

DAVENPORT'S FLORIDA WILLS AND ESTATE PLANNING LEGAL FORMS



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**written by attorneys
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CHAPTER 1

BOOK BASICS AND LIST OF FORMS

ESTATE PLANNING CONTROLS THINGS IF LATER ABSENT, SICK, OR DEAD

This book helps people in Florida do legal documents to help control their health care, property, money, children, funeral, and more if later they are absent, sick, or dead. Doing documents to control things later like this is called “Estate Planning”. People mostly have a right to control these matters so usually judges, doctors, and other people mostly ask: “Based on what a person wrote what did they likely want done?”

ESTATE PLANNING MOSTLY IS DOING SIMPLE THINGS IN 3 AREAS

Estate Planning is mostly doing simple things in 3 areas: Will Related, Health Care, and Giving Power. This book has 10 ready to use Florida legal forms (but almost all people use just a few of these forms).

WILL RELATED FORMS

Form 1. Will (Standard) – a Will (also called a Last Will And Testament) lets a person control things after their death like who later gets money and property, who is Executor, and if easier legal options can be used.

Form 2. Will (Guardian) – Will with part added to name a Guardian to care for a minor child under 18 if needed (like if both parents later die) and also if needed manage a child's money and property.

Form 3. Self-Proving Affidavit – often done with a Will to later help show it was properly signed so is valid.

Form 4. Tangible Personal Property List – lets a person later easily add some small gifts to their Will.

HEALTH CARE FORMS

Form 5. Designation Of Health Care Surrogate – this is often the only health care form done and it lets health care instructions be given and person be named as “Surrogate” to if needed control health care.

Form 6. Living Will – this form does serious act of saying stop most health care if later doctors think an incapacitated person's health situation has gotten very bad and more care likely won't help.

Form 7. Do Not Resuscitate Order – does serious act of saying immediately from now on do not give certain health care (like C.P.R.), and says this in a 1 page form so it can also be read fast like outside a health facility (and this book also has the POLST form which has more options on health care to not give).

GIVING POWER FORMS

Form 8. Durable Power Of Attorney – lets power over money, property, and other things be shared with a trusted person so they can do things, like use accounts, pay bills, get records, and sell items.

Form 9. Designation Of Health Care Surrogate Of Minor – lets a parent share power over health care of a child under 18 with someone helping with a child to let them quickly make decisions if needed.

Form 10. Inter Vivos Authorization And Direction of Legally Authorized Person (Bodily Remains) – lets instructions be given and person be named to control bodily remains and related things like a funeral.

BOOK ALSO HAS FORM TO TELL HELPFUL THINGS TO FAMILY AND FRIENDS

Many lawyers, banks, and financial planners give out an unofficial form to tell family and friends helpful things on property, money, debts, helpful tips, last wishes, and more. This book's Chapter 2 has such a form.

FLORIDA LAW ON ESTATE PLANNING COVERS MOST PEOPLE HERE

This book is only for Florida since Estate Planning law and legal documents do vary a lot between states. Usually a state's Estate Planning law applies if a person's primary residence is here (often called "domicile"). Many judges say "residence" occurs if a person lives in a place and has no clear plans to leave. Later plans to move don't matter till people move. People can stay under a previous state's Estate Planning laws after they move if people always plan to leave the new state. For example, people who move to a new state for months or more for travel, school, projects, or military often keep legal ties to their old state. People often do health care forms for the state a health facility is in. Most immigrants of any kind can do Estate Planning here.

ESTATE PLANNING OFTEN IS NOT VITAL AND WORTH SPENDING MUCH ON

Despite what many people think Estate Planning often does not greatly change the costs, taxes, delays, and work involved in these areas, so it often is not vital and worth spending a lot of money and energy on. Benefits seem very low for young people since only 4% of people die by age 50, and only about 0.13% of children before age 18 have both parents die. *See Social Security Tables: Felicitie Bell; Parent Mortality Census SIPP Paper #288*. Many people spend more time and money on getting some good life insurance.

BOOK IS SHORT, HAS FORMS TO QUICKLY SEE, AND USES EMPHASIS

This book is short and may read rough but can be read fast. Long books often lead to misunderstanding of the basics and skimming. This book has legal forms people can quickly see. For emphasis paragraph titles, underlining, and boxes are used. This book capitalizes some legal words like Will, Testator, and Agent but this is optional. To save space some small words are skipped and end quote marks put before punctuation.

THIS BOOK COVERS MAJOR LEGAL IDEAS AND SHOULD SUIT MOST PEOPLE

This book covers the big U.S. legal ideas on Estate Planning and major ways Florida law is a bit different. This book can't cover all legal issues but should suit most people without some strange situations or wishes. Strange situations or wishes that may need research or a lawyer include: a) strange gift wishes for property and money, b) wealth over \$5 million, c) big medical concerns like extreme age, d) property or money going to a person with a disability or special needs, and e) wish to move or hide assets to qualify for government help.

LEGAL FORMS CAN HELP MANY AND THIS BOOK HAS "STANDARD FORMS"

Legal forms are good at most things involved in Estate Planning and can make binding legal documents. Instead of legal forms a lawyer can be used for Estate Planning but this can be costly, take months of work, and they can make mistakes. In life people often pick a cheaper option. Importantly often a hospital, charity, state agency, or state legislature has made a form most people use and call the "standard form", and doctors, judges, and other people may not like to follow anything else. This book does provide mostly standard forms.

ANYONE CAN FILL IN MOST OF FORM, AND LATER TRY TO KEEP ORIGINAL

When filling out a legal form except for signatures other parts can be filled in by someone not doing the

form with good typing or handwriting (pencil is allowed). Once done often people try to keep the original and hand out copies. Some people have everyone sign multiple copies to have many copies with ink signatures.

LEGAL DOCUMENTS MAY NEED TO BE “WITNESSED” OR “NOTARIZED”

To be legally valid and enforceable some legal documents need to be “witnessed”, which is someone watching the person doing the form sign and then the witness signs too. Some documents need to be “notarized” which means a person who is a “notary” sees it signed and then uses an ink stamp and signs too. Notaries (also called a “notary public”) are at some banks, brokers, insurance agents, courts, law offices, libraries, and mailing-copying centers. Using a phonebook to find a notary willing to help is recommended. The words “subscribe” and “execute” means a person signed a document, and “acknowledgment” means a person said a signature was theirs. If a person signs a document in a foreign language it is usually binding. When filling in a form it may help to know “respectively” in a form means “in the order just stated”.

SOME LESS COMMON OR LESS USEFUL FORMS ARE NOT IN THIS BOOK

This book skips some possible but less common or less useful documents.

- A “Codicil” can modify a Will but it is easier and legally safer to just rewrite the whole Will.
- Some people do a “Pet Trust” to help a pet, but it’s easier to just give money in Will to person given a pet.
- Some people do a “Revocable Living Trust” so a Trust entity with a Trustee holds property or money during their life, usually done to after death have faster transfer of things and avoid small delays, costs, or work of others (by “avoiding probate”). But this is rarely done as it may require moving most of a person’s things to a Trust causing maybe years of hassle, mostly to avoid later small work for people happy to be getting things.
- “Childrens Trust” papers can be done (like as part of a Will) so at a death a Trust gets money or property for a minor child to manage until 18, but this is uncommon due to possible cost and hassle, since it rarely matters (as this book explains), and since most Wills already arrange other legal help for young children.
- Though separate forms exist usually organ donation in handled in drivers license or state ID paperwork.

PROBABLY DO NEW FORMS IF DIVORCE, MARRY, HAVE CHILD, OR MOVE

Divorcing, marrying, having a new child, or moving to a new state can have big legal effects, and if any of these events occur it is recommended people do a new Will and other Estate Planning papers soon. To help most states say a Will from another state is still valid if people move but this is not always certain.

NO FEDERAL, FLORIDA, OR OTHER TAX IS USUALLY OWED AT A DEATH

Usually no or little tax is owed as a result of a death, including estate, inheritance, or death taxes.

The Federal Estate And Gift Tax is the only Federal tax that may be owed due to a death, and it only starts when a tax credit is used up that covers \$13.99 million a person in 2025 and later.

Florida no longer has any estate tax or inheritance tax that may be owed upon the death of a resident. No other county, city, or other tax is imposed upon a death in Florida.

A person’s family or Executor may have to file normal income tax returns to cover the partial year a decedent lived and earned income in before they died. Life insurance payouts are usually tax free.

CHAPTER 2

TERMS, PROPERTY LAW, AND HELPFUL INFORMATION FORM

THERE ARE BASIC TERMS AND IDEAS IN ESTATE PLANNING

Some legal terms and ideas are basic to Estate Planning.

- “Estate Planning” is about people doing legal documents to control things if later absent, sick, or dead. After a document is done people are mostly free to sell or transfer property, instruct doctors, or change forms.
- A “person doing a legal document” and “doing a form” means the form is for and affects that person.
- A “Will” or “will” (this book uses upper case “W”) is a legal document done to control issues after death. The phrase “Last Will And Testament” is used since a “Testament” long ago was a small document done along with a Will to do some things.
- If no valid Will is done a person is “intestate” and then a dead person’s property and money is transferred to a spouse, children, and family as intestate law says. Some people a fine with this. This is covered later.
- A person who died is called the “decedent” or “deceased”. A person getting a Will gift is called “recipient”, “beneficiary”, or “heir” if related (they “inherit”). “Survive” or “surviving” is to be alive after someone died. The term “descendants” or “issue” usually means a person’s children and grandchildren.
- A person named in a Will to handle things after someone’s death is called an “Executor”, but if a judge has to pick someone they are called an “Administrator”. The new term “Personal Representative” covers both these things and this new term is now commonly used in most Wills in Florida.
- A person doing a Will is called “Testator” or “Will maker”. Before about 1995 a woman Testator was called a “Testatrix” and woman Executor called an “Executrix” but this is no longer often said or written.
- “Probate” is a legal process to do things after someone’s death like transfer property, handle creditors, and authorize a Guardian. Due to nice changes in law probate is now often informal, faster, and less costly.
- “Property” is either: 1) “real property” which is land and buildings (“real estate”), 2) “personal property” which is things not real property, like cash, accounts, stocks, tools, clothes, cars, jewelry, and art, or 3) “fixtures” which are things tied to real property (like fences, posts, lighting, and wired-in appliances).
- A person under 18 is usually called a “minor” and often a parent or guardian helps them do things. A minor or other person not reasonably able to make wise decisions lacks “capacity” and is “incapacitated”.
- A document giving power to someone is often called a “Power of Attorney” where the “Principal” gives power to someone called the “Agent” or “Attorney-in-Fact” (but they needn’t be a real attorney or lawyer).
- State law is the “Florida Statutes” made up of parts called sections or statutes, shown by “§” or “s” symbol. A reference to a law looks like, for example, “Fla. Stat. § 403.11”. Wills and similar are handled by the “Circuit Court” and “Probate” office. A form put in statutes by the legislature for people to use is a “statutory form”.

“ESTATE” MEANS PROPERTY OF DECEDENT AND ENTITY HOLDING THINGS

The “estate” or “probate estate” means all property and money of a dead person that at death or soon after didn’t automatically legally go to new owners. Estate is also the name for a temporary entity run by an Executor to do things after a death (it’s like a small corporation, e.g., “Estate of John Alan Smith”).

PERSON CAN ONLY GIFT IN WILL WHAT THEY OWN AT DEATH

A person can only gift by Will things they own at death so people should research what they do own. Basically by law a person usually owns all they earn as wages and salary, owns their share of income and profit tied to property they own, and owns or partly owns any things their money buys or improves. And for property with “title” documents (real estate or vehicles) or where there is a “listed owner” (like accounts) the named persons are usually the legal owners unless evidence shows special circumstances. Note, a person during life can sell property, make gifts, or transfer things even if they are named in a Will, so people should consider if they already sold or gave away property they also name in a Will gift.

THINGS OWNED IN SPECIAL WAYS MAY LIMIT GIFTING IN WILL

A person should consider if they own real estate or other property in special ownership ways which may limit gifting by Will. Laws vary in different states but some common special ways of ownership are:

- “joint tenant with right of survivorship” or similar legal options, so then property transfers automatically to the other named owners regardless of a Will, which in some states is often how spouses hold their home;
- papers say a “life estate” exists, so then if life of someone ends the other people in papers get item; and
- “Trust property” occurs if paperwork made a Trust entity and then property was transferred into it or this is set to occur, so then the Trust papers control where things put in the Trust go after someone’s death.

Plain “joint ownership” with many people owning a thing can occur if people do joint papers, all agree to it, buy with joint funds, or if a gift was to many. Wills can gift joint property, like “I give my half of boat to Ed Lu”.

NON-PROBATE TRANSFERS THAT HAPPEN AUTOMATICALLY IGNORE A WILL

It is vital to be aware some money or property of a decedent may automatically transfers on death or soon after to new owners if certain arrangements were made earlier. This is called “non-probate property”. Such things transfer as arranged even if a Will names the same items.

Examples are: a) a “designated beneficiary” form was done to name people to get an account or investment, b) transfer-on-death accounts were used, and c) real property is held by 2 people as “joint tenants with survivorship” or similar so at a death the surviving person gets things. Usually property in a Trust will ignore a Will and transfers as papers say to. Life insurance usually goes to the named beneficiary.

Trying to do non-probate transfers for all things is called “avoiding probate”, but few people try this since it can cause years of hassle, benefits are small, and often some thing is missed. When doing a Will people should consider non-probate transfers that will occur automatically on death and consider what will be left.

“HELPFUL INFORMATION” FORM CAN TELL FAMILY AND FRIENDS THINGS

People can do an unofficial “Helpful Information” form banks, lawyers, and planners suggest so family or friends after a death will know things. People can staple records or lists to this. See form on next pages.

ESTATE PLANNING HELPFUL INFORMATION

For more space attach copies of form or blank pages. Keep pages by Will or other place for Executor or family.

1. Personal Information (Name, Birthdate, Social Security number, special family details, other):

2. Real estate, vehicles, and other major tangible property (especially if people may not find them):

3. Non-tangible assets like stocks, accounts, investments, loans owed you, and business interests:

4. Possible income or insurance like pensions, retirement, disability, insurance, or contracts:

5. Debts owed by you like credit card, loan, student loan, mortgage, car loans, and accounts payable:

6. Names and information of professionals used (attorneys, accountants, brokers, doctors, others):

7. Computer passwords and helpful files, document places, and safes or safe-deposit boxes code/key:

8. Other helpful things, wishes for funeral, special requests, and last messages to family and friends:

CHAPTER 3

WILL BASICS

WILL LETS A PERSON CONTROL THINGS AFTER THEIR DEATH

A Will is a legal document done by a person to control some things after their death. A person doing a Will is called the “Testator” or “Will maker”. In Florida a Testator when signing must be at least 18 years old, of sound mind (rational with sufficient memory), and not be under duress (unfair pressure or threat).

