

Protecting a Friend's Right to Inherit by Kerry Peck, Esq.

The primary rule for leaving assets to your friends when you die is this: Put it in writing. Your casual conversation over coffee that you want your best friend to get your car or golf clubs is totally inadequate. In fact, a sure way to create conflict and confusion among family and friends after you die is to discuss a specific gift and to fail to put it in writing.

You may use a variety of methods to leave a gift or bequest to a friend. The best method is to include your specific instructions regarding the intended gift in your will or living trust. Additional methods of protecting your friends include naming the recipient of a monetary bequest the beneficiary of a life-insurance policy. This will succeed only if the beneficiary, your friend, is advised before your death of the existence and the details of the policy. Specifically, tell your friend the name of the insurance company and the value of the death benefit.

You may also provide for a friend by adding the friend's name to your bank account as a joint tenant. In bank accounts classified as joint-tenancy-with-right-of-survivorship, the surviving tenant receives the balance of the account after the death of one tenant or owner. Before taking this step, however, it is prudent to consider the risk: Your friend, the joint tenant, has complete withdrawal rights of the entire bank account even before your death.

Again, choose your friends wisely. The desire to leave a friend real estate upon your death can also be achieved by putting your friend on the title to the real property. Upon your death the real estate passes to the friend. Unlike bank accounts, however, any future transfer or sale after you add a friend will require all title-holders to sign the deed. Choose your joint tenants wisely.

Friends do not enjoy certain legal rights to the assets of a deceased partner that are enjoyed by married couples. Therefore, unmarried individuals who live together and wish to provide for each other after death must do so in an estate plan, which should be prepared by an experienced estate planner.

It is a grave mistake for one to rely upon the "goodwill" of surviving family members to implement an oral plan to provide for the transfer of assets to a longtime friend after one's death. If the relationship is important and the plan is to provide for each other, take the necessary steps to avoid future fights and consult an attorney.

Your friends are important to you during your life and if you want them to receive a gift, memento, money, real estate or assets of any type or value, make sure that the proper steps have been taken to accomplish your estate-planning goals. It is not wise to leave provisions for your friends to chance.