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The Ohio House of Representatives
Transportation and Public Safety Committee
In Re: HB 297 Testimony

Dear Committee Members:

My name is Amanda Bridenstine and I am an estate planning and elder law attorney with the AlerStallings Law Firm in our Akron/Canton regional office located in Green, Ohio. As estate planning attorneys, we help Ohio families plan their estates to reduce the burden of estate administration for surviving family members.

In my experience, clients prefer to avoid the cumbersome probate court process. This desire to avoid probate is often rooted in their painful experiences of dealing with a parent's estate. Unnecessary legal fees were incurred because they didn't understand their options or the options didn't exist. For example, probating an estate often lasts between six months and several years. Quite often, it results in an expensive and sluggish way to wrap up an estate, given probate-related costs can approach ten percent of the value of the estate.

One tactic we employ to help our clients avoid probate is the utilization of beneficiary designations and Transfer on Death (TOD) affidavits. We advise our clients who own their motor vehicles individually to utilize a TOD affidavit, available through the Bureau of Motor Vehicles, as a means to plan for probate avoidance. Presently, our clients who own vehicles in joint ownership with rights of survivorship are unable to utilize TOD affidavits for those vehicles. A resulting problem can occur if those clients pass away in a common accident, as the vehicle would not simply pass via a Transfer on Death affidavit. Instead, it would require the beneficiaries to incur the cost and delay of handling the matter through the probate court, thus defeating the comprehensive planning our clients have done to avoid probate altogether.

In addition, a surviving spouse who has reached an elevated age may forget or have difficulty returning to the Bureau of Motor Vehicles to add a TOD affidavit after their spouse has passed away. Allowing both spouses to jointly list a TOD when they are younger and can more easily handle their affairs could mitigate this risk.

The proposed update to the law would enable Ohioans to more thoroughly plan for probate avoidance, planning which ultimately relieves burden from the shoulders of surviving loved ones. It would also free up capacity for our already crammed probate courts to work on getting other more complicated probate matters resolved. For these reasons, we believe this proposed change is a common sense enhancement to Ohio law, and we appreciate the Committee's consideration.