KEEP SIGNED WILL IN SAFE PLACE IT CAN BE FOUND AFTER A DEATH

A signed Will should be kept so it is found within days of a death, like in a desk, drawer, safe, with a person, or less often a safe deposit box. It may help to tell people how to get a Will. A Will can't be filed before a death.

A WILL USUALLY MUST BE SIGNED WITH 2 WITNESSES

WILL MUST SHOW IT'S A WILL AND BE SIGNED WITH 2 WITNESSES

Under Florida law a document to be a Will usually must show it's a Will by its words, and the person doing it must sign a Will in front of at least 2 persons acting as witnesses who sign too. A Will just spoken on a video or audio recording usually has no legal effect. Florida does not let witnesses be skipped just because a Will is handwritten. This book does not cover electronic signing of Wills which is rarely used.

WITNESSES SHOULD AT LEAST AGE 18 AND OFTEN NOT GETTING WILL GIFTS

A person to witness a Will must be at least age 18. It is better but not required a witness not be very old, not live far away, and not be named in a Will to be Executor, Guardian, or similar. In Florida a Will is still valid if a witness is getting Will gifts and Will gifts to a witness usually are carried out. But many people to avoid the appearance of misconduct pick witnesses who are “disinterested” which means they or their spouse are not named to get things in a Will. Often witnesses are friends, neighbors, strangers, and family.

TESTATOR AND 2 WITNESSES SIGN THE WILL WHEN TOGETHER IN 1 ROOM

A person doing a Will should sign it with at least 2 witnesses who also sign while all are in 1 room and see others sign. People showing others an I.D. is not required but is common. A Testator need not initial the Will pages. A Testator or witness should use their full legal name unless they greatly dislike and rarely use it. Witnesses only read the 1 paragraph they sign. Most Wills have people print their names and addresses. Legally a Testator need not say anything but often they say a thing like, “My name is ____ and this Will I do voluntarily and want you 2 people to witness”. A person telling others it is their Will is “publishing a Will”. Some Testators chat a few minutes about the Will with witnesses to help show they are of sound mind.

USUALLY AT START OF WILL A PERSON NAMES ANY SPOUSE AND CHILDREN

Many Wills start with a place for a Testator to name current living spouse and living children. Natural or adopted child should be put here including any born outside marriage. People without this family can skip this or put “none”. Not doing this may invalidate a Will by indicating a person lacks sufficient memory or mental ability, or may let a spouse or child not listed ask a judge to give them a share or all of the estate by saying a Testator forgot them. After listing family in a Will a Testator is often legally free to give them nothing.

CANCELING OLD WILLS IS USUALLY NOT A PROBLEM

So a new Will is followed old Wills should be canceled (“revoked”) but this is easy and rarely a problem. A new Will usually quickly says old Wills are revoked to cancel them, and all this book’s Will forms say this. Or people can revoke an old Will by writing “void” or “cancelled” or “X” on it, preferably with a witness to this. Usually crossing out just part of a Will has no effect. Revoking a Will usually doesn’t bring back an earlier Will.

MOST WILLS SAY TO SKIP COSTLY BOND FOR EXECUTOR AND OTHERS

Most Wills helpfully say no “bond” or “surety” is required for any Executor, Guardian, or similar person. A bond is insurance from a company to insure against misconduct. A Testator usually doesn’t want a bond since the persons Testator names are trusted and them later needing a bond will cost the estate money.

A WILL NAMES AN EXECUTOR TO DO THINGS AFTER DEATH

WILL NAMES SOMEONE AS “EXECUTOR” TO DO THINGS AFTER A DEATH

Most Wills name someone as “Executor” to after a death do things like collect and give decedent’s money and property to new owners, handle decedent’s debts, and do probate. The law gives an Executor legal powers to do many things. If a Will fails to name an Executor a judge picks someone, but family may fight over who to suggest. Will gifts can go to an Executor. Importantly, the term “Personal Representative” and not Executor is now mostly used in Wills in Florida for the person doing this work, but these terms mostly mean the same thing. The same 1 person can be named to be Executor, Guardian, and other positions.

EXECUTOR CAN BE PAID AND ESTATE PAYS EXECUTOR’S COSTS

An Executor can ask to be paid for their work from estate funds, and a Florida statute says this pay is usually 3% of the value of the probate estate with some modifications. See Fla. Stat. § 733.617. For example if overall an estate is worth \$800,000 this means pay for the Executor will be \$24,000. In reality usually the Executor skips asking for pay to not owe income tax on pay and leave more estate resources to carry out the Will gifts. Expenses an Executor has like insurance, repairs, mortgages, utilities, funeral, attorneys, and probate costs are usually paid for with estate money or property. Florida law has a similar statute for pay for any probate lawyer hired but many people and all this book’s Will forms say do not follow this and instead pay them whatever the Executor and lawyer agree on. See Fla. Stat. § 733.6171.

EXECUTOR IS PERSON AT LEAST AGE 18 AND FLORIDA RESIDENT OR FAMILY

By law an Executor must be 18 or older and either a Florida resident or close family of the deceased by blood or adoption (spouse, child, parent, grandparent, brother, sister, aunt, uncle, nephew, niece, or spouse of any of these). Fla. Stat. § 733.304. A person to be Executor can’t have a felony criminal conviction, conviction for abuse or similar of the old or vulnerable, or be mentally unfit to do the job. Fla. Stat. § 733.303. Often named Executor in a Will is a spouse, adult child, distant family, or friend. A bank or lawyer also can be named as Executor if they agree in advance and are paid a high fee. Naming 2 people to be Executor at the same time is rare due to the risk of delay or arguments and since any 1 person named should be trusted. People can name a 2nd person to be Executor if the 1st person isn’t available but most skip this because it’s rarely needed and a judge can name a person. To add this kind of fallback Executor a person can add a line to a Will, like: “or if they’re reasonably unable to serve I name _____ to serve”.

CHAPTER 4

WILL GIFTS INCLUDING RESIDUE CLAUSE

MAIN USE OF A WILL IS TO SAY GIFTS TO HAPPEN AFTER DEATH

Most people use a Will mainly to say what happens to their property and money after their death, usually by writing down various Will gifts to occur when they die. Verbal and even writings about this are not usually valid if not in a written Will. A Will can control property acquired after it was signed. The very end of this Chapter covers “intestate law” which says where a person’s things go at death if no valid Will handles this.

GIFTING IN A WILL USING SIMPLE WORDS OFTEN IS BEST

Making gifts in a Will using simple words is often best, using words like “I give to” and “I gift to”. This is legally fine and avoids confusing legal words like “bequest”, “devise”, and “legacy” which few people know.

A PERSON IS MOSTLY FREE TO GIFT PROPERTY AND MONEY AS WANTED

A person is mostly free to give at death their money and property as they want. But creditors a decedent owed money, a spouse, and minor children under age 18 may have some rights which this book later covers.

IN WILL CAN DO “SPECIFIC GIFTS” TO GIFT PARTICULAR PROPERTY

Most Wills have “specific gifts” to gift particular things. Specific gifts can be any property, like “I give boat to Ed Blom” and “I give UBank account #84553873 to Sue Wu”. If a gift is not clear the law assumes all of a kind of thing is given, like “I give jewelry to Ann Po” means all jewelry. But gifting specific property can have surprises like value of items can change, or a Will gift may later fail to occur if property is not owned at death.

IN WILL CAN DO “GENERAL GIFTS” LIKE OF MONEY

Wills can do “general gifts” where what is gifted is not particular property but can be flexibly chosen, like “I give 1 of my 3 cars to Ed Po” which lets an Executor pick which car. The usual general gift is money, like “I give \$5 to Ed Hu”. Money gifts are easy to write, let equal gifts be made, and are legally safer for many reasons. To carry out money gifts an Executor usually uses accounts or sells some property in the estate.

“RESIDUE CLAUSE” IS CATCH-ALL THAT HELPFULLY GIFTS ANYTHING LEFT

Most Wills by their end have a Residue Clause to gift property or money not already gifted in a Will or used other ways, often called a “catch-all” or “left-over” clause. This is covered later in this Chapter.

PROPERTY OR MONEY IN A “JOINT GIFT” GOES TO MULTIPLE PEOPLE

The same property or money in a “joint gift” can go to many people to each get a part. For example, “I give boat and all hats to Ann Baxter and Mary Ann Swanson” means each person owns part of every item. People later can split things by agreement or an Executor can decide how to divide items. If a person in a joint gift has died their part usually is left to transfer under a Residue Clause.

GIFTS IN WILL CAN GO TO A GROUP OR CLASS OF PEOPLE

To save work a Will gift can go to a group or class of people like certain family if who is meant is later easy to determine. People can say roughly how much in total is gifted to be clearer. Examples are: “I give \$10 to each person on my 2018 soccer team” and “I give \$10 to each of my grandkids so this is about \$100 in total.”

CAN SAY IF PERSON IN GIFT DIES THEN IT GOES TO “LINEAL DESCENDANTS”

A Will gift can say it goes to a person but if they don't survive then to their “lineal descendants per stirpes”. Descendants are a person's children and grandchildren. “Per stirpes” means “by branch” and is about how to spread property and money, and it mostly tries to divide things so each family branch gets an equal share. Most Wills use “lineal descendants” language in a Residue Clause. An example shows how it works:

A Will may say: “**Clothes to Sue Wu but if they don't survive to their lineal descendants per stirpes**”, and this means if Sue Wu has died and her son Ken Wu is living and her other son Ben Wu has died but left 2 children then, legally, under the law Ken Wu himself gets 50% and Ben Wu's 2 children each get 25%.

GIFT BENEFICIARIES CAN GET PERCENTAGE RATHER THAN EQUAL SHARE

If a Will gift goes to multiple people the law assumes equal shares, but if wanted percentages can be used to make unequal gifts, like “I give boat 90% to John Smith and 10% to Mary Baker”.

AFTER A DEATH FAMILIES OFTEN LET PEOPLE TAKE ITEMS UNOFFICIALLY

Many families unofficially let people take items in ways a dead person said, showed with stickers, or put on a note, and this is often fine. If people object a judge often has a Will and law be followed fully but later people can voluntarily retransfer items. Later this book covers gifts done with a Tangible Personal Property List.

OPTIONS EXIST TO HANDLE RARE CASE PERSON IN A WILL GIFT DIES

PERSON IN WILL GIFT USUALLY MUST SURVIVE OR GIFT DOES NOT OCCUR

Though rarely an issue, many Wills like this book's Will forms say a person named in a Will gift must survive (live past) the Testator or the gift will not later occur unless gift language specifically says different. If survival isn't required like this then what occurs can be unclear (for many reasons like certain state laws). Most people if they see a person in a gift has died just re-do a Will or trust a Residue Clause to handle it.

SOME PEOPLE ADD “ALTERNATE BENEFICIARY” MAYBE FOR SPECIAL ITEMS

Some people to handle if a person named in a Will gift dies maybe put for special items an alternate beneficiary, like for example: “I give oak table to Ed Wu but if they don't survive me to Ben Fox”.

IF PERSON IN WILL GIFT DIES IT CAN GO TO “LINEAL DESCENDANTS”

A Will gift can say it goes to a person but if they don't survive the Testator then say the gift goes to the person's “lineal descendants”. Descendants are a person's children and grandchildren. Also, the term “per stirpes” is often used to say to give to each family branch equally. An example shows how this works:

A Will may say: “All clothes to Sue Wu but if they don't survive to their lineal descendants per stirpes”, and this means if Sue Wu has died and her son Ken Wu is living and her other son Ben Wu has died but left 2 children then, legally, by law Ken Wu himself gets 50% and Ben Wu's 2 children each get 25%.

HELPFUL LAWS OFTEN REQUIRE PERSON SURVIVE 120 HOURS TO GET GIFT

Laws in most states say a person dying within 120 hours of someone is seen as having died earlier, so often a Will gift to them is ignored. This avoids legal problems like need to know exact time of death and, also, having an item go through many probate legal cases over years.

RESIDUE CLAUSE GIFTING ALL LEFT IS MAIN WAY USED TO GIFT THINGS

THE “RESIDUE CLAUSE” IS CATCH-ALL THAT HELPS GIFT ANYTHING LEFT

Most Wills by their end have a Residue Clause to gift any property or money not gifted earlier in a Will or used in other ways. Things transferred this way is called the “Residue”. Many people gift most their money and property this way by intentionally not mentioning in a Will most things so the Residue Clause handles it. This avoids need to describe things and has less legal risk. After applying a Residue Clause if anything is somehow left then by law a decedent’s closest heirs-at-law get things (this is their closest family).

USUAL RESIDUE CLAUSE HAS 2 PARTS

A short 2 part Residue Clause is usual and is used in this book’s Will forms, and it has:

- 1) 1st space to name 1 or more persons to get things if they survive Testator (many name a spouse or closest family here), and if several people are named but only some survive then survivors split things, and
- 2) 2nd space to name persons to get things if all in the 1st space don’t survive (many people name next close family or friends in this space), and if a person in 2nd space has died their descendants get their share.

EXAMPLE OF 2 PART RESIDUE CLAUSE:

“RESIDUE CLAUSE: I give money and property not gifted earlier, the residue:

- a) to John Paul Doe my husband who survive me with persons just named who survive me taking the share of non-survivors, then if anything remains
- b) to Sam Doe, Beth Wu, and Greta Fisher and if any of those just named do not survive me their part goes to their lineal descendants per stirpes. ”

In this example if John Paul Doe has survived he gets all things, but if John Paul Doe hasn’t survived and also Sam Doe hasn’t survived and he left 2 daughters then those 2 daughters split the 1/3 share of his (so get 1/6 each) and the other 2 persons in the second part Beth Wu and Greta Fisher get 1/3 each.

SOME PEOPLE WRITE THE SAME THING IN BOTH PARTS OR SKIP A PART

Some people put the same names in both clause spaces or skip part of it to do certain things. For example, a person with no spouse may skip the 1st part and in 2nd part name their children (including any who died who had kids of their own) so all branches of a person’s descendants get a share.

SOME PEOPLE USE PERCENTAGES TO GIFT DIFFERENT AMOUNTS OF RESIDUE

Some people use percentages in a Residue Clause to get the exact split wanted. Many people give a large percentage to close famiy and friends, and then give a smaller percentage to less close family and friends.

