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Florida Estate Planning Starter Kit

A plain-English guide plus six printable checklists and comparisons.

Inside your free kit

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Your Florida estate plan, simplified.



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Rules and personal circumstances vary. Revised September 2026.

Your Florida Estate Plan, Simplified

A Plain-English Guide to the Five Documents Every Florida Adult Should Know About

About This Guide

What this guide covers. This plain-English guide introduces five core Florida estate planning documents available through SunStateDocs: the Last Will and Testament, Durable Power of Attorney, Health Care Surrogate designation, Living Will, and HIPAA Authorization.

Educational disclaimer. SunStateDocs is a Florida document preparation service, not a law firm, and does not provide legal advice or representation. This guide is for general educational purposes only and does not create an attorney-client relationship. Florida law changes and individual situations vary. For advice about your circumstances, consult a licensed Florida attorney.

How to use this guide. You do not need to read it cover to cover. Start with the question or document that matters most to you, then return to the other sections when you are ready. Use the final pages to identify practical next steps.

Edition: September 2026. Visit sunstatedocs.com for current information, forms, and pricing.

Section 1: Why Florida Is Different

Florida doesn't have a state estate tax or a state income tax. That surprises people. It sounds like one less thing to plan for. But Florida makes up for it with something most other states don't have: constitutional homestead protection.

Your primary residence in Florida isn't just protected from creditors in most cases. The Florida Constitution also restricts *how* you're allowed to leave it to your heirs if you have a spouse or minor children. That rule is one of the most commonly misunderstood areas of Florida estate planning, and it's a big part of why a will or plan written for another state doesn't automatically work here.

If you don't have a plan at all, Florida's intestacy law decides who gets what, and it doesn't ask what you wanted. It follows a fixed formula based on your family structure. For a lot of families, especially blended families, that formula produces a result nobody in the family actually wanted.

Fla. Const. Art. X, § 4; Fla. Stat. Ch. 732.

FLORIDA INTESTACY AT A GLANCE

Who inherits when you die without a will - Fla. Stat. Ch. 732

Family Situation	Result Under Florida Law
Spouse, no children	Spouse: 100%
Spouse + only mutual children, and spouse has no other children	Spouse: 100%
Decedent or surviving spouse has children from another relationship <i>The scenario that surprises people</i>	Spouse: 50% / Descendants: 50%
No spouse, children only	Children split equally
No spouse, no children	Parents first, then siblings

Simplified for illustration. Consult a Florida attorney for your specific situation.

Section 2: What Happens Without a Plan

Does a will avoid probate? No. This is one of the most common misunderstandings in estate planning. A will doesn't skip probate. It gives the probate court your instructions. Every asset that passes under a will still goes through Florida's court process.

What happens if I die without a will? Your estate passes under Florida's intestacy statute (Chapter 732, Florida Statutes). It's a mechanical formula based on who's related to you and how, not a reflection of your relationships or your wishes. For blended families in particular, the result can be surprising: a formula that splits an estate in ways that don't match what either spouse actually intended.

What's the actual cost of waiting? Missing key estate planning documents can mean more uncertainty, delay, expense, or court involvement for the people you leave behind. It's rarely one big decision. It's usually several small documents that are simple to put in place now and expensive to be without later.

Section 3: The Five Documents

Last Will & Testament

A will is the document that says who gets your property after you die, and it names your Personal Representative, the person responsible for carrying out your wishes and managing the process. It is also the most common document used to name a guardian for minor children.

Do I need a lawyer to write a will in Florida? No. Florida allows you to prepare your own will. What matters is that it is done correctly: in the typical signing, you sign the will in the presence of two witnesses, and both witnesses sign in your presence and in the presence of each other. Skip any part of that, and a court can find the will invalid, which is functionally the same as having no will at all.

Does a will avoid probate? No. See Section 2. A will directs probate; it does not replace it. If avoiding probate entirely is the goal, that is a conversation about other tools, and it is worth having with an attorney if your situation is more complex than one home and a straightforward family structure.

Is a handwritten will valid in Florida? Only if it is properly witnessed. Florida does not recognize handwritten or spoken wills that skip the witnessing requirement, no matter how clearly they express your wishes.

