



ESTATE PLANNING GUIDE



THE **FINITY** LAW FIRM

With your legacy in mind, we protect your loved one's inheritances!

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ABOUT US

The Finity Law Firm focuses on legal solutions that protect your family, business, and your legacy. We know that providers of legal services can be quite deceiving when it comes to fees, payments, documents, and much more. Our Orlando law firm, based out of Winter Park, is a results-oriented provider that has adopted a philosophy of offering transparent legal solutions with a balanced approach to your needs and your wallet. Our Orlando estate planning attorneys are standing by to provide you with services you can trust and depend on. We understand each case is unique, which is why we offer free consultations to determine the needs of your family.

MISSION STATEMENT

"To provide the peace of mind that your estate plan effectively and efficiently protects your assets, your health care, and your family's harmony. We do this by providing quality education and superior legal services to all our clients. Embedded in our philosophy is the desire to have a family-centered practice with a balanced approach of your needs and your expenses."

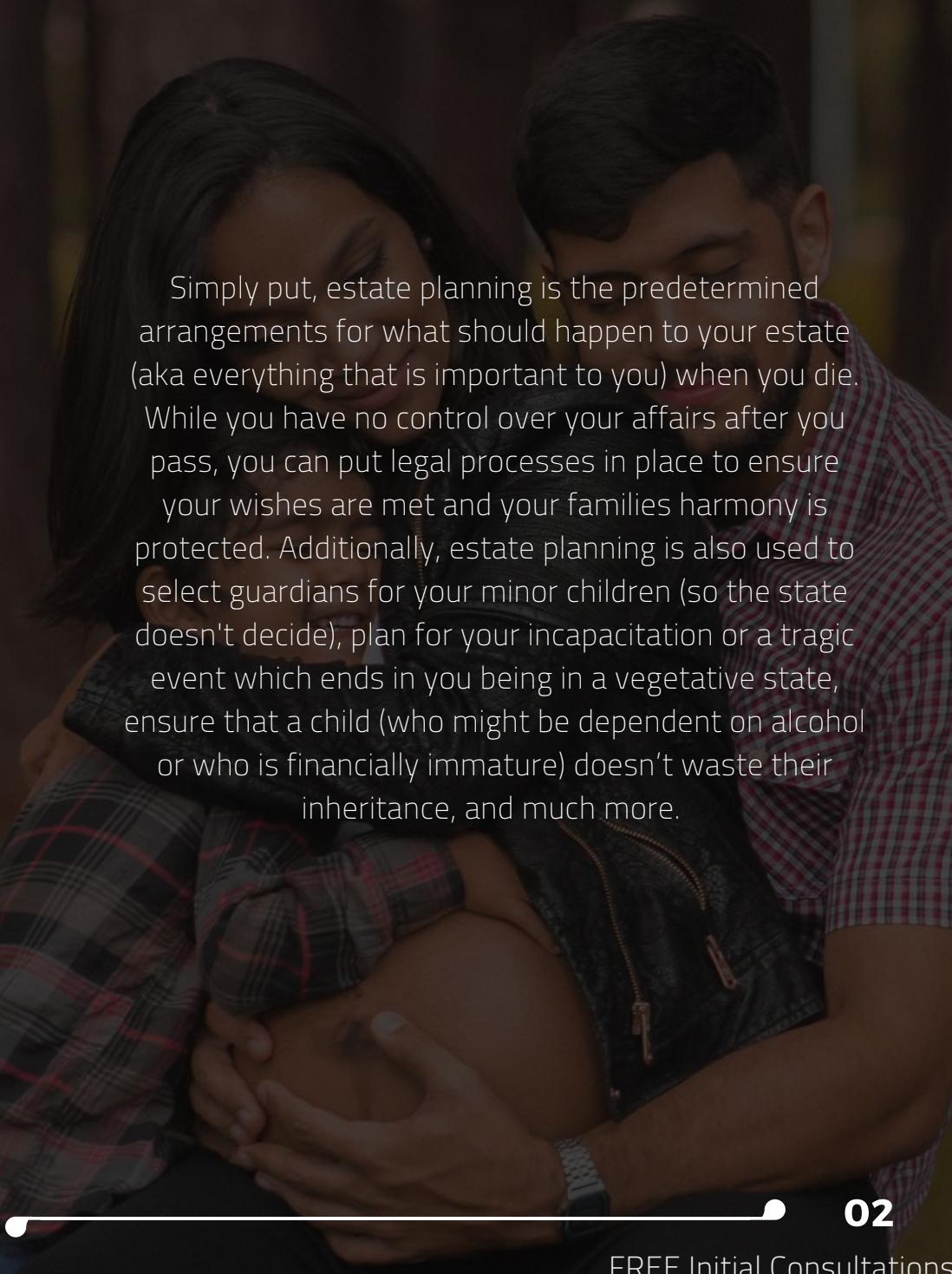
LEGAL DISCLAIMER