SOME PEOPLE CHANGE A RESIDUE CLAUSE TO HAVE 1 PART

Some people change a Residue Clause to have just 1 part since this can gift more equally and be easier to understand. *See example in Appendix*. For example a Residue Clause can be made to say:

“The rest, residue, and remainder of my estate, and anything else, I give to _____ who survive me and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.”

MUST SUFFICIENTLY DESCRIBE NAMES AND PROPERTY IN A WILL

PUTTING NAMES OF PEOPLE OR GROUPS IN A WILL IS FAIRLY EASY

Putting names in Wills is fairly easy. A judge or Executor assume a person in a Will meant people they know, so common names are OK unless 2 friends or family have the same name. Details can help if names won't be recognized or to be friendly, like "I give \$5 to my nurse Sue Ax" and "I give \$5 to loyal pal Ed Lee". If people used a nickname "also known as" or "a/k/a" may help, like "I give \$5 to Dan Smith a/k/a Old Fishy". Gifts can go to a charity, government, or group, like "I give \$10 to The Salvation Army, "I give \$8 to Broward Co. Public Library, FL", and "I give \$5 to Wix Church, Rex, TX". People often phone to get a charity's name.

PUTTING DESCRIPTIONS OF ITEMS IN WILL GIFTS IS FAIRLY EASY

Describing items in gifts is easy since people rarely own similar items. Often fine are gifts like: "I give ax to Ed Wu" and "I give big table to Ann Fox". It's OK to gift by category or list, like: "I give tools to Sam Lee" and "I give cow, van, and harp to Sue Hill". Financial assets can use plain words, like "bank accounts" or "stocks", but details can help, like: "US Bank account ending #1511". Gifting using a location is riskier as judges will ignore Will gifts if it seems items were placed to affect gifting and no "independently significant" life reason. So, "I give Ed Po items in safe and desk" judges might not follow, but "I give Ed Po hats in attic" likely is OK.

DESCRIBING REAL PROPERTY IS HARD SO MANY USE RESIDUE OR TITLE

The easier and legally safer way to gift real property (real estate) at death is: 1) do nothing specific so it is handled by a Will Residue Clause, or 2) have a land broker or lawyer put names in a deed or a similar document so the named persons will get the real property at someone else's death.

Gifting real property other ways is hard though possible. Helpfully a Will gift of real property described by location legally does gift all land, buildings, and fixtures located there with no need to describe what's there.

It is possible to gift real property at a particular address with plain words, like a house, fixtures, and land can be fully given by something like: "I give 81 Maxwell Street, Jacksonville, Florida, to Mary Ann Brown".

People can do a blanket gift giving all of a kind of property, like, "I give all real property and fixtures in Duval County, Florida to Ann Ivy Hill" or "I give all furniture and all bank accounts to Eric Paul Carlson".

Giving real property in a Will using a "legal description" is how many lawyers do it but it can be harder. If using a legal description people must copy without mistakes the full legal description of maybe many lines into a Will with no abbreviation at all. A legal description might be found on a deed or on mortgage papers. Legal descriptions may refer to a "lot" or "blocks" on a map which is recorded in land records of a county, or it may refer to a path around the land borders with various angles, distances, and iron stakes.

CAN LEAVE SOME WILL GIFT LINES BLANK OR WRITE THING LIKE "SKIPPED"

A person writing a Will can choose to not use some gifts lines in a Will legal form, like by just leaving them blank, writing things like "SKIPPED" or "NONE" in them, or using a computer to delete some gift lines. Judges and others usually do not care about neatness or empty spaces in Wills.

MOST WILLS HAVE A "MISCELLANEOUS" PART WITH HELPFUL LANGUAGE

Most Wills have a "Miscellaneous" page with paragraphs of legal language to avoid some legal problems.

MOST WILLS SAY FAMILY MAY LATER DO “INFORMAL PROBATE”

Helpfully, most Wills say after a death the family and friends may do “informal probate” which can avoid costs and delays. Informal probate often is done with just 1 court hearing and completed in under 1 year.

MOST WILLS SAY TO SKIP COSTLY “BOND” FOR EXECUTOR AND OTHERS

Most Wills helpfully say no “bond” or “surety” is required for any Executor, Guardian, or similar person who is usually trusted. A bond is costly insurance from a company to insure against misconduct.

LATER DIVORCE OR MURDER CANCELS WILL GIFTS

Florida law says a person divorcing or murdering a Testator usually cancels all Will gifts to the person.

CONDITIONS ON WILL GIFTS ARE RARE DUE TO POSSIBLE PROBLEMS

Putting conditions on a gift, like “I give Ann Poe \$90 if she graduates college”, can cause problems like years of delay, risk of lawsuits, and big attorney’s fees. Due to all this conditions are rarely put on Will gifts.

INTESTATE LAW CONTROLS THINGS NOT COVERED BY A WILL

“INTESTATE LAW” CONTROLS THINGS NOT HANDLED BY A WILL OR SIMILAR

State “intestate law” which starts at Fla. Stat. § 732.102 says if a person dies with no valid Will or also if anything is left after Will and transfers are done then certain surviving (living) family get decedent’s money and property. Many people like intestate law and choose to skip a Will, but a Will often has benefits like avoiding costs. “Descendants” means a person’s children and grandchildren, and if someone has died who would get an intestate share often their descendants legally get that share. Intestate law says, in order:

- 1) if decedent left descendants but no surviving spouse, the closest descendants get all (usually children);
- 2) if decedent left a spouse but no surviving descendants (like children or grandchildren), spouse gets all;
- 3) if decedent left a surviving spouse and also surviving descendants who are all related to the spouse, and the surviving spouse also has no other descendants, then the spouse gets all;
- 4) if decedent left a surviving spouse and some surviving descendants not related to the spouse, or the surviving spouse has children not shared with the decedent, the spouse gets 1/2 and descendants get 1/2 ;
- 5) If decedent left no spouse or descendants, the decedent’s closest surviving family get things starting with decedent’s parents, then brothers and sisters, then cousins, and then other close family;
- 6) if none of the above persons survive then decedent’s things go to the state of Florida.

SIMPLE WILL WITH MOST GIFTING DONE BY RESIDUE CLAUSE IS OFTEN BEST

A simple Will is often best. If there is a spouse often a person does small gifts to friends and family, then in Residue Clause gifts all left to the spouse, and then names a few fallback persons in the Residue Clause.

If there is no spouse and no children often a person does a few small gifts, and then names some family or friends in the Residue Clause to get everything remaining.

A parent with young children if married to the other parent often does small gifts to friends and family, then in the Residue Clause gives mostly to a spouse, and then names children as fallbacks in the Residue Clause.

A parent with young children if not married or close to the other parent often does small gifts to friends and family, and then uses the Residue Clause to gift all remaining to the children.

CHAPTER 5

DEBT, HOMESTEAD, MARRIAGE, AND CHILD ISSUES

THIS CHAPTER COVERS CERTAIN ISSUES THAT SOME PEOPLE CAN SKIP

This Chapter covers debt, homestead, marriage, and child issues, and some people can skip parts.

DEBT ISSUES

PAYING DECEDENT'S DEBTS MAY USE UP RESOURCES AND REDUCE GIFTS

If a decedent had debts then creditors owed may ask a judge to be paid from decedent's money or property before Will gifts and certain transfers occur. How debts are paid is set by state law and a Will need not describe this. Funds to pay debts comes from decedent's money and property so may affect (in order) the Will Residue, Will general gifts, Will specific gifts, and non-probate transfers. Probate costs, health care, and funeral debts by law have some priority to be paid first. For certain reasons often not all debts are paid. People should consider how paying debts may use up money or property, leaving less to carry out Will gifts. A spouse and family usually aren't liable for decedent's debts unless they actually guaranteed or co-signed.

"FAMILY RIGHTS" MAY BE USED TO GET FAMILY THINGS BEFORE DEBTS

Most states have "Family Rights" a decedent's surviving spouse or young children can claim, and this helpfully may let them get things even before most debts of decedent are paid and even before Will gifts.

First, in the U.S. usually a surviving spouse or young children can use the "Exempt Property" right to get some of a decedent's clothing, furniture, tools, vehicles, and any personal items for family to use to live. In Florida the Exempt Property amount is set of \$20,000 of these things. Often family can keep even more items by claiming a decedent gave them to the family or hiding them from an Executor. Fla. Stat. § 732.402

Second, in the U.S. a surviving spouse or young children usually can use the "Family Allowance" right to get some of a decedent's money and property to live on for 1 year or so. In Florida if requested usually \$18,000 a year is given from decedent's money and property, or a monthly amount can be paid. Fla. Stat. § 732.403.

Clearly if a spouse or children use these rights this leaves less of decedent's things to do Will gifts or other transfers so may interfere with these. So family don't bother to use Family Rights often a person gives mostly to a spouse or young children (like over 50% and any family house). Some people may want to do research.

SECURED DEBTS LIKE MORTGAGE OR VEHICLE LIEN ARE NOT PAID OFF

Laws in most states say do not pay off secured debts on property of a decedent like a house mortgage or vehicle lien even if other debts are paid by Executor or in probate. This avoids using up estate resources on paying these usually big debts and leaves more estate resources to carry out Will gifts and other transfers. Due to this, all this book's Will forms say do not usually pay off any secured debts. But if a Testator wants they can 1) put in a Will an order to pay (like, "Executor pay off the house mortgage"), or 2) gift enough money to pay off a secured debt to the person getting the property. Most banks let new owners keep paying monthly a secured debt like a mortgage or lien on property that people got upon someone's death.

HOMESTEAD ISSUES

A DECEDENT'S SPOUSE OR MINOR CHILDREN MAY HAVE RIGHTS TO HOUSE

Many states give a surviving spouse or young children some right to get (or stay in for years) a home owned by a decedent under what is called a "Homestead Law". Florida law and Constitution says a house (or mobile home) owned and lived in and 1/2 acre in city (or 160 acres in the country) go to a spouse or minor children no matter what a Will says. Fla. Stat. § 732.401(1) . If a spouse and children both are there a spouse gets the house for life (a "life estate") and children get "remainder" when the spouse dies (or spouse and children can sell and split it). If children are adults a Will can give a spouse all of a house, but if a Will forgets to do this the adult children get a remainder. But homestead rights don't overrule special joint ownership, so if a house is owned by 2 people then the surviving person usually gets the property when the other person dies.

MARRIAGE ISSUES

FLORIDA LIKE MOST STATES HAS "SEPARATE PROPERTY LAW" FOR SPOUSES

Florida like most states uses the "Separate Property Law" system that says a married person mostly owns their money and property separately and not jointly with a spouse. Due to this a married person is usually free to sell during life or gift by Will most of their money or property and not have to involve a spouse. But joint ownership by 2 spouses and not separate ownership can arise in other ways, like by agreement, both spouses paying part of the purchase price, if a gift was to both spouses, or if paperwork calls it joint.

"COMMUNITY PROPERTY" LAW APPLIES IN OTHER STATES FOR SPOUSES

There are 9 states that use "Community Property" law for spouses (Arizona, California, Louisiana, Idaho, Nevada, New Mexico, Texas, Washington, and Wisconsin). This says property or money is owned 50/50 by spouses as Community Property if it's from mental or physical work while married (like wages or salary) or if items are bought or improved with Community Property. People moving from these states may face issues.

"JOINT WILL" OR SIMILAR BOTH SPOUSES SIGN IS NOT RECOMMENDED

Some couples who worry sign 1 "Joint Will" or "Contract To Make A Will" done by a lawyer which says spouses give all to the other if they die first, then says last living spouse gives to all children equally, and usually says a spouse may not change this. This is restrictive and banned in some states and is rarely used.

SPOUSE CAN CLAIM "ELECTIVE SHARE" INSTEAD OF THEM FOLLOWING WILL

A spouse if unhappy with what a Will and other transfers may give them has a right to instead choose (elect) an "Elective Share" of most of a dead spouse's property and money rather than take what a Will says. To avoid this both spouses have to sign a pre-nuptial or a post-nuptial agreement written by a lawyer which can be costly. Most states have this law for a spouse for fairness, so a spouse has resources to live on, and so early divorce isn't the only way to be financially secure. Florida law sets the Elective Share at 30% of a decedent's money and property with certain adjustments. To help the surviving spouse the Elective Share can even cover things decedent gave away recently or things they controlled but didn't actually legally own. Clearly if a spouse uses the Elective Share to get 30% of decedent's things this may take so much property and money of a decedent that it may interfere with other transfers. To avoid a spouse wanting to use the Elective Share most people give over 1/2 their things to any spouse of theirs (including any family house).

CHILD ISSUES

WILL CAN NAME “GUARDIAN OF THE PERSON” TO CARE FOR YOUNG CHILD

If a parent dies with a child under age 18 then any other natural or adopted parent (but not a step-parent) almost always automatically gets control of the child's care (including health care, school, and home issues). This won't occur only if the other parent will be unavailable a long time or is proven unfit in court which is rare. But just in case it is later needed (like later both parents die) a Will often names a healthy willing relative or friend as “Guardian of the Person” to give this care for a young child.

NAMING GUARDIANS RARELY MATTERS

A child under age 18 having parents die is rare so parents shouldn't worry that much about Guardians for children. A good U.S. study found of people under age 18 just 2.78% had lost 1 parent and just 0.13% had lost 2 parents (so 99.87% will not lose both parents by age 18). *Parent Mortality Census SIPP Paper #288.*

WILL CAN NAME “GUARDIAN OF THE PROPERTY” FOR CHILD'S PROPERTY

Since a child till age 18 can't legally control property and money a Will often names a person to have the job of managing a young child's property and money. Most Florida people and legal documents call this a “Guardian of the Property”, though other states often call this a “Guardian of the Estate” or “Conservator”. This person decides each year how to use up property and money on a child's costs (like school, living, and health care) till often age 18 when all left goes to a child. A judge often holds a yearly hearing on spending. A person paying stuff for a child can ask to be paid back from a child's resources. As a nice 2nd option most Wills say an Executor may name a person as “Custodian” (including themselves) to manage a child's money and property under the “Uniform Transfers To Minors Act” law and this may avoid a lot of work and costs.

MOST WILLS NAME 1 PERSON TO CARE FOR CHILD AND THEIR PROPERTY

This book's Will forms and most parents name the same 1 person to be Guardian of the Person caring for a child and Guardian of the Property caring for a child's property and money. People can change a Will to name different people for the 2 positions, but this is rarely worth it since parents dying is rare, rarely do children get much, a person smart enough to handle a child often can handle money, and naming different people can lead to arguments and lawsuits between Guardians. Will gifts can go to someone named to be a Guardian.

