

Testimony for HB 297 – Jason R. Pugh 11/8/2017

Allow the joint owner of vehicle or boat to transfer title on death:

As an estate planning attorney, my job is to help clients transfer their assets to loved ones in the most efficient and cost-effective way upon their passing. The current Ohio law regarding the transfer of vehicles is problematic and limits Ohio citizens in how they plan for the transfer of their vehicles upon their passing.

In Ohio, an individual can title a motor vehicle 'Joint with Rights of Survivorship' with another owner, meaning that when one owner dies, the vehicle passes to the remaining owner automatically. For sake of this discussion we will assume that the joint owners are spouses, but this is not always the case. Ohio law also allows an owner of a vehicle to designate a transfer on death (TOD) beneficiary to vehicles when the owner passes away. However, the use of TOD is only allowed for vehicles that are owned by one individually. **Ohio law does not allow a vehicle to be jointly owned and at the same time allow that vehicle to have a transfer on death designation.**

Every other asset that I deal with for clients can be owned jointly with the ability to have a transfer to the death beneficiary. This includes bank accounts, real estate, investment accounts, etc., BUT NOT VEHICLES. By not allowing this on vehicles, Ohio citizens cannot attend to contingencies that may cause their loved ones additional time and expense to transfer vehicles after their passing. Also, the inconsistency on how vehicles can be titled versus how all other assets can be titled adds to confusion for clients and can affect the implementation of other parts of their estate plan.

Ohio law does allow a surviving spouse to transfer, without probate, as many vehicles that were owned by the deceased spouse up to a total value of \$65,000. This may be useful when the spouses die at different times and then subsequently the surviving spouse knows to go to the title office to transfer the vehicle(s) in his/her name. Also, the surviving spouse would need to know to make the vehicles transfer on death to their children or to their trust. Here are two issues that are not solved by the current law:

1. If spouses die in a common accident, there is no way to avoid probate, because if they owned the cars jointly, they were not able to name a beneficiary.
2. Spouses may die at different times, but are often aged at this point. They may not know or remember to title the vehicle appropriately or to make the vehicle TOD to a family member or their trust.

To avoid this scenario, it seems prudent to allow spouses to own vehicles jointly "with rights of survivorship" while concurrently allowing a TOD beneficiary to inherit the vehicle once they both have passed. This allows the spouses to go to the title office once to address all the contingencies that may arise upon their passing. Also, by allowing spouses to own vehicles jointly "with rights of survivorship" while also allowing them to name a TOD beneficiary, this provides consistency in their estate plan because they will be able to title their vehicles the same way they title all their other assets.

By allowing joint ownership concurrently with a TOD designation, Ohio lawmakers would be creating a more streamlined system for Ohioans to transfer vehicles to their beneficiaries upon death. I have attached "Exhibit A" which is an instruction sheet that I discuss with clients regarding disposition of their assets. **HOWEVER,** because of the current limitation of the law, I spend more time explaining how to

deal with the titling of vehicles than I do on other assets that are typically worth much more than a vehicle. This small change in the law could help Ohioans more efficiently and cost-effectively transfer vehicles upon their passing. I speak to many other estate planning attorneys who agree the current system is cumbersome. Thank you for this opportunity to make a change.

BENEFICIARY INSTRUCTIONS FOR _____ - Will Based Plan

We have helped you create a Will and all necessary Powers of Attorney (Will-based Plan). You told me that one of your goals was to avoid probate court. A Will does not avoid probate court, it only directs the court on how to distribute any property that was in your individual names when you pass away. You can avoid probate court by making sure all your property is in joint ownership and/or has beneficiary(s) named. Your Will will help us deal with any property that you forgot to create joint ownership or a beneficiary for. Hence, to avoid probate court, I advised you to do the following:

- All bank and brokerage accounts should be held jointly with your spouse in your individual names and then the beneficiary (POD) should be _____.
- With 401k, Roths, 403Bs, annuities and life insurance, one spouse will be the owner the other spouse should be the first (primary) beneficiary, and the contingent beneficiary should be _____.

*For banks, you need to personally go into the bank and make the changes.

*For other financial institutions, you will need to request and fill-out change of beneficiary forms.

√ Real Estate – You own the real estate jointly with your spouse and you signed a transfer on death affidavits making _____ the beneficiary of your real estate when you signed your Will. We will record these affidavits for you.

Vehicles - Surviving spouse can take any number of “passenger” vehicles valued up to \$65,000 total that are in the other spouse’s name without probate. **Ohio does not allow you to own vehicles jointly and at the same time make them transfer on death (TOD) to a beneficiary when the joint owners pass.** Hence, when one of you pass away, the other can then make sure all vehicles are in your name and then make them TOD to your desired beneficiary. If you have more than \$65,000 worth of vehicles, or have non-passenger titled vehicles (trailers, motorhomes, camper, ATVs) then we suggest owning these vehicles jointly with your spouse to avoid probate when one of you passes.

With a Will-based plan, the only way to avoid probate is by making all your assets jointly owned and/or with beneficiaries. It is important if anything happens to one of your joint owners or beneficiaries, that you change your ownership or beneficiary designations.

Because Ohio law does not allow joint owners to use TOD on vehicles, this needs to be explained to each client and this limits how they deal with their assets

