors (including IRS) can claim an interest in this property even though your child contributed nothing towards it.
- Because property held in joint tenancy passes immediately to the survivor upon death, if you have more than one child and you put one child's name on the property as a joint tenant, you will be disinheriting your other children, even if the joint tenant understood that you wanted the property to be shared with your other children.
- What about those bank accounts? As a joint owner your child can clean out your savings and checking account without notice to you.
- If you want to mortgage or sell the property, you will need your child's signature.
- What about joint ownership in second marriages? If you are in a second marriage with children from a prior marriage and you hold your property jointly with your current spouse, when you die your current spouse becomes the sole owner of the jointly held property. And, when your spouse dies, his or her children will get the property, your children get nothing.

What you can do? You can allow your property to pass to your heirs or beneficiaries through probate, or you can consider a revocable living trust and avoid probate.

With a trust you maintain complete control over your property during your lifetime. You can protect children from a prior marriage. If you change your mind as to who gets what and when, you can amend your trust. With a trust, you can sell your property without anyone else's consent. And, because your trust would name a successor of your choosing to take over if you become physically or mentally incapacitated, you can avoid the necessity of a probate proceeding appointing a guardian and conservator.

2. Not having your estate planning documents reviewed and updated.

OK, you have taken a major step towards putting your personal and financial affairs in good order, but you will be making a big mistake if you file your documents away and never look at them again. An outdated plan can be worse than no estate plan. You should review your estate plan at least every two years. Why? Because your needs or goals may have changed, your financial situation may have changed, the law may have changed and you may need to change the people you chose to administer your estate after your death. Updating your estate plan allows you to take these changes into account and avoid unintended consequences.

Complimentary Consultation

For a Complimentary consultation, please contact the De Gennaro Law Firm at 248.350.0404, or email us at service@degennarolaw.com.



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For over forty-four years, he has taught and practiced extensively in the areas of family law, business organizations, contracts, commercial litigation, and estate planning, and conducts personalized estate planning seminars for the firm's clients and their families. He has served as a hearing officer for the Michigan Department of Civil Rights, and a mediator for the Wayne County Circuit court.

De Gennaro law firm collaborates with a network of professional firms to provide additional support services, including divorce and commercial litigation, and will work with your existing financial and tax professionals to ensure a comprehensive approach to your business, family and estate planning needs.

Visit our website for detailed information about the [legal support services](#) provided.

This newsletter and any description of current law and its application are not intended as legal advice. Readers are directed to seek individual consultation with regard to their particular concerns.