

Why You Should Not Put Property In Your Child's Name As Part Of An Estate Plan

A good portion of parents with children eventually want to pass on the property they own to their children. Some might think that it is a good idea to put their real estate, home, property, or land in the name of their children while they are still alive. This type of estate plan can be easy to set up and can most likely be done without a lawyer, but it is full of dangers and risks that can pop up and bite you if you are not careful.

Titling your property with a child jointly or what is called in most states joint tenants with right of survivor-ship is an easy way to pass on property to that child. When you die, the property automatically passes to that child without having to go through the probate process. The title must simply be changed from joint ownership to that child's name after you die and the title will then be in that child's name. There are numerous reasons why doing this could be a bad idea though. One of the most common reasons that joint ownership with a child may be dangerous is that the child has an ownership interest in the property before you die and this interest could be subject to divorce proceedings, the IRS, or other creditors that your child may have. Your ex son or daughter in law or your child's creditor can assert their interest in your property while you are still alive because the property is in your child's name. Your child could be entitled to force you to sell your house if they feel that you are unable to care for yourself anymore and would be able to share the proceeds. Your child could also move their family in with you and become permanent guests.

It is much better to maintain control over the title of your house and pass your interest after you die to avoid any potential problems. This can either be done through a will or living trust. When you are in control of the property no one else that has problems can interfere with your right to live in that property while you are alive or pass it on to others when you die. Losing the right to live in your own house is a potentially steep price to for not having a proper estate plan in place. A will or living trust protects yourself and your family.

Evan Guthrie Law Firm is licensed to practice law throughout the state of South Carolina. The Evan Guthrie Law Firm practices in the areas of estate planning probate personal injury and divorce and family law. For further information visit his website at <http://www.ekglaw.com>.
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