PERSON TO HELP A CHILD MUST BE AT LEAST 18 AND RESIDENT OR FAMILY

To serve as Guardian a person must be at least age 18 and a Florida resident or close family of a child (parent, grandparent, brother, sister, uncle, aunt, niece, nephew, or spouse of these). Fla. Stat. § 744.309. They also can't have felony criminal conviction, conviction for abuse or neglect or similar, or be clearly unfit. The choice for a Guardian by the last living parent is usually followed. If no Will names a person or they're unavailable a judge can pick someone, but family may argue about who to suggest. Naming 2 people for 1 position to act at the same time is rare since 2 persons may argue and any 1 person named should be smart enough to act alone. In rare cases a married couple is named for the same position but then there can be problems if they divorce or disagree. Some Wills add a 2nd person to serve if the 1st person is unavailable, like: “or if they are later unable to serve I name ____ to serve”). But most people skip naming a fallback person since it is rarely needed, if a problem is seen a Will can be redone, and a judge can always pick someone.

CHAPTER 6

BASIC IDEAS ABOUT CONTROLLING HEALTH CARE

BASIC IDEAS HELP PEOPLE UNDERSTAND CONTROLLING HEALTH CARE

Some ideas help people understand health care forms.

■ By law people control their own health care by telling doctors and others what they want unless they're "incapacitated" by insufficient ability to a) communicate verbally or by notes, b) be rational, or c) be conscious. In actuality most people keep control of health care till death or till no big treatment options remain, but people may worry they may be incapacitated a long time so they want to do health care forms.

■ If an adult 18 or older becomes incapacitated the adult's closest family like spouse or adult child can make emergency decisions but they usually must then rush to a judge to get further power if no legal document gives them full power over health care.

■ In forms a person can be named to have control of health care if needed who is often called "Agent". Forms about control of health care if people are later incapacitated are often called "Advanced Directives".

■ In forms people can give written health care instructions doctors, family, Agent, and others must obey.

■ Parents do have power over health care of their child under age 18.

■ Some **young married people** give a spouse power over health care in case they are ever incapacitated. Some **young adults** give this power to parents. **Young people** are less often ill so often skip doing things.

■ Pain relief like pain drugs and comfort care is usually given even if forms say to stop or limit other care.

■ Most people only do a single long health care form that has a spot to give someone power over health care and a spot for instructions (this is often called a "Health Care Power of Attorney" though names vary).

■ For the rare times stopping health care ("pulling the plug") likely matters due to extreme illness or old age:

-- most people do nothing special and trust family or Agent for health care to decide on stopping care based on many factors like pain, cost, hassle, suffering and time of treatment, beliefs, and chances of recovery;

-- a few people do a serious document to say to stop most health care if later doctors decide a person is incapacitated, has an irrevocable terminal condition or likely won't regain good consciousness, and more medical care won't help (this document to stop care is often called a "Living Will" though names vary);

-- a few people do a serious document to starting immediately block certain health care (and this often is called a "Do-Not-Resuscitate" if about resuscitation or called a "Physician's Order" if about many treatments).

CHAPTER 7

FORM 1: WILL (STANDARD)

FORM 1 IS A STANDARD WILL THAT IS FLEXIBLE AND WITHOUT A GUARDIAN

Form 1 is a standard Will that is flexible and lets a person control many different things after their death. This form has no part about a Guardian so this form is for a person with no child under age 18. The term “Testament” is used in a Will for traditional reasons, and the person doing a Will is called the “Testator”.

THIS FORM IS A WILL WITH SEVERAL PARTS

The form starts with lines for a person to put their name (a full legal name is best but not required) and place of main residence (most put a county but some put a city). The Will is still valid if people later move.

Paragraph 1, “List Of Spouse And Children”, lets a person write the names of any living spouse and children they have, or if none maybe write “none”. This helps show a Testator has enough mental ability and memory to do a Will. Not listing a living spouse or child here can let an omitted person ask a judge to give them a share or all of a Testator’s property and money by claiming they were accidentally forgotten.

Paragraph 2, “Gifts”, has many spaces to make either specific gifts of particular property or general gifts like of money. People can delete, copy and paste to add more, or leave blank these gift lines.

Paragraph 3, “Separate Writings”, says to follow any separate writings done apart from the Will that gifts tangible personal property in manner allowed by state law.

Paragraph 4, “Residue”, has a Residue Clause to say property and money left after other Will parts and other transfers is to be distributed in the way a person wrote in the blank parts of this paragraph.

Paragraph 5, “Administration”, names a person to be Personal Representative to do things after a person’s death (in the past the similar term “Executor” was usually used in Florida for the person doing this).

Paragraph 6, “Miscellaneous”, has paragraphs of legal language to help avoid certain legal issues.

Last is paragraphs for Testator and 2 witnesses to date, sign, print names, and print addresses they live.

USUAL RESIDUE CLAUSE HAS 2 PLACES TO NAME PERSONS TO GET THINGS

In a Will “Residue Clause” anything left over after other Will parts is transferred as the clause directs. Many people use a Residue Clause to gift most their things. In this Will form’s Residue Clause there is:

- 1) a 1st space to name 1 or more persons to get the Residue, and if any named here have died before the Will maker then other persons named here in this 1st space take the dead person’s share, and
- 2) a 2nd space to name people to get things if all people named in the 1st space have died, and if any people named in the 2nd space have died their shares go to “lineal descendants” like their children.

People often put in the 1st space a spouse or closest family or friends, and in 2nd space next closest people.

TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will after being filled out (except bits intentionally left blank) must be signed by the person doing the Will (the “Testator”) in front of at least 2 persons acting as witnesses at least age 18 who then also sign.

LAST WILL AND TESTAMENT

I, _____, of _____, Florida, do revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and act voluntarily.

1. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

_____.

2. GIFTS. I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

3. SEPARATE WRITINGS. I may do writings separate from this Will to gift tangible personal property as allowed by state law, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

4. RESIDUE. I give the rest and residue and remainder of my estate, my money and property of any kind and nature, and anything I have an interest in so long as it was not transferred by other Will provisions (all of which is called the “residue”), as follows:

a) to _____ who survive me with persons just named who survive me taking the share of non-survivors, then if anything remains

b) to _____ and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.

5. ADMINISTRATION. I name, nominate, and appoint _____
as Personal Representative including for me, my Will, and my estate.

6. MISCELLANEOUS. The following applies to this Will and generally.

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Florida state law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after my death as practical but only those items my Personal Representative chooses to pay.

Priority of Will gifts of the same type is based on the order they are written.

If a gift or section in this Will reasonably mentions survival in any way then such survival is an absolute condition and anti-lapse laws or similar have no effect.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by me at death shall lapse and be of no effect including no payment of money shall be done in its place.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me the part to them lapses and instead goes to other surviving recipients.

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of a Will gift of property takes it subject to debts, and c) no recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

I give any Personal Representative the a) fullest authority, discretion, and powers allowed by state law, b) power to lease, sell, mortgage, convey, or keep property including real property in a manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts in the time and manner they in their sole discretion choose.

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

Pay for any lawyer is what a Personal Representative agrees to and not a statutory fee.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor’s property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Guardian of Property and Conservator and Guardian of the Estate and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in place and act and have all powers like the others.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type like for a person or estate, Conservator, Custodian, and any other fiduciary under this Will or otherwise shall qualify and serve without bond, surety, security, surety bond, or similar.

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Florida Uniform Transfers to Minors Act or a similar law anywhere, and may pick the person to be Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, _____, sign, publish, and declare this instrument as my Will, this _____ day of _____, 20____.

Testator Signature

WITNESSES

The foregoing instrument was signed by the Testator and Testator declared it to be the Testator's Will, which signing and declaration was made in the presence of us the Witnesses, and we do now sign our names in this document below acting as witnesses at the request and in the presence of the Testator and presence of each other on this _____ day of _____, 20____.

Witness Signature

Printed Name and Residence of Witness

Witness Signature

Printed Name and Residence of Witness

CHAPTER 8

FORM 2: WILL (GUARDIAN)

FORM 2 IS BASIC WILL WITH GUARDIAN CLAUSE FOR YOUNG CHILD

Form 2 is a Will with a Guardian part to be used by a person with a minor child under age 18. The term “Testament” is used in a Will for traditional reasons, and the person doing a Will is called the “Testator”.

FORM IS A WILL WITH SEVERAL PARTS INCLUDING A GUARDIAN PART

The form starts with lines for a person to put their name (a full legal name is best but not required) and place of main residence (most put a county but some put a city). The Will is still valid if people later move.

Paragraph 1, “List Of Spouse And Children”, lets a person write the names of any living spouse and children they have, or if none maybe write “none”. This helps show a Testator has enough mental ability and memory to do a Will. Not listing a living spouse or child here can let an omitted person ask a judge to give them a share or all of a Testator’s property and money by claiming they were accidentally forgotten.

Paragraph 2, “Gifts”, has many spaces to make either specific gifts of particular property or general gifts like of money. People can delete, copy and paste to add more, or leave blank these gift lines.

Paragraph 3, “Separate Writings”, says to follow any separate writings done apart from the Will that gifts tangible personal property in manner allowed by state law.

Paragraph 4, “Residue”, has a Residue Clause to say property and money left after other Will parts and other transfers is to be distributed in the way a person wrote in the blank parts of this paragraph.

Paragraph 5, “Administration”, names a person to be Personal Representative to do things after a person’s death (in the past the similar term “Executor” was usually used in Florida for the person doing this).

Paragraph 6, “Guardian”, names a person to if needed be Guardian to care for any minor child under age 18, and also if needed manage a minor child’s property and money.

Paragraph 7, “Miscellaneous”, has paragraphs of legal language to help avoid certain legal issues.

Last is paragraphs for Testator and 2 witnesses to date, sign, print names, and print addresses they live.

USUAL RESIDUE CLAUSE HAS 2 PLACES TO NAME PERSONS TO GET THINGS

In a Will “Residue Clause” anything left over after other Will parts is transferred as the clause directs. Many people use a Residue Clause to gift most their things. In this Will form’s Residue Clause there is:

- 1) a 1st space to name 1 or more persons to get the Residue, and if any named here have died before the Will maker then other persons named here in this 1st space take the dead person’s share, and
- 2) a 2nd space to name people to get things if all people named in the 1st space have died, and if any people named in the 2nd space have died their shares go to “lineal descendants” like their children.

People often put in the 1st space a spouse or closest family or friends, and in 2nd space next closest people.

TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will after being filled out (except bits intentionally left blank) must be signed by the person doing the Will (the “Testator”) in front of at least 2 persons acting as witnesses at least age 18 who then also sign.

LAST WILL AND TESTAMENT

I, _____, of _____, Florida, do revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and act voluntarily.

1. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

_____.

2. GIFTS. I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

3. SEPARATE WRITINGS. I may do writings separate from this Will to gift tangible personal property as allowed by state law, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

4. RESIDUE. I give the rest and residue and remainder of my estate, my money and property of any kind and nature, and anything I have an interest in so long as it was not transferred by other Will provisions (all of which is called the “residue”), as follows:

a) to _____ who survive me with persons just named who survive me taking the share of non-survivors, then if anything remains

b) to _____ and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.

5. ADMINISTRATION. I name, nominate, and appoint _____ as Personal Representative including for me, my Will, and my estate.

6. GUARDIAN. I name, nominate, and appoint _____ to be if needed the Guardian of the Person of any minor child under age 18 of mine and to have care, authority, custody, and other control of them. I also name, nominate, and appoint this same person to be Guardian of the Property over the property, money, and estate of any minor child and to have control, care, and power of these things.

7. MISCELLANEOUS. The following applies to this Will and generally.

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Florida state law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after my death as practical but only those items my Personal Representative chooses to pay.

Priority of Will gifts of the same type is based on the order they are written.

If a gift or section in this Will reasonably mentions survival in any way then such survival is an absolute condition and anti-lapse laws or similar have no effect.

The words "give" and "gift" also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by me at death shall lapse and be of no effect including no payment of money shall be done in its place.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me the part to them lapses and instead goes to other surviving recipients.

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

Unless another meaning is shown use of plural includes the singular and vice versa, "they" can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of a Will gift of property takes it subject to debts, and c) no recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

I give any Personal Representative the a) fullest authority, discretion, and powers allowed by state law, b) power to lease, sell, mortgage, convey, or keep property including real property in a manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts in the time and manner they in their sole discretion choose.

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

Pay for any lawyer is what a Personal Representative agrees to and not a statutory fee.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor's property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator

are interchangeable, Guardian of Property and Conservator and Guardian of the Estate and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in place and act and have all powers like the others.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type like for a person or estate, Conservator, Custodian, and any other fiduciary under this Will or otherwise shall qualify and serve without bond, surety, security, surety bond, or similar.

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Florida Uniform Transfers to Minors Act or a similar law anywhere, and may pick the person to be Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, _____, sign, publish, and declare this instrument as my Will, this _____ day of _____, 20____.

Testator Signature

WITNESSES

The foregoing instrument was signed by the Testator and Testator declared it to be the Testator's Will, which signing and declaration was made in the presence of us the Witnesses, and we do now sign our names in this document below acting as witnesses at the request and in the presence of the Testator and presence of each other on this _____ day of _____, 20____.

Witness Signature

Printed Name and Residence of Witness

Witness Signature

Printed Name and Residence of Witness

CHAPTER 9

FORM 3: SELF-PROVING AFFIDAVIT

FORM CAN BE DONE TO SUPPORT A WILL

The "Self-Proving Affidavit" form is optional but can be done with a Will to reduce later legal work. This is a statutory form found in law to use if wanted at Florida Statutes § 732.503.

FORM SAVES LATER WORK OF SHOWING WILL WAS PROPERLY SIGNED

A Self-Proving Affidavit "proves" a Will was signed by the Testator doing the Will and 2 witnesses. If this form is not done then after a death a little work is required to get evidence from either a) the 2 witnesses to Will signing, b) persons familiar with signatures of people, or c) a handwriting expert. If this form is not done there is some risk Will won't be followed later. But of people doing Wills about half skip the work of doing a Self-Proving Affidavit mostly due to the hassle of using a notary on top of 2 witnesses each time a Will is done or re-done, and since it usually just saves a little work of people likely happy to do work to get things using a Will. Some states have no Self-Proving Affidavit form and manage to do fine without it.

