

ESTATE PLANNING BASICS

What Every Wakulla Resident Should Know

A Special Resource for Wakulla County Residents



Prepared exclusively by:

WAKULLA LEGACY ESTATE PLANNING

A Division of Gellis Law, PLLC

Sean Gellis, Esq. Estate Planning Attorney

Contact Information:

Phone: 850-329-0186

Email: seangellis@wakullalegacy.com

Website: www.wakullalegacy.com

This guide explains the essential estate planning documents every Wakulla resident needs, how Florida's specific laws affect your planning choices, and how to avoid common mistakes that could impact your family's future.

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Estate Planning Basics: What Every Wakulla Resident Should Know

Introduction

Estate planning isn't just for the wealthy or elderly—it's for everyone who cares about what happens to their loved ones and property. As a Wakulla County resident, you face unique considerations due to Florida's specific laws that can significantly impact how your assets are distributed and how your healthcare decisions are managed.



This guide will walk you through the essential elements of estate planning in straightforward, jargon-free language. Whether you own a waterfront property in Panacea, a family home in Crawfordville, or are just starting out in our beautiful coastal community, these fundamentals apply to you.

Essential Estate Planning Documents Everyone Needs

1. Last Will and Testament



At its core, a will directs how your property should be distributed after your death. It also allows you to:

- Name an executor (personal representative) to handle your affairs
- Designate guardians for minor children
- Specify funeral and burial wishes
- Create testamentary trusts for beneficiaries who need oversight

Florida-Specific Considerations:

- Florida requires two witnesses who must sign in the presence of each other and the person making the will
- Florida recognizes "self-proving" wills with special notarized language that simplifies the probate process
- Florida does NOT recognize handwritten (holographic) wills or oral wills
- Joint wills are not recognized under Florida law

Why It Matters for Wakulla Residents: Without a valid will, Florida's intestacy laws determine who receives your property—often not matching what you would have wanted. For Wakulla's many blended families, this can create particularly complicated situations.

2. Durable Power of Attorney



This document appoints someone to handle your financial and legal affairs if you become incapacitated. It allows your chosen agent to:

- Pay bills and manage accounts
- Handle real estate transactions
- File tax returns
- Apply for government benefits
- Manage investments
- Make business decisions

Florida-Specific Considerations:

- Florida substantially reformed its power of attorney laws in 2011
- Certain significant powers (called "superpowers") must be separately initialed to be valid
- Florida powers of attorney are effective immediately upon signing unless specified otherwise
- Must be properly witnessed and notarized

Why It Matters for Wakulla Residents: For Wakulla's retiree population, this document becomes increasingly important as you age. For those with vacation homes or who travel frequently, having someone who can manage your affairs becomes critical during unexpected illnesses or accidents.

3. Healthcare Surrogate Designation



This document (Florida's version of a healthcare power of attorney) appoints someone to make medical decisions for you if you cannot communicate. Your healthcare surrogate should:

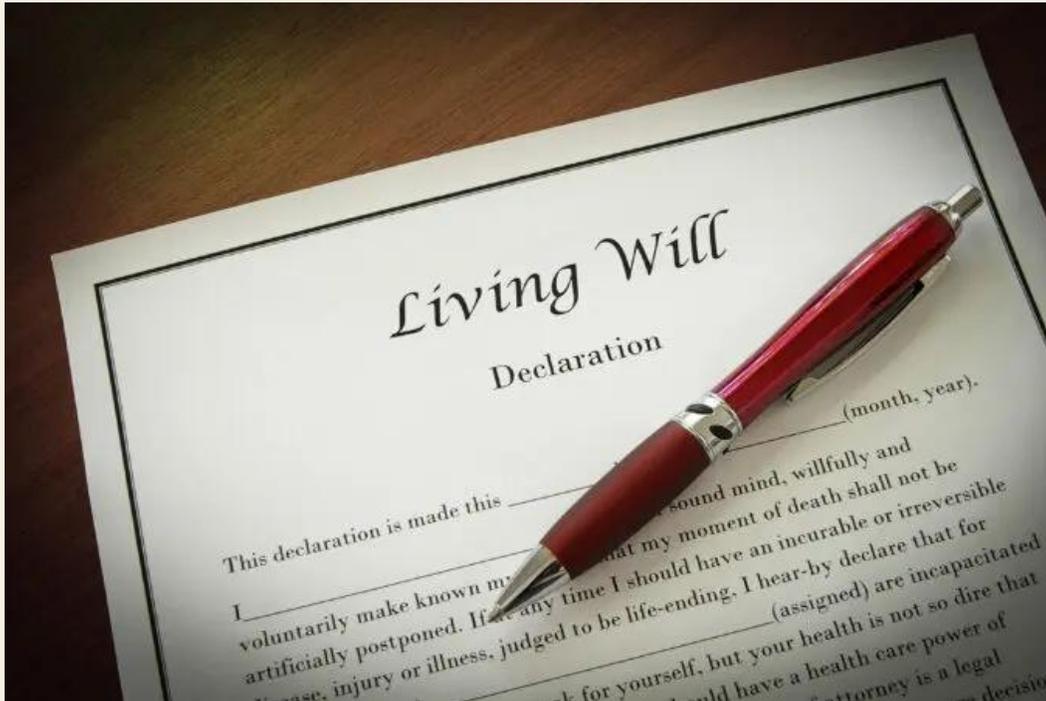
- Understand your medical preferences
- Be willing to advocate for your wishes
- Be available in an emergency
- Have the strength to make difficult decisions

