

# FLORIDA ESTATE PLANNING DOCUMENTS



## Last Will and Testament:

- **Must go through probate.**
- The instructions for the final disposition of your assets upon death.
- Appoints a personal representative to handle the disposition of your estate.
- A second administration or probate is often required if there is real estate property in more than one state.

## Probate:

- A Probate Court proceeding where a person's estate is administered and assets distributed, all under court supervision. Probate proceedings are open to the Public.
- **Can be costly.** Estate administration can cost 5% to 6% or more of the value of the assets in the estate.
- **Can be lengthy.** Estate administration can last **nine (9) months to one year or longer**
- **Can be avoided.** Probate can be avoided using proper estate planning.
- A separate probate is often required in each state where real property is owned.
- Generally requires hiring an attorney.

## Revocable Living Trust:

- A Living Trust is a legal document that resembles a will. It contains instructions for the management of assets should the Trust Creator(s) become disabled and directions for the distribution of assets upon death.
- The Creator(s) of a trust retains total control of all assets. The Trust can be changed or revoked at any time.
- **Can avoid probate.** Also, can avoid a second administration or probate if real estate is owned in more than one state.
- **Can reduce estate taxes.** A living trust can take advantage of all of the state planning options to reduce estate taxes.
- **Can avoid guardianship** by providing for the management of assets should the Creator become incapacitated or incompetent.
- Can avoid multiple probate proceedings when property is owned in more than one state.
- Can provide for a fair distribution of assets when husband and wife are married later in life, each having separate assets and families, when combined with a valid Pre-Marital or Post-Marital Agreement.
- Can provide income for a handicapped loved one. Can protect a beneficiary's eligibility for financial assistance.
- Can prevent a child from wasting his or her inheritance. Can offer creditor protection for the beneficiary.

## Durable Power of Attorney with Health Care Surrogate & Pre-Need Guardian Provisions:

- You appoint a person to handle your financial and health care affairs for you. You provide that the power of attorney retains its full force and effect even though you later become incapacitated or unable to act.
- Contains a release to the new (April 2003) Medical Privacy Law, allowing family to get medical information.
- If created properly, use of the power of attorney **can avoid costly and lengthy guardianship** proceedings.
- Power of attorney can be created, but not given to the person chosen, until needed in the future.
- Power of attorney **should be updated** for Florida to include Homestead Provisions and the Medical Privacy Release.
- Power of attorney is by far the most important estate planning document. The document should average 10-12 pages.

## Living Will Declaration:

- A declaration stating that if a person is terminally ill, with no expectation of recovery and death is imminent, then life-prolonging procedures may be withheld or withdrawn.

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