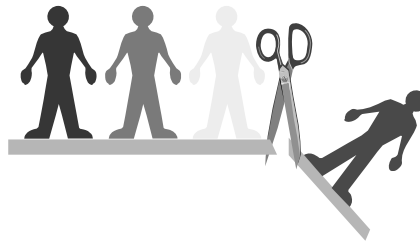


Joint Tenancy Contracts in Montana

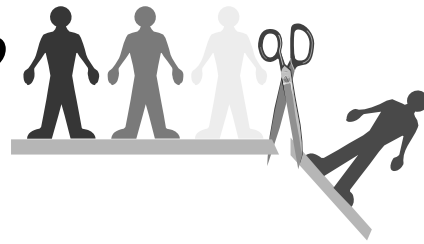


1

This presentation examines some of the consequences of a decision to title property in joint tenancy for Montana residents. It's not that joint tenancy is good or bad. There are consequences that individuals should understand before they decide to title property in joint tenancy.

JOINT TENANCY

- On death of either, survivor takes all



2

Real property such as your home can be held in joint tenancy.

Personal property such as your checking and savings accounts can also be titled in joint tenancy with right of survivor ship.

One of the features of joint tenancy is that upon the death of one the survivor or survivors take all.

JT Title reads

- **John Doe and Mary Doe as Joint Tenants with Right of Survivorship and not as Tenants in Common**

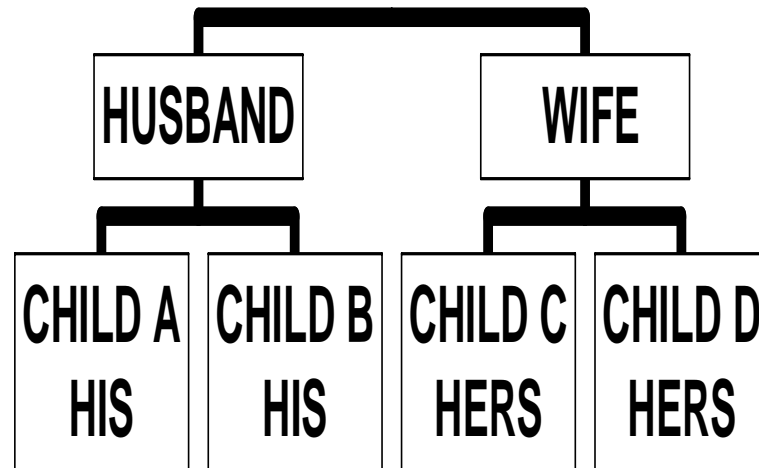


3

You will know if you have a joint tenancy if the title reads shown on the slide:

John Doe and Mary Doe as Joint tenants with right of survivorship and not as tenants in common.

JOINT TENANCY



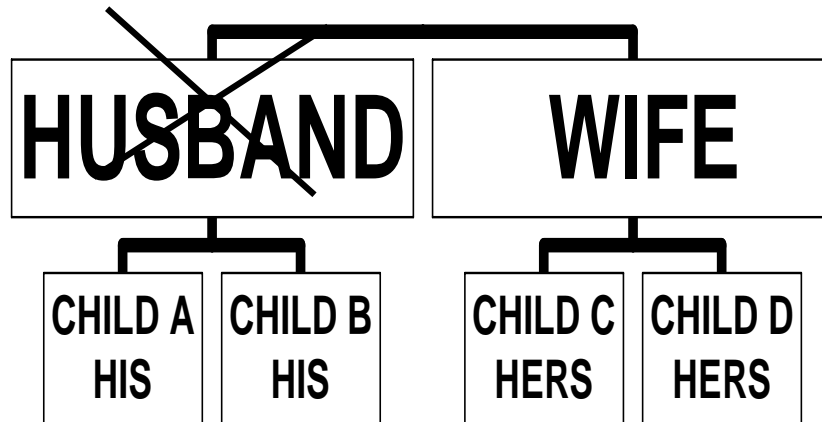
4

Let's take an example of a man and women who got married. Each two children from a prior marriage.