FORM IS DONE BY TESTATOR AND 2 WITNESSES SIGNING BEFORE NOTARY

To be valid a notary (also called "notary public") must see the Testator and the 2 Will witnesses sign the Self-Proving Affidavit form, and then the notary also signs and ink stamps the form (they "notarize" it). Some court officials can also do this. A notary can be found at some banks, insurance agents, government offices, libraries, courts, copy-mail centers, or by looking in phonebook, and they tend to help existing customers or people who pay a fee. The Self-Proving Affidavit form can only be signed after a Will is signed and not before. The Self-Proving Affidavit form is often done within minutes of when a Will is signed, but it also can be done later (even years later) when Testator and 2 witnesses can arrange to all meet a notary. Once done the Self-Proving Affidavit is often kept with the Will.

SELF-PROVING AFFIDAVIT

STATE OF FLORIDA

COUNTY OF _____

I, _____, declare to the officer taking my acknowledgment of this instrument, and to the subscribing witnesses, that I signed this instrument as my will.

Testator's Signature _____

We, _____ and _____, have been sworn by the officer signing below, and declare to that officer on our oaths that the testator declared the instrument to be the testator's will and signed it in our presence and that we each signed the instrument as a witness in the presence of the testator and of each other.

Witness's Signature _____

Witness's Signature _____

NOTARY ACKNOWLEDGMENT

Acknowledged and subscribed before me by means of ☐ physical presence or ☐ online notarization by the testator, (type or print testator's name) _____, who ☐ is personally known to me or ☐ has produced (state type of identification) _____ as identification,

and sworn to and subscribed before me by each of the following witnesses:

(type or print name of first witness) _____ who ☐ is personally known to me or ☐ has produced (state type of identification) _____ as identification, by means of ☐ physical presence or ☐ online notarization; and

(type or print name of second witness) _____ who ☐ is personally known to me or ☐ has produced (state type of identification) _____ as identification, by means of ☐ physical presence or ☐ online notarization. Subscribed by me in the presence of the testator and the subscribing witnesses, by the means specified herein, all on (date) _____.

Notary's Signature _____

CHAPTER 10

FORM 4: TANGIBLE PERSONAL PROPERTY LIST

FORM LETS GIFTS OF NORMAL PROPERTY BE EASILY MADE AFTER WILL

This form lets people after Will is done easily write out more gifts of property to occur after their death. These separate lists are allowed by Florida Statutes § 732.515, and about half of U.S. states now allow this. These lists are often called a Memorandum, Memo, Gift Memo, or List.

FORM GIVES EASY QUICK WAY TO WRITE GIFTS

The List form lets a person after a Will has been done write out more gifts of property to occur after their death without the hassle of doing a new Will. For a List to be valid a Will must have been done saying this is allowed. If a List and Will gift the same item then the Will is followed. People can do many List pages over time and all will count. People can sign and date a List and then slowly fill it out over the years. If several Lists gift the same item the more recently done List controls. To avoid uncertainty and delay this book's forms say a List not found within 90 days of death will be ignored. To cancel a List a person can rip it up or throw it out, or mark it like with "X" or "void".

CAN ONLY GIFT "TANGIBLE PERSONAL PROPERTY"

The List form can gift only "tangible personal property" so tangible (touchable) things (not accounts or most investments) and not "real property" (not land or buildings). The List form can't cover property used in a trade or business (including a small business), and also can't cover cash or coins even if antiques. Improper property written in a form is later just ignored.

It may help understanding to show the Florida law allowing Lists, which says:

"732.515 Separate writing identifying devises of tangible property.

— A written statement or list referred to in the decedent's will shall dispose of items of tangible personal property, other than property used in trade or business, not otherwise specifically disposed of by the will.

To be admissible under this section as evidence of the intended disposition, the writing must be signed by the testator and must describe the items and the devisees with reasonable certainty.

The writing may be prepared before or after the execution of the will.

It may be altered by the testator after its preparation.

It may be a writing that has no significance apart from its effect upon the dispositions made by the will.

If more than one otherwise effective writing exists, then, to the extent of any conflict among the writings, the provisions of the most recent writing revoke the inconsistent provisions of each prior writing."

TO COMPLETE GIFT LIST A PERSON JUST SIGNS AND DATES IT

To be valid a List form just must be signed and usually dated. A List form is often kept right with a Will. If many pages of List forms are done they are usually kept together.

TANGIBLE PERSONAL PROPERTY LIST

In this writing are gifts of tangible personal property to occur at my death,
but this writing if not found by someone within 90 days of my death is canceled.

I may do many pages of these writings which should all be seen as one document.
If there are conflicts among such writings the provisions of the more recent writing
will revoke the inconsistent provisions of a prior writing.

If a person getting a gift below does not survive me such gift is void and canceled.

PROPERTY ITEMS

NAMES OF RECIPIENTS

_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____

DATE: _____ **SIGNED:** _____

CHAPTER 11

FORM 5: DESIGNATION OF HEALTH CARE SURROGATE

FORM NAMES PERSON AND GIVES INSTRUCTIONS TO CONTROL HEALTH CARE

This form lets a person name someone as “Surrogate” to make health care decisions if they are later incapacitated, and also instructions for health care can be written. The form is a statutory form found in law at Florida Statutes § 765.203. Many people do this 1 health care form and skip other health care forms.

CAN NAME “SURROGATE” TO IF NEEDED CONTROL HEALTH CARE

The form lets a person name someone as “Health Care Surrogate” to control medical decisions if the person is later incapacitated (so can’t communicate or understand well enough to control their health care). Often named Surrogate is a spouse, other family, or a friend. Naming a family member in the form can avoid them the hassle of going to a judge to get more power in some situations. The form has a spot to name an “Alternate” person to act if the first person isn’t able to, but many people skip this as rarely needed.

FORM HAS A FEW OPTIONS TO PICK FROM BY INITIALING

The form has some options to initial to instruct on what a person wants. The form has a spot to initial if the Surrogate may stop “life prolonging” care which is a serious thing, and most people trust their Surrogate and do give this power. The form has a spot to initial to say the Surrogate must obey any other health care documents a person did, and most people do not initial this since they trust their Surrogate and don’t want to limit them. The form has a couple spots to initial to say the Surrogate may get records and make decisions immediately, and most people do give power immediately (this is often used to have a Surrogate make small decisions while letting a sick person rest). This book’s form has been modified to add a few more helpful options in the form.

PERSON SIGNS THE FORM WITH 2 WITNESSES

To complete the form a person signs and then 2 witnesses sign. Witnesses must be at least 18 and at least 1 can’t be a spouse or blood relative of person doing the form. A person can keep a completed form until needed, or many people immediately hand it to the Surrogate to use if ever needed. The form usually is shown to any doctor or facility that may give care to make it part of person’s medical file to follow. To cancel the form a person should tell the Surrogate and maybe tell places that saw the form.

DESIGNATION OF HEALTH CARE SURROGATE

(Florida Statutes § 765.203)

I, _____, designate as my **health care surrogate** under s. 765.202, Florida Statutes:

Name: _____ Phone: _____

Address: _____

If my health care surrogate is not willing, able, or reasonably available to perform his or her duties, I designate as my **alternate health care surrogate**:

Name: _____ Phone: _____

Address: _____

INSTRUCTIONS FOR HEALTH CARE

I authorize my health care surrogate to:

_____ **Receive any of my health information**, whether oral or recorded in any form
(initial here) medium, that:

1. Is created or received by a health care provider, health care facility, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
2. Relates to my past, present, or future physical or mental health or condition; the provision of health care to me; or the past, present, or future payment for the provision of health care to me.

I further authorize my health care surrogate to:

_____ **Make all health care decisions for me**, which means he or she has the authority to:
(initial here)

1. Provide informed consent, refusal of consent, or withdrawal of consent to any and all of my health care, including life-prolonging procedures.
2. Apply on my behalf for private, public, government, or veterans' benefits to defray the cost of health care.
3. Access my health information reasonably necessary for the health care surrogate to make decisions involving my health care and to apply for benefits for me.
4. Decide to make an anatomical gift pursuant to part V of chapter 765, Florida Statutes.

SPECIFIC INSTRUCTIONS AND RESTRICTIONS

_____ I hereby require my surrogate to direct my physicians **to comply with any valid**
(initial here) **Living Will, Directive to Physicians, or similar** document which I may have heretofore executed or which I may hereafter execute. My surrogate is not authorized to direct my physician in a manner which would contradict any such valid Living Will, Directive to Physicians, or similar document.

_____ My surrogate **may provide consent for the withholding or withdrawing of life**
(initial here) **prolonging procedures** (as long as my unborn child or children are not considered viable as defined in Section 390.011(12) of the Florida Statutes).

While I have decision making capacity, my wishes are controlling and my physicians and health care providers **must clearly communicate to me the treatment plan** or any change to the treatment plan prior to its implementation.

To the extent I am capable of understanding, my health care surrogate **shall keep me reasonably informed** of all decisions that he or she has made on my behalf and matters concerning me.

THIS HEALTH CARE SURROGATE DESIGNATION IS NOT AFFECTED BY MY SUBSEQUENT INCAPACITY EXCEPT AS PROVIDED IN CHAPTER 765, FLORIDA STATUTES.

PURSUANT TO SECTION 765.104, FLORIDA STATUTES, I UNDERSTAND THAT I MAY, AT ANY TIME WHILE I RETAIN MY CAPACITY, REVOKE OR AMEND THIS DESIGNATION BY:

- (1) SIGNING A WRITTEN AND DATED INSTRUMENT WHICH EXPRESSES MY INTENT TO AMEND OR REVOKE THIS DESIGNATION;
- (2) PHYSICALLY DESTROYING THIS DESIGNATION THROUGH MY OWN ACTION OR BY THAT OF ANOTHER PERSON IN MY PRESENCE AND UNDER MY DIRECTION;
- (3) VERBALLY EXPRESSING MY INTENTION TO AMEND OR REVOKE THIS DESIGNATION; OR
- (4) SIGNING A NEW DESIGNATION THAT IS MATERIALLY DIFFERENT FROM THIS DESIGNATION.

MY HEALTH CARE SURROGATE'S AUTHORITY BECOMES EFFECTIVE WHEN MY PRIMARY PHYSICIAN DETERMINES THAT I AM UNABLE TO MAKE MY OWN HEALTH CARE DECISIONS UNLESS I INITIAL EITHER OR BOTH OF THE FOLLOWING BOXES:

IF I INITIAL THIS BOX [____], MY HEALTH CARE SURROGATE'S **AUTHORITY TO RECEIVE MY HEALTH INFORMATION TAKES EFFECT IMMEDIATELY.**

IF I INITIAL THIS BOX [____], MY HEALTH CARE SURROGATE'S **AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR ME TAKES EFFECT IMMEDIATELY.** PURSUANT TO SECTION 765.204(3), FLORIDA STATUTES, ANY INSTRUCTIONS OR HEALTH CARE DECISIONS I MAKE, EITHER VERBALLY OR IN WRITING, WHILE I POSSESS CAPACITY SHALL SUPERSEDE ANY INSTRUCTIONS OR HEALTH CARE DECISIONS MADE BY MY SURROGATE THAT ARE IN MATERIAL CONFLICT WITH THOSE MADE BY ME.

Signature: _____ Date: _____

Address: _____

WITNESS #1

Signature: _____ Date: _____

Address: _____

WITNESS #2

Signature: _____ Date: _____

Address: _____

CHAPTER 12

FORM 6: LIVING WILL

IN FORM CAN SAY WHEN TO LATER STOP HEALTH CARE

This form lets a person do the serious action of saying stop most health care if later doctors think a person's health is bad and more care likely won't help. This form is a statutory form found at Florida Statutes § 765.393. This form is rarely used.

IN FORM CAN PICK HOW BAD MUST HEALTH BE BEFORE TREATMENT STOPS

In the form a person can pick how bad must health be before medical treatment stops, and options are either a) "terminal illness", b) "end-stage condition", or c) "persistent vegetative state". A person doing the form can pick 1, 2, or 3 of the options, and many pick all 3. Of course this form only matters if person is "incapacitated" so can't give orders directly. Basically, if a person's health ever gets so bad the form is triggered then the form orders most health care to no longer be given. The form says a person then wants "life-prolonging procedures be withheld or withdrawn when the application of such procedures would serve only to prolong artificially the process of dying, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care or to alleviate pain." No matter what pain relief and comfort care is usually always given. Giving food and water by tube or machine is included in what the form may stop.

MANY PEOPLE SKIP NAMING PERSON OR GIVING MORE INSTRUCTIONS

In the form someone can be named to push doctors to do as the form says, but many people skip this since doctors and family usually will follow the form. And in the form some instructions can be written but many people also skip this since it's hard to write clear instructions for all situations that won't risk delay or lawyers debating it. After doing the form a person is usually free to override it, like by saying, "I want C.P.R. and all care, and cancel my Living Will."

FORM IS SIGNED A PERSON WITH 2 WITNESSES

To be valid form must be signed by person doing form and 2 witnesses who must be at least age 18 and at least 1 can't be spouse of sick person or a blood relative of them. Once done a person should show the form to doctors at all places it may be used to add it to medical files to follow. Usually a person keeps some copies in case needed. A person also usually shows the form to family so they can explain it to any new doctors and health personnel. Hospitals and other facilities may have their a similar form they prefer.

LIVING WILL

(Florida Statutes § 765.303)

Declaration made this _____ day of _____, 20____, that I, _____, willfully and voluntarily make known my desire that my dying not be artificially prolonged under the circumstances set forth below, and I do hereby declare that, if at any time I am incapacitated and

_____ I have a terminal condition, or
(initial)

_____ I have an end-stage condition, or
(initial)

_____ I am in a persistent vegetative state
(initial)

and if my primary physician and another consulting physician have determined that there is no reasonable medical probability of my recovery from such condition, I direct that life-prolonging procedures be withheld or withdrawn when the application of such procedures would serve only to prolong artificially the process of dying, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care or to alleviate pain.

It is my intention that this declaration be honored by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and to accept the consequences for such refusal.

In the event that I have been determined to be unable to provide express and informed consent regarding the withholding, withdrawal, or continuation of life-prolonging procedures, I wish to designate, as my surrogate to carry out the provisions of this declaration:

I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Additional Instructions (optional): _____

(attached additional pages if necessary)

Signature: _____ Phone: _____

Address: _____

WITNESS #1

Signature: _____ Date: _____

Address: _____

WITNESS #2

Signature: _____ Date: _____

Address: _____

CHAPTER 13

FORM 7: DO NOT RESUSCITATE ORDER

IN FORMS CAN REFUSE HEALTH CARE WHICH IS SERIOUS ACTION

There are 2 similar forms in this Chapter. Either of these similar forms lets a person do serious step of saying starting immediately don't try certain treatments specified in the forms. The forms are short and can be read fast (like by paramedics) and are often used by a person outside a facility, but they can be used inside places too. These forms are standard forms from a Florida agency. These forms are rarely used.