Who commonly has a will? Every Florida adult with property, minor children, or specific wishes about who receives what typically has one. A will can direct probate assets not otherwise addressed by a trust or beneficiary designation, and it is the most common place to name a guardian for minor children.

A note on beneficiary designations. Life insurance, retirement accounts, and payable-on-death accounts pass directly to whoever is named on those accounts, regardless of what your will says. Keep those designations current.

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Durable Power of Attorney

A durable power of attorney names someone (your agent) to manage your financial and legal affairs. “Durable” is the key word: it means the document keeps working even if you later become unable to make decisions yourself. Without that specific language, a power of attorney stops working at the exact moment it’s usually needed most.

What makes it “durable” in Florida? Florida law requires specific wording stating that the agent’s authority continues even after you become incapacitated. Leave that language out, and the power of attorney may terminate upon incapacity, potentially leaving your family without the authority they expected and, in some circumstances, requiring a court proceeding.

Can a bank reject my power of attorney? Yes, in certain circumstances. Florida law regulates when a financial institution may reject a power of attorney and generally requires a written reason for rejection. Problems with execution, unclear authority, or questions about the document’s validity can create delays.

Does it end at death? Yes. A power of attorney only works while you’re alive. Once you pass away, your Personal Representative takes over under your will, and the agent’s authority ends.

Who commonly has one? Any adult who wants a trusted person able to step in on financial matters (bills, accounts, property) without a court process, if they’re ever unable to handle it themselves. This isn’t just an “elderly” document: anyone 18 or older can lose the ability to act unexpectedly, and family members (even parents of adult children) have no automatic authority without one.

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Fla. Stat. Ch. 709; execution requirements at § 709.2105

Health Care Surrogate

A Health Care Surrogate designation names the person who can make medical decisions and access your health information if you're unable to make those decisions yourself. Think of it as answering one question: *who speaks for me?*

What does this actually let someone do? Talk to your doctors, see your medical records, and make treatment decisions on your behalf when you can't. You can also choose to let your surrogate access your health information even before any incapacity, which can be useful during a hospital stay.

What if my surrogate is unavailable? Florida allows you to name an alternate surrogate who can act if your first choice is unavailable, unwilling, or unable to serve. Naming a reliable alternate can help avoid uncertainty when a decision needs to be made quickly.

How is this different from my Durable Power of Attorney? A Health Care Surrogate designation is specifically designed for health care decisions and access to health information. A Durable Power of Attorney is generally used for financial, property, and other legal matters. A complete estate plan often includes both.

Who commonly has one? Every adult, not just people managing a health condition. Hospitals and doctors need to know who to talk to the moment you can't answer for yourself, at any age.

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Fla. Stat. Ch. 765; execution requirements at § 765.202

Living Will

A Living Will states your own wishes about life-prolonging treatment if you are ever in an end-stage condition, a terminal condition, or a persistent vegetative state. It is not about everyday medical decisions. It is specifically about that situation.

How is this different from a Health Care Surrogate? Your Health Care Surrogate says who decides for you. Your Living Will says what you want, specifically for end-of-life treatment. In many plans, the Living Will speaks directly to your doctors, so they can follow your written wishes without needing anyone else's approval in that specific situation.

When does it actually apply? It applies only when the circumstances specified under Florida law and in the Living Will are met. It does not apply to short-term or recoverable situations, and it does not replace a Health Care Surrogate for everyday medical decisions.

Do I need both a Living Will and a Health Care Surrogate? Most people benefit from having both. They cover different situations, and having only one can leave a gap exactly when your family needs clarity most.

Who commonly has one? Florida adults who want their own wishes about end-of-life treatment documented directly, rather than leaving that specific decision to a surrogate to interpret.

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Fla. Stat. § 765.302

HIPAA Authorization

A HIPAA Authorization is often the most misunderstood of the five documents, mostly because people assume it does the same thing as a Health Care Surrogate. It does not.

Is this the same as a Health Care Surrogate? No. A HIPAA Authorization lets someone see your medical records and health information. It does not give them authority to make decisions for you. That is what the Health Care Surrogate designation does. Think: access versus authority.