After they were married they placed all their property in joint tenancy with right of survivorship.

They did not have a premarital agreement.

**Husband dies: Survivors,
wife surviving joint tenant;
his children**

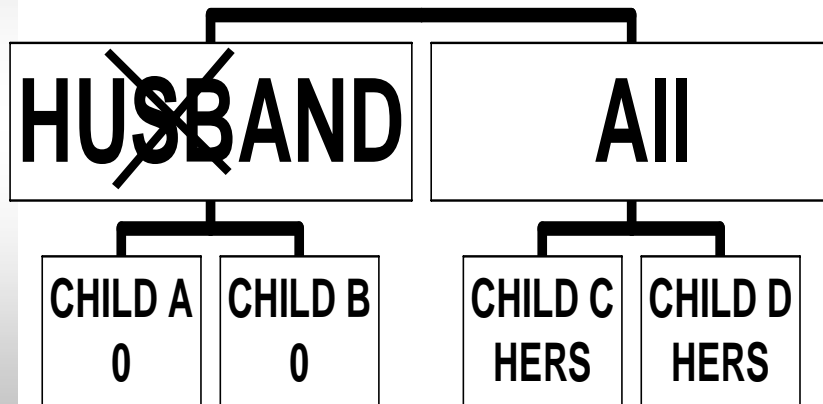


5

Let's assume that the husband dies. The survivors are his wife, his two children and her two children.

Who do you think is going to receive the joint tenancy assets?

**Husband dies: Survivors,
wife surviving joint tenant;
his children**

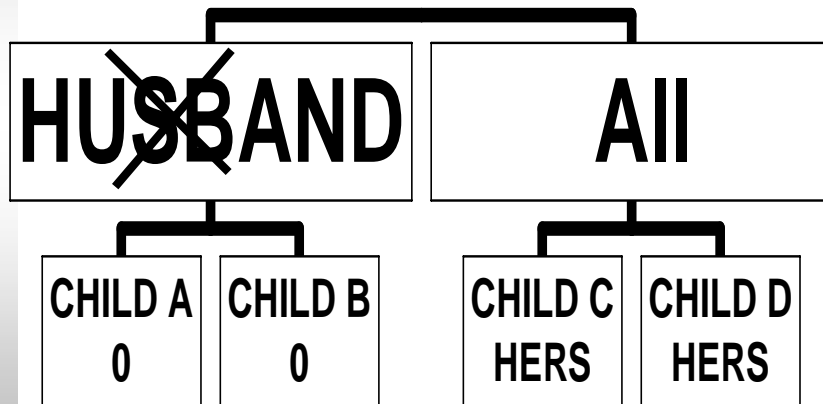


6

Because the assets were held in joint tenancy with right of survivorship they all will pass to the surviving joint tenant which in this case is the wife. The man's two children from a prior marriage are disinherited because of the joint tenancy contract.

Even if the Dad wrote a will and said that he wanted the joint tenancy assets to pass to his two children they would not receive them because of the joint tenancy contract with his wife.

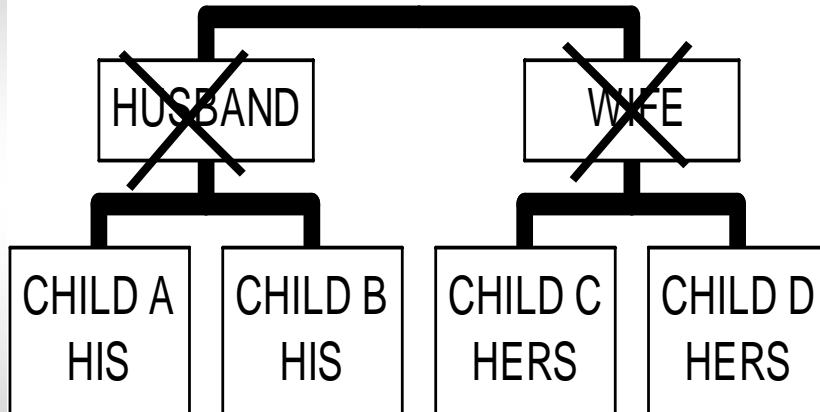
Husband writes will leaving to his children



7

Even if the Dad wrote a will and said that he wanted the joint tenancy assets to pass to his two children they would not receive them because of the joint tenancy contract with his wife.