DO NOT RESUSCITATE ORDER FORM STOPS C.P.R. FROM BEING GIVEN

In the form a person can say starting immediately certain medical care shouldn't be tried if they are later incapacitated and health personnel are deciding what care to give. The Do Not Resuscitate Order form says no longer try resuscitation, which basically says that no cardio-pulmonary resuscitation (C.P.R.), electric shocks to restart or help the heart or breathing, or artificial breathing machines should be tried. This form is short so paramedics or similar people can read and follow it fast. No matter what a person is still usually taken to a hospital if pain relief or comfort care would help them. A person can override the form by not showing it to paramedics or by saying a thing like, "I want C.P.R. and all care and ignore the form". A doctor usually explains the form and gives out a copy on yellow paper. But this form is rarely done since these health situations often don't occur, it can be stressful to decide this issue, and many people trust their family and others to consider all factors and wisely say when to stop care.

P.O.L.S.T. FORM HAS OPTIONS TO REFUSE MORE KINDS OF HEALTH CARE

The P.O.L.S.T. form which stands for "Physician Orders For Life Sustaining Treatment" is like the Do Not Resuscitate Order form since it says don't try some health care, but the P.O.L.S.T. covers many more kinds of care and has mostly replaced the Do Not Resuscitate Order. People should read the form and discuss the options with their doctor. This form is rarely used.

FORMS ARE SIGNED BY PERSON AND THEIR DOCTOR

Forms in this Chapter to be completed must be signed by a person and the person's doctor. Usually a person then quickly shows the form to all places that may give health care so it can be added to medical files and followed. Usually a person also keeps copies to show paramedics, EMTs, or other people who may try to give care. A copy of a form is often kept on bedside table, on home refrigerator (paramedics often look here), pinned to chest, in pocket, or some people wear a "bracelet" or similar made by companies chosen by the state. Usually a person also shows form to family so they explain to doctors, paramedics, and others if needed.



DO NOT RESUSCITATE ORDER

State of Florida, Section 401.45, Florida Statutes

PATIENT'S OR AUTHORIZED PERSON'S STATEMENT

I, _____, _____,
(Print or Type Full Legal Name) (Date of Birth)

being informed of my right to refuse cardiopulmonary resuscitation (CPR), including artificial ventilation, cardiac compression, endotracheal intubation, and defibrillation, direct that CPR be withheld or withdrawn from me.

By: _____ Date: _____
(Signature of Patient or Authorized Person)

I, _____, am authorized to sign on the patient's behalf
(Print or Type Name of Authorized Person)

as the patient's ☐ surrogate, ☐ proxy, or ☐ minor patient's principal (per s. 765.101, F.S.); or I am expressly authorized to make the patient's health care decisions under a ☐ guardianship (per s. 744.102, F.S.), or ☐ power of attorney (per s. 709.2102, F.S.).

HEALTH CARE PROVIDER'S STATEMENT

I, _____, license number _____,
(Print or Type Full Legal Name)

am the patient's ☐ physician, ☐ osteopathic physician, ☐ autonomous practice registered nurse, or ☐ physician assistant authorized by law to sign this order. I direct the withholding or withdrawal of CPR from the patient in the event of the patient's cardiac or respiratory arrest.

By: _____ Date: _____ Ph: _____
(Signature of Health Care Provider) (Emergency No.)

A copy of this order reproduced on yellow paper (any shade) is valid as the original.

Cut along line and fold in half to create DNRO Device (wallet card).

PATIENT'S OR AUTHORIZED PERSON'S STATEMENT	HEALTH CARE PROVIDER'S STATEMENT
I, _____, _____, (Print or Type Full Legal Name) (Date of Birth)	I, _____, (Print or Type Full Legal Name)
being informed of my right to refuse cardiopulmonary resuscitation (CPR), including artificial ventilation, cardiac compression, endotracheal intubation, and defibrillation, direct that CPR be withheld or withdrawn from me.	license number _____,
By: _____ Date: _____ (Signature of Patient or Authorized Person)	am the patient's ☐ physician, ☐ osteopathic physician, ☐ autonomous practice registered nurse, or ☐ physician assistant authorized by law to sign this order. I direct the withholding or withdrawal of CPR from the patient in the event of the patient's cardiac or respiratory arrest.
I, _____, am authorized to sign on (Print or Type Name of Authorized Person)	By: _____ (Signature of Health Care Provider)
the patient's behalf as the patient's ☐ surrogate, ☐ proxy, or ☐ minor patient's principal (per s. 765.101, F.S.); or I am expressly authorized to make the patient's health care decisions under a ☐ guardianship (per s. 744.102, F.S.), or ☐ power of attorney (per s. 709.2102, F.S.).	Date: _____
	Ph: _____ (Emergency No.)
	<i>A copy of this order reproduced on yellow paper (any shade) is valid as the original.</i>

- - THIS PAGE INTENTIONALLY LEFT BLANK - -

Physician Orders for Life-Sustaining Treatment (POLST)-Florida

Follow these orders until orders are reviewed. These medical orders are based on the patient's **current** medical condition and preferences. Any section not completed does not invalidate the form and implies full treatment for that section. With significant change of condition new orders may need to be written.

Patient Last Name	Patient First Name	Middle Int.
Date of Birth: (mm/dd/yyyy) ____	Gender ☐ M ☐ F	Last 4 SSN: ☐ ☐ ☐ ☐

If the patient has decision-making capacity, the patient's presently expressed wishes should guide his or her treatment

A

CARDIOPULMONARY RESUSCITATION (CPR): Patient is unresponsive, pulseless, and not breathing.

Check One

- ☐ Attempt Resuscitation/CPR
☐ Do Not Attempt Resuscitation/DNR

When not in cardiopulmonary arrest, follow orders in B and C.

B

MEDICAL INTERVENTIONS: If patient has pulse and is breathing.

Check One

- ☐ **Full Treatment – goal is to prolong life by all medically effective means.**
 In addition to care described in Comfort Measures Only and Limited Additional Interventions, use intubation, advanced airway interventions, and mechanical ventilation as indicated. Transfer to hospital and /or intensive care unit if indicated.
Care Plan: Full treatment including life support measures in the intensive care unit.
- ☐ **Limited Medical Interventions – goal is to treat medical conditions but avoid burdensome measures**
 In addition to care described in Comfort Measures Only, use medical treatment, antibiotics, IV fluids and cardiac monitor as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP).
Transfer to hospital if indicated. Generally avoid the intensive care unit.
Care Plan: Provide basic medical treatments.
- ☐ **Comfort Measures Only (Allow Natural Death) – goal is to maximize comfort and avoid suffering**
 Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Patient prefers no transfer to hospital for life-sustaining treatments. Transfer if comfort needs cannot be met in current location. Consider hospice or palliative care referral if appropriate.**
Care Plan: Maximize comfort through symptom management.

Additional Orders: _____

C

ARTIFICIALLY ADMINISTERED NUTRITION: Offer food by mouth if feasible.

Check One

- ☐ Long-term artificial nutrition by tube. Additional Instructions: _____
- ☐ Defined trial period of artificial nutrition by tube. _____
- ☐ No artificial nutrition by tube. _____

D

HOSPICE or PALLIATIVE CARE (complete if applicable) - consider referral as appropriate

Check One

- | | | |
|--|---|---|
| ☐ Patient/Resident Currently enrolled in Hospice Care
Contact: _____ | ☐ Patient/Resident Currently enrolled in Palliative Care
Contact: _____ | ☐ Not indicated or refused |
|--|---|---|

SIGNATURES

Print Physician Name	MD/DO License #	Phone Number
Physician Signature (mandatory)	Date	
Print Patient/Resident or Surrogate/Proxy Name	Relationship (write 'self' if patient)	
Patient or Surrogate Signature (mandatory)	Date	

SEND FORM WITH PATIENT WHENEVER TRANSFERRED OR DISCHARGED

Use of original form is strongly encouraged. Photocopies and facsimiles of completed POLST are legal and valid.

HIPAA PERMITS DISCLOSURE OF POLST TO OTHER HEALTH CARE PROVIDERS AS NECESSARY

E

DOCUMENTATION OF DISCUSSION:

Check
All
That
Apply

☐ Patient (Patient has capacity)

☐ Health Care Representative or surrogate

☐ Parent of minor

☐ Court-Appointed Guardian

☐ Other (proxy)

Other Contact Information

Name of Guardian, Surrogate or other Contact Person	Relationship	Phone Number/Address	
Name of Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

Directions for Health Care Professionals

Completing POLST

- Must be completed by a health care professional based on medical indications, a discussion of treatment benefits and burdens, and elicitation of patient preferences.
- POLST must be signed by a MD/DO to be valid. Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.
- POLST must be signed by patient/resident or healthcare surrogate/proxy to be valid.

Using POLST

- Any section of POLST not completed implies full treatment for that section.
- Use of original form is strongly encouraged. Photocopies and FAXes of signed POLST forms are legal and valid.
- A semi-automatic external defibrillator (AED) should not be used on a person who has chosen "Do Not Attempt Resuscitation."
- Oral fluids and nutrition must always be offered if medically feasible.
- When comfort cannot be achieved in the current setting, the person, including someone with "comfort measures only," should be transferred to a setting able to provide comfort, such as a hospice unit.
- A person who chooses either "comfort measures only" or "limited additional interventions" should not be entered into a Level I trauma system.
- An IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only."
- A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment."
- A person with capacity or the surrogate/proxy (if patient lacks capacity) can revoke the POLST at any time and request alternative treatment.

Reviewing POLST

This POLST should be reviewed periodically and a new POLST completed if necessary when:

- The person is transferred from one care setting or care level to another, or
- There is a substantial change in the person's health status, or
- The person's treatment preferences change.

To void this form, draw line through sections A through D on page 1 and write "VOID" in large letters.

Review of this POLST Form

Review Date	Reviewer	Location of Review	Review Outcome
			☐ No Change ☐ Form Voided ☐ New form completed
			☐ No Change ☐ Form Voided ☐ New form completed
			☐ No Change ☐ Form Voided ☐ New form completed

SEND FORM WITH PERSON WHENEVER TRANSFERRED OR DISCHARGED

REVISED FORM (JULY 10,2015)

CHAPTER 14

FORM 8: DURABLE POWER OF ATTORNEY

FORM LETS POWER BE GIVEN OVER PROPERTY, MONEY, AND MORE

This form lets a person give power to someone to let them do things with person's money, property, debt, and more. Some people call this a "Financial Power Of Attorney". This form is often called "durable" since it continues to have power even if a person is incapacitated, but all power of the form ends at death.

FORM LETS POWER BE SHARED WITH SOMEONE TO LET THEM DO THINGS

This form lets a person share power to do things with their money, property, records, and other things to someone trusted like a spouse, other family, or a friend. The form can avoid need for more serious legal options like a Guardianship over an adult from a judge. The person giving power is called the "Principal" and the person getting power is called "Agent" or sometimes "Attorney in Fact". A second person can be named to later act as Agent if needed but this is rarely needed and often skipped. This form can help in situations like if a person is sick or busy, and it can let someone else pay bills, use accounts, buy or sell items, borrow, hire people, sign contracts, and get records. A person who isn't incapacitated can overrule or fire their Agent.

IN FORM CAN SELECT POWERS BY PUTTING INITIALS

In the form powers given can be picked by putting initials in spots. But most people give as much power as possible by initialing many spots since if power given is unclear banks and others may not obey an Agent. Instructions can also be added but most people after naming an Agent skip instructions since if these are unclear a bank or others may not obey an Agent. A person till incapacitated can overrule or fire an Agent so really power is shared. When Agent signs it should be like, "Ed Doe signing as Agent under Power of Attorney for Ann Po".

DUE TO RISKS MANY SKIP THIS FORM OR CONSULT A LAWYER

Many people skip this form or first see a lawyer. Using this form is risky and can lead to harm since the Agent can be wasteful with money, commit fraud or theft, by carelessness allow other harms, or do worse. A person acting as Agent has a duty to be loyal and act reasonably and can be sued for any harm, but they may later be out of money to pay. Usually banks and others can't be blamed for obeying an Agent's orders. The law is complex and basic acts may be fine for Agent like paying bills but some acts may be improper like making gifts, risky investments, or unusual acts. It is best if a person not their Agent does anything unusual.

SIGN FORM BEFORE NOTARY OR TWO WITNESSES

The form must be signed by the person doing it before a notary, and 2 witnesses must also sign after either seeing the person doing it sign or after the person confirms and acknowledges it's their signature. Witnesses can't be named Agent or Attorney-in-Fact in the form. Once done a form can be kept by a person till needed or given quickly to the Agent to hold. Some people show the form quickly to banks or similar places to explain it should be followed later. Last page of the form is done by an Agent if asked by a bank. To cancel the form a person tells the Agent and take back copies and maybe tell places shown the form.

DURABLE POWER OF ATTORNEY

This Power of Attorney is not affected by subsequent incapacity of the Principal except as provided in Florida Statutes § 709.08. This power of attorney is effective immediately and will continue until it is revoked.

I, _____, as Principal, hereby appoint _____ as my Attorney-in-Fact to act for me in any lawful way with respect to the following initialed subjects:

(Initial where Attorney-in-Fact shall have power and authority)

_____ **1. Personal Property.** To do any action involving personal property including lease, sell, mortgage, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, sale, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any personal property whatsoever, tangible or intangible, or interest thereto, on such terms and conditions, and under such covenants, as my Attorney-in-Fact shall deem proper; to have access to safe deposit boxes and remove all contents and relinquish or surrender the safe deposit box; and to maintain, repair, improve, manage, insure, rent, lease, sell, convey, subject to liens or mortgages, or to take any other security interests in said property which are recognized under the Uniform Commercial Code as adopted at that time under the laws of the State of Florida or any applicable state, or otherwise pledge and in any way or manner deal with all or any part of any real or personal property whatsoever, tangible or intangible, or any interest therein, that I own at the time of execution or may thereafter acquire, under such terms and conditions, and under such covenants, as my Attorney-in-Fact shall deem proper.