Why would I need this separately if I already have a Health Care Surrogate? Because it is useful in situations short of incapacity too. For example, it can let an adult child talk to your doctor about a diagnosis while you are still fully capable of making your own decisions but are not physically present.

Who commonly has one? Anyone who wants family members or another trusted person to be able to get information from doctors and hospitals without a separate authorization scramble during an already stressful moment.

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45 CFR § 164.508

What to Do Next

If you have made it this far, you already know more about Florida estate planning than most people do before they need it. A few honest next steps, depending on where you are:

If none of the five documents are in place yet: many Florida residents begin with a Will, Durable Power of Attorney, and Health Care Surrogate designation, since those documents address several common planning concerns. A Living Will and HIPAA Authorization address different health-care situations and help complete the plan.

If some documents exist but have not been reviewed in a while: a marriage, divorce, new child, move to Florida, or simply a few years passing are all good reasons to take another look, especially at beneficiary designations, which are easy to forget and do not update themselves.

If your situation is more complex: blended families, homestead questions, property outside Florida or the country, substantial tax concerns, or disagreements among family members are good reasons to speak with a licensed Florida attorney rather than rely only on a template.

SunStateDocs prepares Florida-specific versions of the five core documents described in this guide. Find current forms and pricing at sunstatedocs.com

ONE MORE THING: CHECK YOUR BENEFICIARIES

Your will does not control assets that pass by beneficiary designation, such as many retirement accounts, life insurance policies, and payable-on-death accounts. Review those designations periodically and after major life changes.

A Note on Sharing This Guide

This guide is free to share. If it helped you, pass it along to a friend, family member, or another Florida resident who has been putting off these conversations.

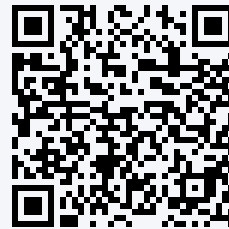
This is a general educational guide, not legal advice. SunStateDocs is a Florida document preparation service, not a law firm. For advice specific to your situation, consult a licensed Florida attorney.

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Scan to get started

The Five Core Florida Estate Planning Documents

What each document does - and the question it answers.

PLAIN ENGLISH | FLORIDA FOCUSED | EASY TO SAVE AND SHARE

01

Last Will & Testament

Who receives my property, and who carries out my wishes?

Directs probate assets, names a Personal Representative, and can nominate a guardian for minor children.

02

Durable Power of Attorney

Who can handle my financial and legal matters if I cannot?

Names an agent to act during life; durable language keeps authority effective during incapacity.

03

Health Care Surrogate

Who can make medical decisions when I cannot speak for myself?

Names a primary surrogate and an alternate for health-care decisions.

04

Living Will

What treatment do I want in an end-stage or terminal condition?

Records wishes concerning life-prolonging treatment in the circumstances described by Florida law.

05

HIPAA Authorization

Who may receive my protected health information?

Allows selected people to access medical information; it does not itself grant decision-making authority.



GET STARTED

Florida Estate Planning Checklist

Seven practical steps to organize your plan and protect the people you trust.

01 Inventory what you own and owe

List real estate, bank and investment accounts, retirement plans, insurance, debts, business interests, and important digital assets.

02 Choose your trusted decision-makers

Select a Personal Representative, financial agent, health care surrogate, alternates, and guardians for minor children when applicable.

03 Write down your wishes

Decide who should receive property, identify specific gifts and backup beneficiaries, and address care for minor children.

04 Prepare the core documents

Consider a Will, Durable Power of Attorney, Health Care Surrogate, Living Will, and HIPAA Authorization based on your needs.

05 Coordinate titles and beneficiaries

Review retirement plans, insurance, payable-on-death accounts, and jointly owned property. These assets may pass outside your will.

06 Sign, store, and share correctly

Follow applicable Florida witness and notary requirements. Store originals safely and give appropriate health-directive copies to trusted people and providers.

07 Review after major life changes

Revisit the plan after marriage, divorce, a birth or death, a move, a major diagnosis, or a significant change in assets or relationships.



How to Choose the Right People for Your Plan

Seven appointments that can matter as much as the documents themselves.