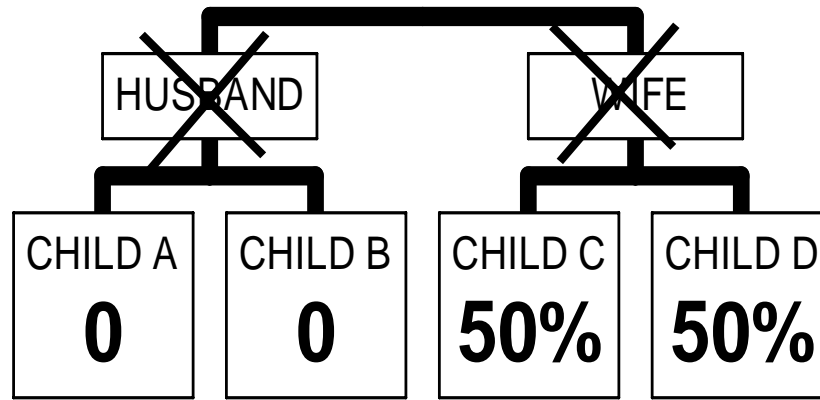
Wife dies with all property



8

Now let's assume that the wife passes away. Now where does the property pass?

Wife dies with all property



9

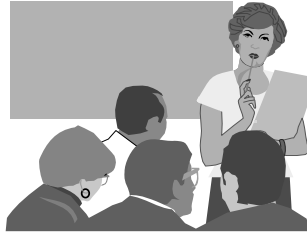
The assets are divided equally between the wife's two children from her prior marriage.

How do you think the Dad's children felt about this arrangement?

Couple: property in joint tenancy



■ **Tim**



■ **Sharon**

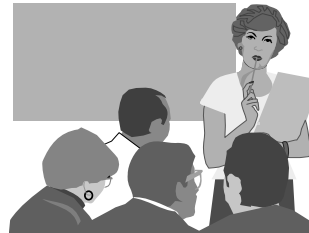
10

Next, let's examine a married couple who like many Montanans decide to place all their assets in joint tenancy with right of survivorship with one another.

Joint Tenancy



■ **Tim dies
first**

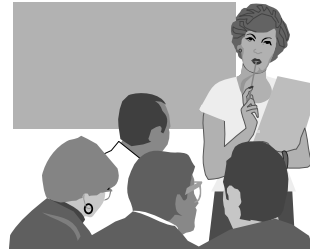


■ **Sharon dies
3rd day**

11

Let's assume that there is a automobile accident and Time dies immediately. Sharon survives until the 3rd day and then she passes away from injuries sustained in the accident. Who receives the property? If they had children the property would pass to them of course. But what if they didn't have children.

If no children



■ $\frac{1}{2}$ Tim's
parents

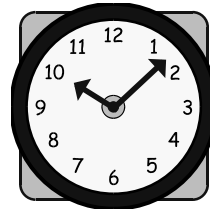
■ $\frac{1}{2}$ Sharon's
parents

12

The way the property is divided is $\frac{1}{2}$ passes to Tim's parents and $\frac{1}{2}$ passes to Sharon's parents. Why is this?

Survival Requirement Joint Tenancy

- **If neither joint tenant survives the other by 120 hours, property is split equally among their heirs**



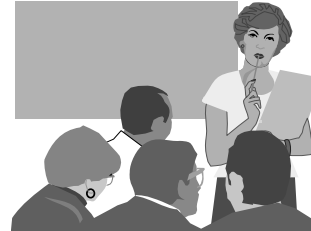
13

Montana has a survival requirement for joint tenancy property which states as indicated on the slide. You may think this is a fair division, but what if Tim's parents had gifted them farm land upon their marriage. Tim's parents will only get ½ back.

