

## Beware the Joint Account

By Mia Poliquin Pross, Esq.  
Elder Law Offices of Kathleen Kienitz, P.A.

Published in the Sun Journal - April 13, 2019

As people age, they often decide to make one of their adult children a joint owner of their bank account so someone can help with bills and access funds in an emergency. While this seems reasonable enough, especially if you have a great deal of trust in your child, doing this can have unintended consequences.

First, the money in your account can be vulnerable to a creditor of your child. That is, it looks like it's your child's money, too. If your child gets sued, divorced, or goes bankrupt, for example, the money in your account could be at risk.

Second, adding your child to the account can look like a "gift" to that child. This could cause you a problem if you need to qualify for certain public benefits, like MaineCare coverage for long term care.

Finally, when you pass away, money in a joint account will automatically pass to the other joint owner. Thus, if you have two children and make one of them a joint owner of your bank account, you may have inadvertently cut the other child out of sharing in that asset upon your death if the child on the account declines to share it.

A better strategy is to execute a Durable Financial Power of Attorney. In that document, you can name a trusted person (or two) to be your "agent" or "attorney-in-fact" if you become incapacitated and need someone else to manage your affairs. You must only name someone you trust completely, as this is a very powerful document. You can give a copy of this document to your bank and other financial institutions. It will allow your child the access he or she needs to help you as you age, without the risk mentioned above. You can also craft a Power of Attorney document to define when your agent's power starts and ends, exactly what power your agent will have, and limit that power, if you wish.

That said, buyer beware. The generic Power of Attorney documents you can download on the internet or buy at an office supply store often do not comply with Maine law or are otherwise inadequate. It is best to seek competent legal assistance for this important estate planning tool.