This guide is designed to aid in your understanding of the practical, financial, and administrative aspects of estate planning. The information provided is for informational purposes only and is not to be construed as rendering legal advice or legal services. The reader should consult with an attorney who specializes in estate planning to review their own specific situation in order to properly leave behind their own legacy.



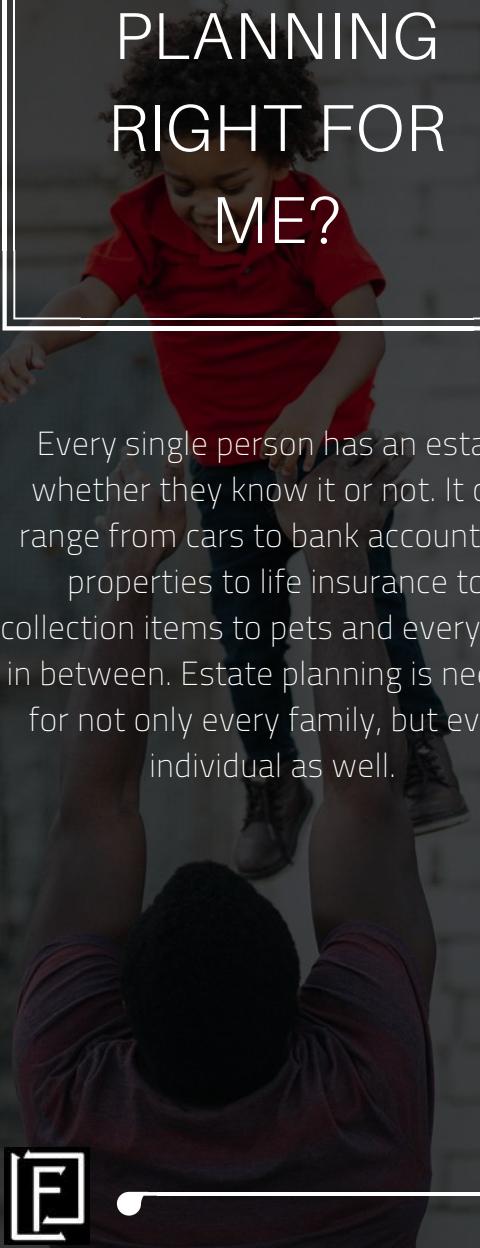
WHAT IS ESTATE PLANNING?

Estate Planning is the preparation for the distribution and management of a person's estate at death through the use of wills, trusts, insurance policies, and other legal arrangements, primarily to reduce administration costs and transfer tax liability for a person after death.



Simply put, estate planning is the predetermined arrangements for what should happen to your estate (aka everything that is important to you) when you die. While you have no control over your affairs after you pass, you can put legal processes in place to ensure your wishes are met and your families harmony is protected. Additionally, estate planning is also used to select guardians for your minor children (so the state doesn't decide), plan for your incapacitation or a tragic event which ends in you being in a vegetative state, ensure that a child (who might be dependent on alcohol or who is financially immature) doesn't waste their inheritance, and much more.