Florida-Specific Considerations:

- Florida law allows you to indicate whether your surrogate can access your medical records while you still have capacity
- Recent law changes allow you to give your surrogate immediate authority while you retain the right to override their decisions
- Requires two witnesses but doesn't require notarization (though recommended)

Why It Matters for Wakulla Residents: Wakulla County's location means emergency medical care often involves transport to Tallahassee facilities. Having clear directives ensures your wishes follow you wherever you receive care.

4. Living Will



A living will states your wishes regarding life-prolonging procedures if you have a terminal condition, end-stage condition, or are in a persistent vegetative state. This document:

- Clarifies your wishes regarding artificial life support
- Can specify preferences about nutrition and hydration
- Provides guidance to your healthcare surrogate
- Relieves loved ones from making these difficult decisions without your input

Florida-Specific Considerations:

- Florida has a statutory living will form, though more detailed versions are often recommended
- Must be signed in the presence of two witnesses, one of whom should not be a spouse or blood relative

Why It Matters for Wakulla Residents: For Wakulla's active outdoors community—fishermen, boaters, and hunters—having these documents in place provides protection during high-risk activities.

5. HIPAA Authorization



This document allows designated individuals to access your protected health information. Without it, even close family members may be unable to receive information about your condition from healthcare providers.

Why It Matters for Wakulla Residents: This becomes particularly important for seasonal residents who might receive care in multiple facilities across different states.

How Florida-Specific Laws Affect Your Estate Planning Choices



Florida Homestead Laws: Protection and Restriction

Florida's homestead laws provide both significant benefits and strict limitations:

Benefits:

- Protection from creditors
- Property tax exemptions
- Limitations on assessed value increases

Restrictions:

- Limits on how you can transfer your homestead in your will if you have a spouse or minor child
- Can override contrary instructions in your will
- Special considerations for blended families

Solutions:

- Enhanced life estate deeds (Lady Bird deeds)
- Properly structured trusts or deeds
- Marital agreements addressing homestead rights

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No State Estate Tax or Inheritance Tax

Florida has no state estate tax or inheritance tax, making it tax-advantageous compared to many northern states. This affects how aggressively you need to plan for tax mitigation.

Tenancy by the Entirety

Florida recognizes this special form of ownership between spouses that provides:

- Strong creditor protection
- Automatic transfer to surviving spouse outside of probate
- Cannot be broken without both spouses' consent

Strong Elective Share Rights for Spouses

Florida provides surviving spouses with the right to claim 30% of the deceased spouse's "elective estate" regardless of what the will provides. This has significant implications for blended families and those with children from previous relationships.



Common Estate Planning Mistakes to Avoid



1. Failing to Plan at All

The most common mistake is having no estate plan. Without proper documents in place:

- Florida's intestacy laws determine who inherits your assets
- The court decides guardianship for minor children
- No one is authorized to make healthcare decisions or manage your affairs if incapacitated
- Your estate may face unnecessary probate expenses and delays

2. Not Updating Your Plan After Major Life Events

Estate plans should be reviewed and potentially updated after:

- Marriage or divorce
- Birth or adoption of children
- Death of beneficiaries or fiduciaries
- Significant changes in assets
- Moving to Florida from another state
- Changes in tax laws

3. DIY Estate Planning Without Legal Guidance

While online and do-it-yourself options seem cost-effective, they often fail to:

- Address Florida-specific laws like homestead restrictions
- Account for blended family considerations
- Properly execute documents according to Florida law
- Coordinate beneficiary designations with your overall plan

4. Neglecting to Fund Trusts

Creating a trust without transferring assets into it (funding) is like buying a safe but never putting anything inside. Unfunded trusts fail to avoid probate and don't accomplish their intended purpose.