_____ **2. Real Property.** To do any action involving real estate and fixtures including lease, sell, mortgage, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, sale, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any interest in real property whatsoever, now owned or hereafter acquired, including my Homestead Property, on such terms and conditions, and under such covenants, as my Attorney-in-Fact shall deem proper; and to maintain, repair, tear down, alter, rebuild, improve, manage, insure, move, rent, lease, sell, convey, subject to liens, mortgages, and security deeds, and in any way or manner deal with all or any part of any interest in real property whatsoever, including specifically, but without limitation, real property lying and being situated in the State of Florida, under such terms and conditions, and under such covenants, as my Attorney-in-Fact shall deem proper and may for all deferred payments accept purchase money notes payable to me and secured by mortgages or deeds to secure debt, and may from time to time collect and cancel any of said notes, mortgages, security interests, or deeds to secure debt.

_____ **3. Transacting of Business.** To conduct, engage in, and otherwise transact the affairs of any and all lawful business ventures of whatever nature or kind that I may now or hereafter be involved in. To organize or continue and conduct any business which term includes, without limitation, any farming, manufacturing, service, mining, retailing or other type of

business operation in any form, whether as a proprietorship, joint venture, partnership, corporation, trust or other legal entity; operate, buy, sell, expand, contract, terminate or liquidate any business; direct, control, supervise, manage or participate in the operation of any business and engage, compensate and discharge business managers, employees, agents, attorneys, accountants and consultants; and, in general, exercise all powers with respect to business interests and operations which the principal could if present and under no disability.

_____ **4. Banking Transactions.** To conduct banking transactions as provided in Section 709.2208(1) of the Florida Statutes, including all the actions mentioned in this Statute.

_____ **5. Investment Transactions.** To conduct investment transactions as provided in Section 709.2208(2) of the Florida Statutes, including all the actions mentioned in this Statute.

_____ **6. Safe Deposit Boxes.** To enter, access, remove items including money and documents, place items, open new boxes in my or other name, terminate any box and related lease, and to also do all these things with boxes held jointly with another or over any box I myself somehow have access or rights.

_____ **7. Claims, Litigation, and Settlement.** To commence, prosecute, discontinue, or defend all actions or other legal proceedings touching my property, real or personal, or any part thereof, or touching any matter in which I or my property, real or personal, may be in any way concerned. To defend, settle, adjust, make allowances, compound, submit to arbitration or mediation, and compromise all accounts, reckonings, claims, and demands whatsoever that now are, or hereafter shall be, pending between me and any person, firm, corporation, or other legal entity, as my Attorney-in-Fact shall deem proper. To take legal action to enforce this document or concerning the Attorney-in-Fact's power to act for me.

_____ **8. Borrowing of Funds.** To borrow for me and on my behalf any sum or sums of money on such terms and with such security as my Attorney-in-Fact may deem appropriate, and for that purpose to execute all promissory notes, bonds, mortgages and other instruments which may be necessary or proper.

_____ **9. Vehicles.** To do any action involving any vehicle I now own or shall at any time hereafter acquire, including at any time to execute vehicle transfers, and also to buy, sell, lease, repair, store, or take other action with said vehicles.

_____ **10. Insurance Policies.** To act as my attorney-in-fact or proxy in respect to any policy of insurance on my life or health, or any other type of insurance, and in such capacity to exercise any rights, privileges or options which I may have thereunder or pertaining thereto, and additional insurance of any type may be obtained as my attorney-in-fact deems proper. My Attorney-in-Fact will NOT under any circumstances have any power or incident of ownership whatsoever with respect to any life insurance policy owned by me under which my Attorney-in-Fact is the insured.

_____ **11. Retirement Plans.** To contribute to, withdraw from and deposit funds in any type of retirement plan (which term includes, without limitation, any tax qualified or nonqualified pension, profit sharing, stock bonus, employee savings and other retirement plan, individual retirement account, deferred compensation plan and any other type of employee benefit plan); select and change payment options for the principal under any retirement plan; make rollover contributions from any retirement plan to other retirement plans or individual retirement accounts; exercise all investment powers available under any type of self-directed retirement plan; and, in general, exercise all powers with respect to retirement plans and retirement plan account balances which the principal could if present and under no disability.

_____ **12. Government and Private Benefits.** To make such applications as may be required from time to time with Social Security, Medicare or Medicaid Administrators, and with all private insurance companies with whom I have insurance coverage; and to complete such forms and file such claims as may be required to obtain benefits due or available to me.

_____ **13. Planning with Care Givers.** To change my state of domicile and residency, to redirect my mail, to provide and pay for care givers to permit me to remain in my own home, even if this care is more expensive than care provided in a facility, to make necessary arrangement for my care at any hospital, nursing home, or assisted living facility and to pay for such care, and to make advance arrangements for my funeral and burial expenses.

_____ **14. Tax Returns.** To file, amend, withdraw, exercise elections, allocate exemptions or give consent with respect to any federal, state and local tax returns (and any schedules, notices, powers of attorney, or other forms or documents related there to) for any type of tax for any period before or after the grant of this power, and otherwise to deal in any respect whatsoever with regard to such tax returns. Notices and correspondence relating to such matters may be sent directly to my Attorney-in-Fact.

_____ **15. Employ Attorneys, Accountants, Advisors, Contractors, and Employees.** To engage, appoint, employ, pay, and to remove or dismiss in my name, any agents, advisors, counsel, contractors, and employees who may be or have been doing services of any kind.

_____ **16. Health Care Insurance, Benefits, and Financial Choices.** To make decisions which relate to my healthcare including financial, insurance, and benefit choices, and in all ways without limit my Attorney-in-Fact shall be treated as my personal representative for all purposes related to my Protected Health Information as such term is defined in the Health Insurance Portability and Accountability Act of 1996, set forth in 45 CFR § 164 and other applicable federal, state, and/or local laws and regulations.

_____ **17. Records and Information.** To access, request, view, inspect, copy, release, and any other thing concerning records, reports, statements, and data of any kind concerning my financial, health care, property, or other matters, and any confidentiality, right of privacy, privilege, or any other limitation is hereby waived and ordered removed.

I agree any party or person who receives a copy of this document may act under it.

Revocation of the power of attorney is not effective as to a third party until they learn of the revocation.

I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

SIGNATURE

Signed: _____ Date: _____

WITNESSES

On the date written above, the Principal declared to me in my presence that this document is his or her power of attorney and that he or she had willingly signed as his or her free and voluntary act for the purposes expressed.

Witness #1 Signature

Witness #2 Signature

Witness #1 printed name

Witness #2 printed name

NOTARY

Sworn to and subscribed before me on _____, 20____,
by _____, who produced the following identification:
_____.

(Signature of Notary or Official)

ACKNOWLEDGMENT OF AGENT

(OPTIONAL AND MAY BE DONE LATER)

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT AND USING THAT POWER OF ATTORNEY DONE BY _____ AND DATED _____, THE AGENT AGREES THEY ASSUME THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

Signature of Agent: _____ Date: _____

Printed Name of Agent: _____

AFFIDAVIT OF AGENT / ATTORNEY IN FACT FOR SOME PARTY

(OPTIONAL AND MAY BE DONE LATER)

STATE OF FLORIDA _____)
COUNTY OF _____) ss.

Before me, the undersigned authority, personally appeared _____ (attorney in fact), ("Affiant"), who swore or affirmed that:

1. Affiant is the attorney in fact named in the Florida General Durable Power of Attorney executed by _____ (principal) ("Principal") on _____ (date).
2. This Florida Durable Power of Attorney is currently exercisable by Affiant. The principal is domiciled in _____ (insert name of state or foreign country).
3. To the best of the Affiant's knowledge after diligent search and inquiry:
 - a. The Principal is not deceased; and
 - b. There has been no revocation, partial or complete termination by adjudication of incapacity or by the occurrence of an event referenced in the durable power of attorney, or suspension by initiation of proceedings to determine incapacity or to appoint a guardian.
4. Affiant agrees not to exercise any powers granted by the Florida Durable Power of Attorney if Affiant attains knowledge that it has been revoked, partially or completely terminated, suspended, or is no longer valid because of death or adjudication of incapacity of the Principal.

[Signature of Affiant]

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____ by _____ [name of agent].
The affiant is [choose one:] _____ personally known to me, or _____ produced the following identification: _____.

Signature of Notarial Officer: _____

My commission expires: _____

CHAPTER 15

FORM 9: DESIGNATION OF HEALTH CARE SURROGATE FOR MINOR

FORM LETS PARENT GIVE POWER OVER MINOR CHILD'S HEALTH CARE

This form lets a parent or similar give someone power over health care issues for a child under 18.

FORM GIVES SOMEONE POWER OVER CHILD'S HEALTH CARE

This form lets a parent or similar person give power over a minor child's health care to a person they name called the "Surrogate" or "Agent". This is allowed by Florida Statutes § 765.2035 (1) which says:

"A natural guardian [including parent] as defined in s. 744.301(1), legal custodian, or legal guardian of the person of a minor may designate a competent adult to serve as a surrogate to make health care decisions for the minor. Such designation shall be made by a written document signed by the minor's principal in the presence of two subscribing adult witnesses[.]"

At all times a parent keeps power and the person given power can be overruled or fired by the parent.

This form is sometimes used if a parent and child are apart for work, school, training, rehab, sports, prison, military, immigration, or long visits. The form is usually not done for brief situations like daycare, babysitter, short family visits, or any time a parent can come quickly. Often given power is a family relative or a friend. Note, some people from a lawyer or legal aid group get a "Power Of Attorney Over Child" form to give power over a child's health care and power over school, travel, and home issues, but usually power over health care is the vital thing so this Chapter's form is sufficient for most people.

PERSON MUST SIGN THE FORM WITH 2 WITNESSES

A parent must sign the form in front of 2 witnesses who then sign too. Witnesses can be anyone at least 18 and not being given power in the form. Either 1 parent can sign alone or both 2 parents can sign which can make it likelier others people follow the form. A completed form can be kept till needed or immediately handed to the person given power. Some people show form quickly to doctors, schools, and other places to explain they should follow it later. To cancel the form a parent should tell the person given power it is cancelled, take back copies, and maybe tell anyone shown the form to not follow it.

DESIGNATION OF HEALTH CARE SURROGATE FOR MINOR

(Florida Statutes § 765.2038)

I / We, _____, the
(check a box) [☐] natural guardian(s) as defined in s. 744.301(1), Florida Statutes;
[☐] legal custodian(s); [☐] legal guardian(s) of the following minor(s):

_____,
_____,

pursuant to s. 765.2035, Florida Statutes, designate the following person to act as my/our surrogate for health care decisions for such minor(s) in the event that I/we am/are not able or reasonably available to provide consent for medical treatment and surgical and diagnostic procedures:

Name: _____

Address: _____

Phone: _____

If my/our designated health care surrogate for a minor is not willing, able, or reasonably available to perform his or her duties, I/we designate the following person as my/our alternate health care surrogate for a minor:

Name: _____

Address: _____

Phone: _____

I / We authorize and request all physicians, hospitals, or other providers of medical services to follow the instructions of my/our surrogate or alternate surrogate, as the case may be, at any time and under any circumstances whatsoever, with regard to medical treatment and surgical and diagnostic procedures for a minor, provided the medical care and treatment of any minor is on the advice of a licensed physician.

I / We fully understand that this designation will permit my/our designee to make health care decisions for a minor and to provide, withhold, or withdraw consent on my/our behalf, to apply for public benefits to defray the cost of health care, and to authorize the admission or transfer of a minor to or from a health care facility.

I / We will notify and send a copy of this document to the following person(s) other than my / our surrogate, so that they may know the identity of my/our surrogate.

SIGNATURE OF ONE OR TWO PARENTS OR SIMILAR:

Signature: _____ Date: _____

Signature: _____ Date: _____

SIGNATURE OF TWO WITNESSES:

Signature: _____ Signature: _____

CHAPTER 16

FORM 10: INTER VIVOS AUTHORIZATION AND DIRECTION OF LEGALLY AUTHORIZED PERSON (BODILY REMAINS)

LETS PERSON BE NAMED TO CONTROL FUNERAL AND ANY CREMATION

This form lets a person be named to control issues involving bodily remains after death, including burial, cremation, funeral, and ceremonies. This also can also be done in a Will or in a Designation Of Health Care Surrogate form. “Inter Vivos” which is used in the form means “during life”.

IN FORM CAN NAME AGENT TO CONTROL FUNERAL AND RELATED MATTERS

In the form a person can be named the “Legally Authorized Person” to make decisions involving the bodily remains which includes burial, cremation, funeral, and related matters. If this form is not done then by law closest family control all this, starting with spouse, adult child, parents, and then siblings. A small fraction of people don’t want family to control things, like if family may be upset while mourning, bad with money, or do things a person didn’t want. The form has a part to give instructions, and part to describe pre-arrangements like a pre-paid burial plot or burial insurance. But many people skip written instructions and trust people to act wisely or do what person said they wanted in private talks. Payment for the funeral and similar comes from pre-paid funeral accounts, insurance, and estate or decedent’s money and property, and Executor or family must help arrange payment from estate funds.

SIGN FORM WITH NOTARY AND 2 WITNESSES

The form must be signed by the person doing it before a notary, and 2 witnesses must also sign after either seeing the person doing it signs or after the person confirms and acknowledges it’s their signature. The form should be kept so it can be found quickly within days of a death to be followed. The form can be canceled like by throwing it away and telling other people it is cancelled.

**INTER VIVOS AUTHORIZATION AND DIRECTION OF
LEGALLY AUTHORIZED PERSON
(BODILY REMAINS)**

I, _____ (print name), called “Declarant” in this document, being of sound mind, do hereby make the following designation and choices:

1. I designate _____ to be my “Legally authorized person” under the provisions of Florida Statutes § 497.005 (43) to make funeral arrangements and Florida Statutes § 497.607 to dispose of my remains including by cremation. Legally authorized person now named should follow first the intentions expressed in this document and second any pre-arrangements that I have made at an earlier time.

2. For my funeral, cremation, and/or disposition of body I hereby say I choose the following: _____

_____.

3. If pre-arrangements have been made for my funeral, cremation, and/or disposition of my body they are as follows including payment arrangements:

_____.

4. Legally authorized person named above shall not be entitled to a fee for acting in such capacity but shall be entitled to be reimbursed for out of pocket expenses, such as travel fees and attorney’s fees in defending his or her actions, to be paid by the personal representative of my estate without order of Court.

5. I intend my funeral arrangements, any disposition of my cremated remains, and related matters to be governed by Florida laws existing when I sign this document.

DECLARANT

Signature of Declarant: _____ Date: _____

WITNESSES

This instrument was signed, sealed, published, and declared by the Declarant in our joint presence, and at Declarant's request we have signed our names as attesting witnesses in Declarant's presence and presence of each other on the date above.

