

**WAYS TO AVOID PROBATE
FOR LESS THAN \$1.00**

**JOINT TENANCY
SURVIVORSHIP MARITAL PROPERTY
PAYABLE ON DEATH ACCOUNTS
& BENEFICIARY DESIGNATED
ASSETS**

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been Board Certified as an Elder
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Law Foundation which has been
approved as the Sole Certifying
Organization for Elder Law Attorneys
by The American Bar Association**

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The property which will not be affected by your Will includes your property held in Joint Tenancy, Survivorship Marital Property, or P.O.D (payable on death) accounts.

JOINT TENANCY

The most common method to avoid Probate Court is the use of Joint Tenancy. Everybody is familiar with the term "Joint Tenancy." Most people are aware that property can be placed or "titled" in the name of two persons as Joint Tenants. However, not everyone is aware that any property so titled, whether it is your land, house, or bank account, on the death of one Joint Tenant will go directly to the surviving Joint Tenant regardless of what you provided in your Will.

Also, if you put your house into Joint Tenancy with your son, but then your son has creditor problems, 50% of your home could be lost to your son's creditors. You may want to avoid Joint Tenancy with a child.

Joint Tenancy can be used for real estate. With real estate, both parties must sign to sell the property. If a Joint Tenant will not sign, it cannot be sold or gifted away.

JOINT TENANCY "AND" OR "OR" ON THE JOINT BANK ACCOUNT

You must be very careful how you title your accounts. If your bank accounts are titled "OR", your Joint Tenant can go to the bank and draw out your money without your consent. Bank accounts, savings accounts, money market accounts, CD's and similar accounts require only one signature, if the account is labeled "OR".

Because a Joint Tenant has the power to take your money from your joint account, any creditor of a Joint Tenant can also take the entire account. Your money may be used to pay the debts of your other Joint Tenant.

You can prevent this by the use of the word "AND." This will require both parties to sign in order to withdraw any money. In this case, the creditors can only seize the amount deposited by the Joint Tenant with the credit problem.

Joint Tenancy between husband and wife in Wisconsin is now called Survivorship Marital Property.

A problem can develop if dad remarries and names his new wife as the Joint Tenant of the house he owns. When he dies, the house goes to his new wife. She can leave this house to her children when she dies, thus depriving dad's children from their inheritance. This is true even if dad has a Will leaving everything to his children. With the number of second marriages and blended families, the use of Joint Tenancy can be a real problem. You may want to avoid Joint Tenancy in a second marriage.

P.O.D - PAYABLE ON DEATH ACCOUNTS

A third method used to avoid Probate Court is to title your bank and stock brokerage accounts as P.O.D. (payable on death) accounts. P.O.D. means that your account will be Paid On your Death to the person you specify. This avoids the dangers of Joint Accounts with your children. You can have the use of your account as long as you are alive. When you die, the party you have named as the P.O.D. beneficiary on the Account receives the money without Probate Court involvement.

BENEFICIARY DESIGNATED ASSETS, INSURANCE, PENSIONS AND IRA'S

There is a fourth method to avoid Probate Court in addition to Joint Tenancies, Survivorship Marital Property, and P.O.D. accounts. These are contracts in which you have named a beneficiary. Pensions, 401Ks, and IRAs pass outside of the Will and go directly to the beneficiary that you have named. Insurance policies will be paid to whomever you designate as a beneficiary. If you name one child as beneficiary and you expect that child to pay for your funeral and share the balance with all the children, this may not happen. The child does not have to do so. Your other assets will be required to be used to pay your funeral bills. If your spouse is in a nursing home and is named as the beneficiary of your

life insurance, this could produce a result you do not desire. It could disqualify her from receiving nursing home care paid for by the Government

What Is A Certified Elder Law Attorney?

Less than 20 attorneys from the State of Wisconsin have passed the national exam out of over 800 Elder Law Attorneys that we have in the State of Wisconsin.

Attorney Timothy P. Crawford was the first Attorney to have passed the exam to become **Board Certified**. He has been **Nationally Board Certified** as an **Elder Law Attorney** by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

What Is Your Next Step?

To get more information concerning the above, call for your free conference. Please call Attorney Timothy P. Crawford at 262-634-6659. We have offices located in Brookfield, Glendale, Milwaukee, Oak Creek and Racine.

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