

TIPS FOR AVOIDING PROBATE

Probate is where you have an official “Executor” appointed by the Court and your assets get distributed according to your Will. If you want to avoid this process (and you do – because of the time it takes and the expense involved), you can designate beneficiaries for each of your assets. Beneficiary designations supersede what is in your Will.

For Bank or Investment Accounts:

You can add a beneficiary designation to any checking or savings account, investment account, CD or other bank account by naming a beneficiary. Tell the bank you want to add a “Payable on Death (POD) beneficiary” to your account. Then your account looks something like this:

John Smith and Mary Smith WROS, POD David Smith and Sally Smith

This means that John and Mary have a joint account. If one of them dies, the account is still the property of the survivor. When the second of John and Mary die, the account will be closed and the money distributed in equal shares to David and Sally as the beneficiaries. David and Sally simply have to go to the bank with a death certificate to prove that John and Mary have both died, then the bank gives them the money because they were the named beneficiaries.

For Retirement Accounts, Annuities and Life Insurance Policies:

You may already have a beneficiary named. You are often required to name someone when you open these type of accounts. You can always update or change your beneficiaries and add a back-up beneficiary, called a “contingent” beneficiary.

John Smith has a retirement account. He names his wife Mary Smith as the beneficiary. She will receive the money when John passes away. If Mary has already died before John and he forgot to update his beneficiary, the money will go to a contingent beneficiary if there is one named.

You should name both a primary beneficiary (usually a spouse if there is one) and a contingent beneficiary. Ask for forms to update your beneficiary designations to do this.

For Vehicles or anything with a Title through the BMV:

If you are single or if you have multiple titled assets (including boats, motors, trailers, motorhomes, campers, etc.) you can add a beneficiary to the Title. At the BMV Title Office, complete a form to add a “Transfer on Death (TOD) beneficiary.” You fill out the form naming your beneficiary and pay the \$16 fee. You will receive a new Title that reads:

Owner: John Smith
TOD: David Smith

When John dies, David takes the original Title and a death certificate for John to the BMV Title Office and they will re-title the vehicle in David’s name as the new owner.

For married couples with only 2 cars – you do not need to name beneficiaries. You can transfer vehicles up to \$60,000 in value to the surviving spouse with only a death certificate. No probate is required. So save the \$16 it would cost to put a TOD on the title. You will be able to change the owner even without it. Note – this is only for married couples, not parents to children.

For Personal Property/Household Items:

If the person who died left a list, then distribute those items according to the list. If there is no list, then these items simply get distributed among the family if they can agree. Unless you go through Probate, there is no one person in charge – everyone will have to agree or work it out. If you want one person officially in charge, then you will have to go through Probate and pay attorney fees, court costs, etc.

PROBATE AVOIDANCE CHECKLIST

Bank Accounts (including CD's): Be sure to add a "Payable on Death" for each account.

Bank Name

Account Number

POD Beneficiary

Investment Accounts (stocks/bonds/mutual funds): Be sure to add a beneficiary or "Payable on Death" for each account or stock.

Investment

Account Number

POD Beneficiary

Life Insurance / Annuities: Be sure to have a primary and a contingent beneficiary.

Insurance Company

Policy Number

Beneficiary

Titled Vehicles: IF YOU ARE UNMARRIED – add a “Transfer on Death” beneficiary to each Title.

Vehicle Make/Model

TOD Beneficiary listed on the Title
