

# Disadvantages of Putting Assets into a Child's Name



5600 Harrison Avenue  
Cincinnati, Ohio 45248  
**513.251.4900**  
[www.niehauslaw.com](http://www.niehauslaw.com)

Many people believe that by placing their assets in their child's name before they die, they can avoid probate court and make things simpler for their children after they die. While these are worthy goals, there are other factors to consider when making this decision, namely potential unintended results and income tax consequences.

## Unintended Results

There are several reasons not to transfer your assets to your child during your lifetime. We call them the "Four D's." Your child could: 1) go through a **divorce**; 2) have **debt** leading to attachment of assets; 3) become **disabled** and need nursing care themselves; or 4) **die** unexpectedly, at which point the asset would transfer to the child's spouse, children, or other beneficiary. Any of these circumstances could mean that money or property you put in your child's name would get transferred to a third party and not be available to cover your own needs. While these situations may seem unlikely, the risks are such that we rarely recommend this as a long-term planning technique.

## Adverse Income Tax Consequences

When you make a gift from your capital assets, your income tax basis transfers to the donee. This could cause adverse income tax consequences for the donee if the asset has considerably appreciated in value since you originally purchased it. However, if you die still owning the appreciated asset and your child inherits it, the asset's basis steps up to the fair market value on the date of your death, saving a capital gain tax upon sale.

## Need for Your Own Assets

When you consider transferring assets to your children, your highest priority should be to make sure your assets are used for your own care. For example, the need for assisted living can require substantial assets and generally is not covered by Medicaid. Therefore, your future need for your assets may increase. Maximizing the assets that are passed to your estate beneficiaries at your death is only a secondary concern in the equation.