Signature of Witness: _____

Signature of Witness: _____

NOTARY

STATE OF FLORIDA)
) ss.
COUNTY OF _____)

Acknowledged and signed before me by Declarant, _____,
who is personally known to me or sufficiently proven, and sworn to and signed before
me by witnesses, _____ and
_____, both of whom are personally known to me
or sufficiently proven, and signed by me in the presence of Declarant and witnesses,
all on the _____ of _____, 20____.

Notary Public, State of Florida: _____
(Signature of Notary)

APPENDIX: SAMPLE FILLED OUT FORMS

TO GET FORMS TO USE PEOPLE CAN:

- (1) PHOTOCOPY BOOK PAGES,
- (2) TEAR OUT PAGES FROM A BOOK, OR
- (3) DOWNLOAD BOOK WITH FORMS FROM WWW.DAVENPORTPUBLISHING.COM
AND USUALLY PDF FORM AT IS BEST TO AVOID SPACING/FORMAT CHANGES.

EMAIL ANY COMMENTS TO DAVENPORTPRESS@GMAIL.COM.

On the next pages to show how it can be done are some sample filled out legal forms.

People can add words to legal forms by computer or typewriter to be neater, but many people just by hand use pen, marker, or pencil to handwrite words into forms.

It is not required but is bit better if signatures are in ink or marker not pencil.

Many parts of the forms especially Will gifts can be left empty and unfilled.

Anyone can fill in words in legal form not just the person doing the form, like a friend with neat writing can fill in all the words, addresses, and dates that are needed.
Only the final signatures must be done by each person who wants the form.

To add words in form by pen, pencil, typewriter, or computer any of these is fine:

"I appoint John Doe as Agent" ,
"I appoint John Doe as Agent",
"I appoint John Doe as Agent".

When doing forms it may help to know "respectively" means "in order just stated".

People need not worry about neatness or small mistakes, and a document is usually fine if those people who knew a decedent in life can tell the likely meaning.

Sample Filled Out Form: Last Will and Testament (Standard)
with Gifts section skipped to not bother making small gifts

LAST WILL AND TESTAMENT

I, Paul Samuel Maxwell, of Orange County, Florida do revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and acting voluntarily.

1. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

none

2. GIFTS. I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

SKIPPED

3. SEPARATE WRITINGS. I may do writings separate from this Will to gift tangible personal property as allowed by state law, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

4. RESIDUE. I give the rest and residue and remainder of my estate, my money and property of any kind and nature, and anything I have an interest in so long as it was not transferred by other Will provisions (all of which is called the “residue”), as follows:

a) to Susan Lee Maxwell my sister who survive me with persons just named who survive me taking the share of non-survivors, then if anything remains

b) to Oscar David Maxwell and Jennifer Judy Tabor and if any of those just named do not survive me their part goes to their lineal descendants, per stirpes.

5. ADMINISTRATION. I nominate and appoint Susan Lee Maxwell as Personal Representative including for me, my Will, and my estate.

6. MISCELLANEOUS. The following applies to this Will and generally.

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Florida state law to apply to this Will and my estate.

Priority of Will gifts of the same type is based on the order they are written.

If a gift or section in this Will reasonably mentions survival in any way then such survival is an absolute condition and anti-lapse laws or similar have no effect.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by me at death shall lapse and be of no effect including no payment of money shall be done in its place.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me the part to them lapses and instead goes to other surviving recipients.

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of a Will gift of property takes it subject to debts, and c) no recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

I give any Personal Representative the a) fullest authority, discretion, and powers allowed by state law, b) power to lease, sell, mortgage, convey, or keep property including real property in a manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts in the time and manner they in their sole discretion choose.

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

Pay for any lawyer is what a Personal Representative agrees to and not a statutory fee.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor’s property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Guardian of Property and Conservator and Guardian of the Estate and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in place and act and have all powers like the others.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type like for a person or estate, Conservator, Custodian, and any other fiduciary under this Will or otherwise shall qualify and serve without bond, surety, security, surety bond, or similar.

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Florida Uniform Transfers to Minors Act or a similar law anywhere, and may pick the person to be Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, Paul Samuel Maxwell, the Testator, declare, sign, and publish this instrument as my Will, this 8th day of June, 2022.

Paul Samuel Maxwell

Testator Signature

WITNESSES

The foregoing instrument was signed by the Testator and Testator declared it to be the Testator's Will, which signing and declaration was made in the presence of us the Witnesses, and we do now sign our names in this document below acting as witnesses at the request and in the presence of the Testator and presence of each other on this 8th day of June, 2022.

Eve Mable Rogers

Witness Signature

Eve Mable Rogers, 14 2nd St., Miami, FL 34787

Printed Name and Residence of Witness

Mary Ann Moon

Witness Signature

Mary Ann Moon, 35 Buffalo Road, Denver, Colorado 80101

Printed Name and Residence of Witness

Sample Filled Out Form: Last Will and Testament (Guardian)
with Many Specific Gifts, Guardian Clause used, and Residue Given By Percentages

LAST WILL AND TESTAMENT

I, Paul Brian Baker, of Miami-Dade County, Florida, do revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and acting voluntarily.

1. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

Ruth May Baker wife Oscar Elliot Baker young son
Karen Lisa Lundy daughter Derek Rupert Baker son.

2. GIFTS. I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give big oak table to Anne J. Smith.

I give \$5,000 and Ford Truck to Loretta Marsha Baxter.

I give buildings, land, and fixtures at 63 Wentworth Road, Pompano Beach, Florida
to Kenneth Alan Ford.

I give all real property and fixtures I own in Pinellas County in Florida to
Amy Marie Fox and Pamela Sue Fox.

I give 903 Iceberg Road, Anchorage, Alaska to James Eric Hanson.

I give Irish jewelry and my wedding ring to Mary Natalie Swanson.

I give all jewelry not given above to Kay Baxter and Mary Baxter.

I give \$781.35 to Mary Natalie Swanson and Kevin Kilby.

I give Wells Fargo acct ending in #8923 to Lawrence Deer a hunting buddy.

I give all spare tires and auto parts to Victor Perez my mechanic.

I give _____ to _____.

3. SEPARATE WRITINGS. I may do writings separate from this Will to gift tangible personal property as allowed by state law, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

4. RESIDUE. I give the rest and residue and remainder of my estate, my money and property of any kind and nature, and anything I have an interest in so long as it was not transferred by other Will provisions (all of which is called the “residue”), as follows:

a) to Ruth May Baker who survive me with persons just named who survive me taking the share of non-survivors, then if anything remains

b) to 45% to Oscar Elliot Baker, and 45% to Karen Lisa Lundy, and 10% to Oscar Sanchez my friend and if any of those just named do not survive me their part goes to their lineal descendants, per stirpes.

5. ADMINISTRATION. I nominate and appoint Ruth May Baker as Personal Representative including for me, my Will, and my estate.

6. GUARDIAN. I name, nominate, and appoint Amanda Sue Brubaker my sister to be if needed the Guardian of the Person of any minor child under age 18 of mine and to have care, authority, custody, and other control of them. I also name, nominate, and appoint this same person to be Guardian of the Property over the property, money, and estate of any minor child and to have control, care, and power of these things.

7. MISCELLANEOUS. The following applies to this Will and generally.

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Florida state law to apply to this Will and my estate.

Priority of Will gifts of the same type is based on the order they are written.

If a gift or section in this Will reasonably mentions survival in any way then such survival is an absolute condition and anti-lapse laws or similar have no effect.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by me at death shall lapse and be of no effect including no payment of money shall be done in its place.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me the part to them lapses and instead goes to other surviving recipients.

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of a Will gift of property takes it subject to debts, and c) no recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

I give any Personal Representative the a) fullest authority, discretion, and powers allowed by state law, b) power to lease, sell, mortgage, convey, or keep property including

real property in a manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts in the time and manner they in their sole discretion choose.

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor's property or money may use or invade the principal and sell property without court action.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type like for a person or estate, Conservator, Custodian, and any other fiduciary under this Will or otherwise shall qualify and serve without bond, surety, security, surety bond, or similar.

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Florida Uniform Transfers to Minors Act or a similar law anywhere, and may pick the person to be Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, Paul Brian Baker, the Testator, declare, sign, and publish this instrument as my Will, this 30th day of December, 20 21.

Paul Brian Baker
Testator's Signature

WITNESSES

The foregoing instrument was signed by the Testator and Testator declared it to be the Testator's Will, which signing and declaration was made in the presence of us the Witnesses, and we do now sign our names in this document below acting as witnesses at the request and in the presence of the Testator and presence of each other on this 30th day of December, 20 21.

Olivia Anna Paulson
Witness Signature

Olivia Anna Paulson, 82 Forest Road, Ocala, FL 34953
Printed Name and Residence of Witness

Matthew John Paulson
Witness Signature

Matthew John Paulson, 82 Forest Road, Ocala, FL 34953
Printed Name and Residence of Witness

Sample Filled Out Form: Last Will and Testament (Standard)
with Will modified to have a 1 Part Residue Clause

LAST WILL AND TESTAMENT

I, John David Smith, of Broward County, Florida, do revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and acting voluntarily.

1. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

my son Adam Michael Smith
_____.

2. GIFTS. I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give \$200 to each of my nieces and nephews so about \$2,800 in total.

I give \$400 to Garner Food Shelf in Melbourne, Florida.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

3. SEPARATE WRITINGS. I may do writings separate from this Will to gift tangible personal property as allowed by state law, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

4. RESIDUE. The rest and residue and remainder of my estate, my property of any kind and nature, and anything I have an interest in, I give to Adam Michael Smith and Judy Paula Ford who survive me and to the lineal descendants per stirpes of a person just named who did not survive me.

5. ADMINISTRATION. I nominate and appoint Judy Paula Ford my sister as Personal Representative including for me, my Will, and my estate.

6. MISCELLANEOUS. The following applies to this Will and generally.

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Florida state law to apply to this Will and my estate.

Priority of Will gifts of the same type is based on the order they are written.

If a gift or section in this Will reasonably mentions survival in any way then such survival is an absolute condition and anti-lapse laws or similar have no effect.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by me at death shall lapse and be of no effect including no payment of money shall be done in its place.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me the part to them lapses and instead goes to other surviving recipients.

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of a Will gift of property takes it subject to debts, and c) no recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

I give any Personal Representative the a) fullest authority, discretion, and powers allowed by state law, b) power to lease, sell, mortgage, convey, or keep property including real property in a manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts in the time and manner they in their sole discretion choose.

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

Pay for any lawyer is what a Personal Representative agrees to and not a statutory fee.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor’s

property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Guardian of Property and Conservator and Guardian of the Estate and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in place and act and have all powers like the others.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type like for a person or estate, Conservator, Custodian, and any other fiduciary under this Will or otherwise shall qualify and serve without bond, surety, security, surety bond, or similar.

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Florida Uniform Transfers to Minors Act or a similar law anywhere, and may pick the person to be Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, John David Smith, the Testator, declare, sign, and publish this instrument as my Will, this 21st day of June, 2021.

John David Smith

Testator Signature

WITNESSES

The foregoing instrument was signed by the Testator and Testator declared it to be the Testator's Will, which signing and declaration was made in the presence of us the Witnesses, and we do now sign our names in this document below acting as witnesses at the request and in the presence of the Testator and presence of each other on this 21st day of June, 2021.

Mark Elliot Potter

Witness Signature

Mark Elliot Potter, 2 Spruce St, Sherwood, FL 33411

Printed Name and Residence of Witness

Ann Paula Blom

Witness Signature

Ann Paula Blom, 70 Rocky Road, Clarksville, Florida 33024

Printed Name and Residence of Witness

Sample Filled Out Form: Self-Proving Affidavit

SELF-PROVING AFFIDAVIT

(Florida Statutes § 732.503)

STATE OF FLORIDA

COUNTY OF BROWARD

I, John David Smith, Testator, declare to the officer taking my acknowledgment of this instrument, and to the subscribing witnesses, that I signed this instrument as my Will.

John David Smith
Testator

We, Mark Elliot Potter and Ann Paula Blom, have been sworn by the officer signing below, and declare to that officer on our oaths that the Testator declared the instrument to be the testator's Will and signed it in our presence and that we each signed the instrument as a witness in the presence of the Testator and of each other.

Mark Elliot Potter Ann Paula Blom
Witness Witness

NOTARY:

ACKNOWLEDGED AND SUBSCRIBED before me by means of physical presence of the Testator, John David Smith, who is (check a box) [] personally known to me or [**X**] has produced identification in the form of Florida Drivers License, and

sworn to and subscribed before me by both physically present two witnesses:
Mark Elliot Potter who is (check a box) [] personally known to me or [**X**] has produced identification in the form of Florida Drivers License, and

Ann Paula Blom who is (check a box) [] personally known to me or [**X**] has produced identification in the form of Florida Drivers License.

Subscribed by me in the presence of the Testator and the two subscribing witnesses, by the means specified herein, all on the 21st day of June, 2021.



William P. Jefferson
Notary Public: State of Florida

Sample Filled Out Form: Tangible Personal Property List

TANGIBLE PERSONAL PROPERTY LIST

In this writing are gifts of tangible personal property to occur at my death, but this writing if not found by someone within 90 days of my death is canceled.

I may do many pages of these writings which should all be seen as one document. If there are conflicts among such writings the provisions of the more recent writing will revoke the inconsistent provisions of a prior writing.

If a person getting a gift below does not survive me such gift is void and canceled.

PROPERTY ITEMS

NAMES OF RECIPIENTS

1998 Ford Truck	to	Samantha Bell
1.3 carat diamond ring + Irish rings	to	Ann Sue Reed
14 ft power boat + kayak + paddles	to	L. Wheeler
Amish style bench	to	Reba Stewart
glass table, telescope, umbrellas	to	Rebecca Stewart
Irish wood cups, oak platter, red vase	to	Mary and Cindy Lott
painting of sailboat in storm	to	Mary Lott
chainsaw marked with 382937	to	Mary Lott
chainsaw marked with 89930	to	Matt Smith
antique lanterns + repair kits	to	Sue Wu maid at Hart Hotel
oak lamp kept on porch	to	Mary Kay Poppler
sewing machines	to	Mary Kay Poppler
rocking chair bought in Oregon	to	Don Winkler boat mechanic
all fishing poles and fishing nets	to	Joe "Fish" Hoss, fishing pal
hats at cabin	to	Ken Baker
all clothing except hats at cabin	to	Melissa and Wendy Smith
	to	
	to	
	to	

DATE: 8-15-2022

SIGNED: John David Smith