01 Personal Representative

Choose someone organized, dependable, and eligible to administer a Florida estate. Nonresident eligibility is limited, so confirm before naming them.

02 Financial agent

This person may handle money, property, contracts, and records during your life. Choose someone you trust completely who can document every action.

03 Health care surrogate

Choose someone who understands your values, can ask questions, remain calm, and speak firmly for your wishes when you cannot.

04 Alternates for key roles

Name backups for financial and health-care roles when possible. Your first choice may be unavailable, unwilling, or unable to act when needed.

05 Guardian for minor children

Consider values, parenting style, health, finances, location, family relationships, and willingness before nominating a guardian in your Will.

06 Trustee or property manager

If property may be managed for a minor or over time, choose someone with sound judgment, patience, recordkeeping skills, and the ability to follow instructions.

07 Ask before naming anyone

Discuss the role, confirm willingness, explain your priorities, and tell each person where the current documents and essential information are stored.



Where to Store Your Estate Planning Documents

What to keep, what to copy, and who should know where to find it.

01 Protect the original Will

Keep the signed paper original intact in a secure, accessible place. Tell the likely Personal Representative or custodian exactly where it is.

02 Store the Durable Power of Attorney

Protect the signed original and make sure the agent knows its location. Signed copies are generally sufficient for acceptance by third parties in Florida.

03 Give the surrogate an exact copy

Florida law requires an exact copy of the Health Care Surrogate designation to be provided to the named surrogate. Include the alternate when appropriate.

04 Share health-care instructions

Give appropriate Living Will, surrogate, and HIPAA copies to trusted caregivers, physicians, and health facilities so they are available when needed.

05 Create an asset and contact sheet

List accounts, insurance, debts, deeds, advisers, recurring bills, digital assets, and the location of supporting records. Update it regularly.

06 Keep a secure digital backup

Use encrypted scans as backups and protect access credentials. A scan is useful for reference but should not replace preservation of an original Will.

07 Replace outdated copies

When a document changes, retrieve or clearly revoke outdated copies when appropriate, distribute the current version, and update your location sheet.



When to Review Your Florida Estate Plan

Seven life changes that should prompt a fresh look at your documents and beneficiaries.

- 01 Marriage or a new partnership**
Review inheritance choices, decision-makers, beneficiary forms, account ownership, and Florida homestead considerations.
- 02 Divorce or separation**
Review the entire plan promptly. Florida law may change some spousal provisions automatically, but not every account or practical result.
- 03 A birth, adoption, or new grandchild**
Revisit guardians, gifts, beneficiary choices, and whether property for a minor should be managed through a trust or custodian.
- 04 A death, incapacity, or relationship change**
Replace anyone who can no longer serve, and reconsider people whose role or relationship has materially changed.
- 05 A move to or from Florida**
Have existing documents reviewed for the new state, including signing rules, fiduciary qualifications, health directives, and property issues.
- 06 A major health or financial change**
Review the plan after a serious diagnosis, retirement, sale of a business, inheritance, major purchase, or significant change in assets or debt.
- 07 Your documents no longer match your life**
Review periodically even without a major event. Names, addresses, assets, wishes, and trusted people can become outdated over time.



Last Will vs. Living Will

Same Word. Different Jobs.

A quick Florida comparison of what each document does - and does not do.

01 Main purpose

Last Will: directs probate property after death. Living Will: records choices about life-prolonging procedures under covered medical conditions.

02 When it operates

A Last Will is used after death through probate. A Living Will is used during life when incapacity and the required medical conditions are established.

03 Property and beneficiaries

A Last Will may name beneficiaries and make gifts of probate property. A Living Will does not distribute property or name heirs.

04 Medical treatment

A Last Will does not direct medical care. A Living Will can state choices concerning life-prolonging procedures and comfort care.

05 People named

A Last Will may nominate a Personal Representative. A Living Will may name a surrogate to carry out the declaration, but naming one is not required for validity.

06 Children and guardians

A Last Will may nominate a guardian for minor children. A Living Will concerns the maker's own medical treatment and does not nominate a child guardian.

07 Florida signing rules

Both use two witnesses, but the formalities differ. A Florida Living Will requires at least one witness who is neither a spouse nor a blood relative.