IS ESTATE PLANNING RIGHT FOR ME?



Every single person has an estate whether they know it or not. It can range from cars to bank accounts to properties to life insurance to collection items to pets and everything in between. Estate planning is needed for not only every family, but every individual as well.

The possibility of not being here tomorrow is not something we tend to think about when we are younger, but estate planning is not just restricted to those in their golden years. Poor health and accidents can happen to anyone at anytime, which is why it is important for everyone to have their affairs in order. Despite the fact that everyone will pass away one day, a majority of the population still does not make any estate plans prior to death.

It is in your best interest that when (not if) you pass away that you were the one who decided how your estate was to be distributed according to your own wishes. Additionally, you will want to ensure that you are paying the least amount of taxes, legal fees, and court costs during this transfer of ownership or guardianship. Doing all of this requires proper estate planning!

LIST YOUR ASSETS

Still not convinced estate planning is right for you? Let us help! Answer yes or no if you possess any of the following listed components. If you answer yes to one or more of these questions, then you should consider to start planning your estate.

Do you own a house?

YES

NO

Do you own a car?

YES

NO

Do you have a life insurance policy?

YES

NO

Do you have children or a family?

YES

NO

Do you have any pets?

YES

NO

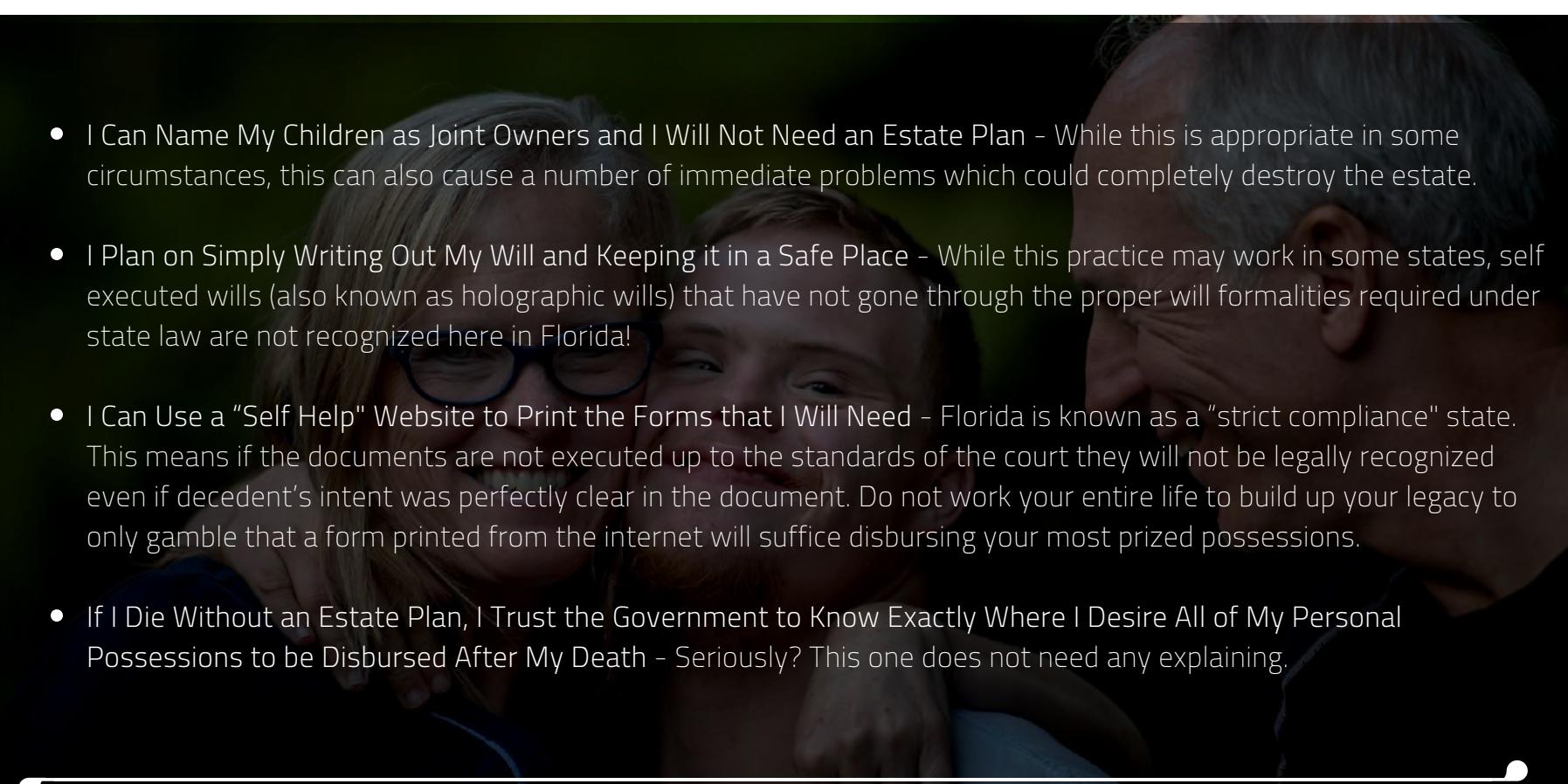
Do you have a bank account?