5. Overlooking Beneficiary Designations

Assets with designated beneficiaries (life insurance, retirement accounts, etc.) pass outside your will. Failing to coordinate these designations with your overall estate plan can undermine your intentions.

Why Wakulla County Residents Need More Than Just a Simple Will



Geography and Demographics Create Unique Needs

Wakulla County's coastal location, rural character, and diverse population create specific estate planning considerations:

Waterfront Properties:

- Often represent significant value
- May have environmental regulations affecting use and transfer
- May be vacation properties with specific intended inheritance patterns

Family Businesses:

- Fishing operations, oyster businesses, and other local enterprises need succession planning
- Require special consideration for continuity if owner becomes incapacitated

Retirement Community:

- Many residents have family in other states
- May need coordination between Florida and home-state planning
- Often have concerns about long-term care and Medicaid planning

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Probate Avoidance Is Particularly Valuable

Probate in Florida can be time-consuming and expensive. For Wakulla residents, additional tools beyond a will can help avoid probate:

Lady Bird Deeds:

- Florida-specific tool for transferring real property at death
- Maintains control during life
- Avoids probate for your home
- Preserves homestead tax benefits
- Potential Medicaid planning advantages

Living Trusts:

- Provide management during incapacity and smooth transition at death
- Avoid probate for all assets properly titled to the trust
- Provide privacy not available with probate
- Allow for more complex distribution plans for blended families

Pay-on-Death and Transfer-on-Death Designations:

- Simple methods to avoid probate for bank accounts and certain investments
- Should be coordinated with overall estate plan

How to Protect Your Family Home for Future Generations



Understanding Your Options for Property Transfer

Traditional Will Bequest:

- Subject to homestead restrictions if you have a spouse or minor child
- Property goes through probate
- Limited control over future use or transfers

Lady Bird Deed:

- Retains complete control during lifetime
- Transfers automatically at death without probate
- Can name multiple future owners with specified shares
- Maintains homestead tax benefits

Living Trust:

- Can hold and manage property during incapacity
- Avoids probate
- Can include detailed provisions for future generations
- May include restrictions on sale or use

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Family Limited Liability Company (LLC):

- More complex but provides additional protection
- Can maintain family ownership across generations
- Limits liability for property-related issues
- Allows fractional ownership with managed control

Special Considerations for Vacation Properties

Many Wakulla residents own coastal or waterfront vacation properties they want to keep in the family. Special planning tools include:

Cabin Trusts:

- Provide structure for shared family ownership
- Include rules for usage, expenses, and decision-making
- Can prevent forced sales by heirs

Life Estates with Specific Conditions:

- Allow current generation to use property for life
- Place specific restrictions on future sale or transfer
- Can include funding mechanisms for maintenance and taxes

Next Steps: Creating Your Estate Plan



1. Take Inventory of Your Assets and Goals

- List all property and financial accounts
- Identify digital assets and accounts
- Consider family dynamics and specific concerns
- Determine who you would trust for various roles (executor, trustee, guardian, agents)

2. Consult with a Local Estate Planning Attorney

Working with an attorney familiar with Wakulla County and Florida's unique laws ensures:

- Documents comply with all legal requirements
- Your plan addresses Florida-specific issues like homestead
- Coordination between various planning tools
- Solutions tailored to your family's specific situation

3. Execute Properly Prepared Documents

- Follow all signature, witness, and notary requirements
- Store originals in a secure but accessible location
- Provide copies to appropriate fiduciaries

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Page 15 of 17

- Consider digital storage options for important documents

4. Review and Update Regularly

- Schedule reviews every 3-5 years
- Update after major life events
- Adjust as laws change
- Ensure your plan continues to reflect your wishes

Conclusion

Estate planning is not a one-size-fits-all process, nor is it something you do once and forget about. As a Wakulla County resident, your estate plan should reflect Florida's unique legal landscape while addressing your specific family dynamics and goals.

Remember that the best time to plan is now, before a crisis occurs. Whether you're a young family just starting out, a retiree enjoying our beautiful coastal community, or somewhere in between, having proper estate planning documents in place provides invaluable peace of mind that your wishes will be honored and your loved ones protected.

About the Author



Sean Gellis is the founding attorney of Wakulla Legacy, a division of Gellis Law, PLLC focused exclusively on serving the estate planning needs of Wakulla County residents. He brings over a decade of legal experience to help his neighbors protect their most valuable assets.

Contact Information

Wakulla Legacy

Phone: 850-329-0186

Email: seangellis@wakullalegacy.com

Website: www.wakullalegacy.com

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