



ELDER LAW AND ESTATE PLANNING

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Mother's probate avoidance plan could end up shortchanging daughter

Question: I have few assets, just two bank accounts. I don't own a home, I rent. I want to leave the little I have to my two daughters and their children. Both are busy professionals with families and I don't want them to have to deal with probate. To accomplish this I'm thinking of making one daughter the beneficiary of one account, the other daughter beneficiary of the other account. I'd have to equalize the accounts from time to time, but that shouldn't be a problem. Another solution I'm considering is making the eldest the death beneficiary of both accounts, and letting her give half to her sister after I'm gone. I want everything simple and straightforward for them. Your opinion?

Answer: On paper, your plan to leave each daughter a different bank account for probate avoidance purposes seems logical. In reality, it could go awry. As you say, the accounts will likely fluctuate in value. Although you intend to monitor them and keep them equal, there is no guarantee you will remain in good enough health to do that forever, and your daughters could end up with unequal inheritances. That is not what you say you want. It also could do damage to their relationship.

The plan to make

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one daughter the sole beneficiary of both accounts also has potential flaws. Suppose she is in an accident and the plaintiffs go after the money? Suppose her child needs expensive medical care she can't afford and she's forced to decide between her child's care and giving half the funds to her sister? That would be a terrible choice to have to make.

Here's an easy fix for your dilemma. Make your daughters equal beneficiaries of each account. And be sure to meet with an estate planning/elder law attorney to review your assets, how they are titled, and how they can pass once you are gone.

Joseph Karp and Jonathan Karp are Florida Elder Law and Estate Planning Attorneys. The Karp Law Firm is located in Palm Beach and St. Lucie counties. It assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration, estate litigation, and probate and elder law mediation.