YES

NO

ESTATE PLANNING MISCONCEPTIONS

- There's Always Tomorrow - There is no better time than now to setup your estate plan. Approximately 60% of Americans die without any form of estate planning, do not become another statistic and make the proper preparations for something you will 100% use in the future.
- If I Execute My Estate Plan I Will Have to Continuously Pay to Keep It Updated - Our revocable living trusts can be amended, added to, subtracted from, or cancelled by you at any time without the intervention of an attorney or other estate planning professional.

- 
- I Can Name My Children as Joint Owners and I Will Not Need an Estate Plan - While this is appropriate in some circumstances, this can also cause a number of immediate problems which could completely destroy the estate.
 - I Plan on Simply Writing Out My Will and Keeping it in a Safe Place - While this practice may work in some states, self executed wills (also known as holographic wills) that have not gone through the proper will formalities required under state law are not recognized here in Florida!
 - I Can Use a "Self Help" Website to Print the Forms that I Will Need - Florida is known as a "strict compliance" state. This means if the documents are not executed up to the standards of the court they will not be legally recognized even if decedent's intent was perfectly clear in the document. Do not work your entire life to build up your legacy to only gamble that a form printed from the internet will suffice disbursing your most prized possessions.
 - If I Die Without an Estate Plan, I Trust the Government to Know Exactly Where I Desire All of My Personal Possessions to be Disbursed After My Death - Seriously? This one does not need any explaining.

WAYS TO PLAN

REVOCABLE LIVING TRUST

A revocable living trust is a document created specifically for each client that allows you to manage your assets during your lifetime and then to distribute the remaining assets after your death according to your wishes. The trust is fully revocable, meaning it can be modified or cancelled by you anytime during your lifetime, so long as you have necessary capacity.