Survivor lives beyond 120 hrs



■ **Tim dies
first**



■ **Sharon dies
6th day**

14

What if Tim dies immediately in the accident? Sharon survives until the 6th day and then passes away. Who receives the property in this case?

Property Distribution-- Sharon dies on *6th* day



All to Sharon's parents

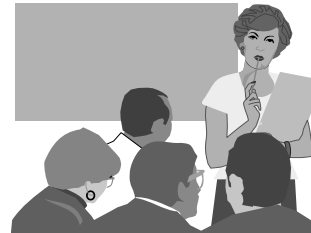
15

All the property passes to Sharon's parents because Sharon survived beyond the 120 hours (5 days). Tim's parents do not inherit any of the property.

Survivor lives beyond 120 hrs



■ **Tim dies
6th day**



■ **Sharon
dies first**

16

But what if Tim is the one who survives until the 6th day and then he passes away. Now who receives the property?

Property Distribution: Tim survives Sharon beyond 120 hours



All to Tim's parents

17

Now all the property passes to Tim's parents because Tim survived beyond the 120 hours.

Consequences of joint tenancy

- **All to Tim's parents**
- **All to Sharon's parents**
- **1/2 to Tim's parents
& 1/2 to Sharon's
parents**



18

So in this example there are consequences of Tim and Sharon's decision to title the property in joint tenancy with right of survivorship.

Dad & Son: Property in Joint Tenancy



19

Sometimes parents decide to title property in joint tenancy with one or more of their children. Let's assume that Dad has placed his ranch in joint tenancy with his son.

Both Married



■ Dad has wife



■ Son has wife

20

Dad is married and so is the son.

Truck Accident



- Dad dies first
- Son dies 3rd day

21

Let's say that there is a truck accident and Dad dies immediately. The son survives until the 3rd day and passes away. Who receives the property?

Property Distribution



■ $\frac{1}{2}$ dad's
wife



■ $\frac{1}{2}$ son's
wife

22

In this case Dad's wife receives $\frac{1}{2}$ of the property and the son's wife receives the other $\frac{1}{2}$. Hopefully they get along because now they own a ranch together.

Survivor Lives Beyond 120 Hrs

■ Dad
dies first



■ Son dies
6th day

23

**Now what happens if dad
dies first and the son doesn't
pass away until the 6th day.
What happens to the
property.**

Property Distribution-- son Dies on *6th* Day



All to son's wife

24

Because the son survived beyond the 120 hours his wife receives all the property. How do you think Mom feels?

Survivor Lives Beyond 120 Hrs



■ Dad dies 6th day ■ Son dies first

25

What happens in this scenario? The son dies first and dad survives until the 6th day but then passes away.

**Property Distribution: Dad
Survives Son Beyond 120
Hours**



All to dad's wife

26

**In this case all the property
passes to the Dad's wife.
How do you think the son's
wife feels about this
division?**

Consequences of Joint Tenancy

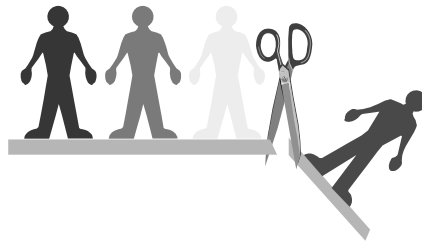
- All to dad's wife
- All to son's wife
- 1/2 to dad's wife & 1/2 to son's wife



27

So in this example there are consequences of the Dad's and Son's decision to title the property in joint tenancy with right of survivorship.

Joint Tenancy Contracts in Montana



28

In summary this presentation examined some of the consequences of a decision to title property in joint tenancy for Montana residents.

It's not that joint tenancy is good or bad. There are consequences that individuals should understand before they decide to title property in joint tenancy.