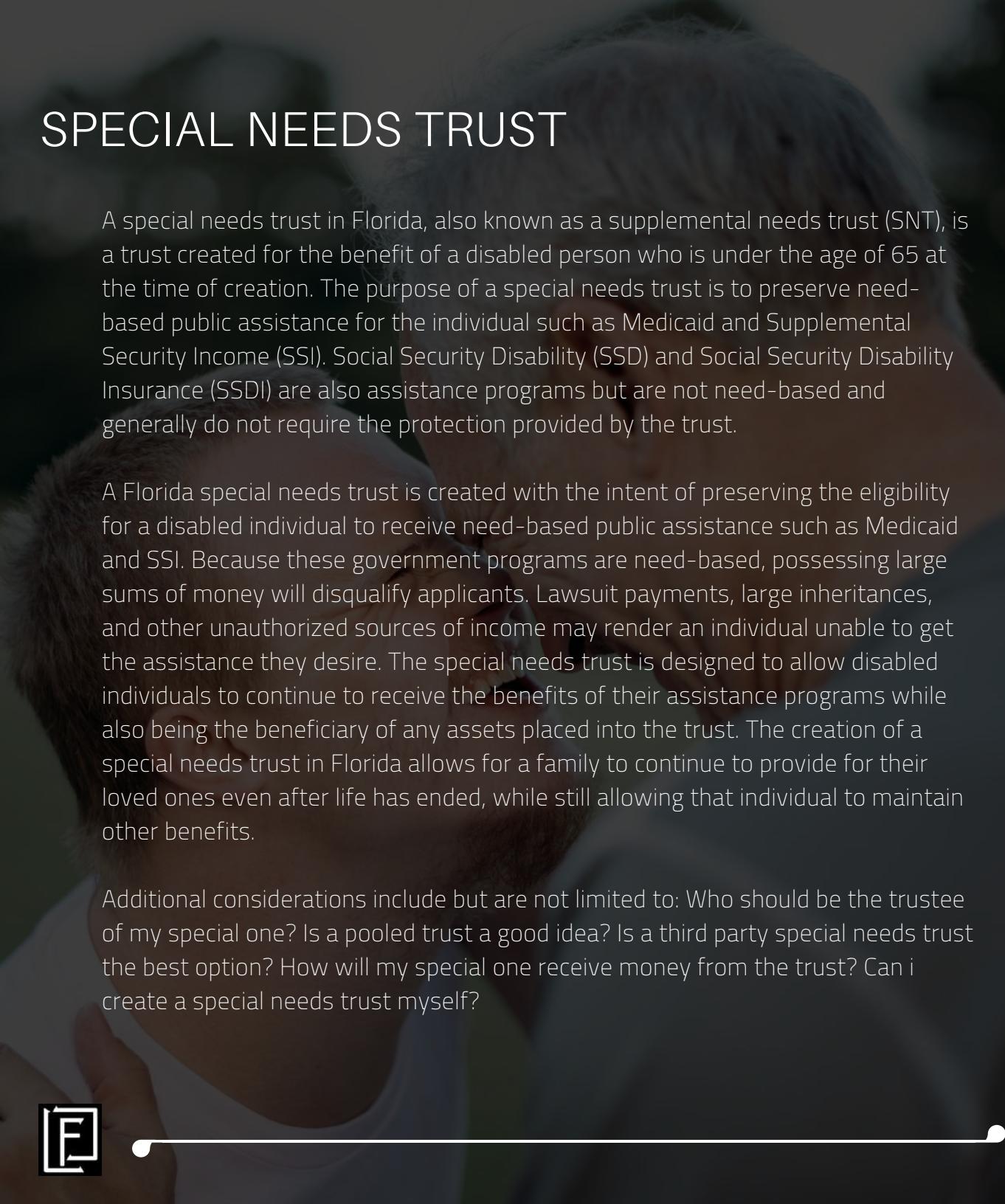
There are three different parties to any revocable trust. A settlor or grantor is the person whose intent it is to create the trust. The trustee is the person or company who manages trust assets. The beneficiaries are who will receive trust property according to the settlor's wishes after their death or incapacity. While the settlor also typically serves as the trustee and beneficiary during their lifetime, there must be at least one additional party to serve as either successor trustee or beneficiary.

While the settlor maintains control of their possessions, assets such as bank accounts, real property, securities, and personal property all must be retitled into the name of the trust to ensure that is properly funded. At the Finity Law Firm, we fund 100% of all trusts that we create to ensure that the trust documents are fully effective before you leave our office.

Unlike wills, trusts are completely private and do not need to be probated. Currently, formal probate in Florida takes between nine months and two years to be completed and costs thousands of dollars in legal fees and court costs (all of which are taken from your estate and not distributed to your heirs).



SPECIAL NEEDS TRUST



A special needs trust in Florida, also known as a supplemental needs trust (SNT), is a trust created for the benefit of a disabled person who is under the age of 65 at the time of creation. The purpose of a special needs trust is to preserve need-based public assistance for the individual such as Medicaid and Supplemental Security Income (SSI). Social Security Disability (SSD) and Social Security Disability Insurance (SSDI) are also assistance programs but are not need-based and generally do not require the protection provided by the trust.

A Florida special needs trust is created with the intent of preserving the eligibility for a disabled individual to receive need-based public assistance such as Medicaid and SSI. Because these government programs are need-based, possessing large sums of money will disqualify applicants. Lawsuit payments, large inheritances, and other unauthorized sources of income may render an individual unable to get the assistance they desire. The special needs trust is designed to allow disabled individuals to continue to receive the benefits of their assistance programs while also being the beneficiary of any assets placed into the trust. The creation of a special needs trust in Florida allows for a family to continue to provide for their loved ones even after life has ended, while still allowing that individual to maintain other benefits.

Additional considerations include but are not limited to: Who should be the trustee of my special one? Is a pooled trust a good idea? Is a third party special needs trust the best option? How will my special one receive money from the trust? Can I create a special needs trust myself?



TESTAMENTARY TRUST

Contrary to a revocable living trust, a testamentary trust is a trust that is created by a will which does not take effect until the settlor (person who made the will) passes away. A testamentary trust works by allowing the settlor to provide directions for creating and administering the trust at the time the will is created.

Although the will is active immediately upon execution, the testamentary trust is not actually created until after the grantor has died. A testamentary trust is structured the same and takes effect similar to general trusts and may incorporate all or simply a portion of the estate. The primary distinction between a testamentary trust and other trusts is the manner in which the trust comes into existence.

WILL

Easily the most famous and recognizable of all estate planning documents is the last will and testament, or simply put a "will". While modern films and televisions enjoy the drama of portraying a will reading before loved ones, as previously mentioned it is often times not the most efficient estate planning instrument. While dying with a will is better than dying intestate (or without a will), most wills are required to pass through probate.

Further, wills only direct disbursement of assets upon death. This disbursement will occur as a lump sum of money possibly to teenagers, beneficiaries with creditor issues, or other financially immature individuals. However, wills are a cheaper alternative than trusts and may be appropriate for smaller estates with proper estate planning.

LIVING WILL

A living will (also known as an advance health care directive) contains particular instructions for how an individual would prefer medical care to be either administered or withheld upon the occurrence of specific medical events and/or conditions. A living will specifically states the conditions for if and what treatment you would be willing to accept or decline in the event you are in a situation where you cannot make informed decisions on your own behalf (incapacity).

The directive can include topics such as:

- The appropriate situations and methods for which to decrease pain.
- When to permit or withhold life-prolonging treatment.
- If one would request a Do Not Resuscitate (DNR) order.
- What to do regarding an unborn fetus when a pregnant woman is incapacitated.

POWER OF ATTORNEY

Power of Attorney (POA) is a legal document which grants an individual the authority to make decisions and sign legal documents on behalf of another if they become unable to do so. The authority granted varies depending on the wording or inclusion of specific powers stated in the drafted document. The most common uses for power of attorney privilege include selling property, accessing bank accounts, managing finances, and signing legal documents. Most clients select a spouse, family member, or friend to act as their agent on their behalf. POAs can be tailored for a specific transaction, such as selling a particular property, or be durable, meaning they are valid until the principal passes away, and everything in between.

GUARDIANSHIP

Guardianship is the process of legally appointing an individual to make decisions on behalf of a minor or incapacitated adult. The individual who requires a guardian is known as a ward after guardianship has been granted over them. Guardianship for a minor occurs when a child's parents die or become incapacitated or when the child receives an inheritance. The guardian will make life decisions on the minor's behalf until they reach adulthood. Guardianship for incapacitated adults occurs when it is determined that an individual is no longer able to make competent decisions for themselves. In Florida, General guardianship information can be found in Florida Statute Section 744.

HEALTH CARE SURROGATE

A health care surrogate, also called a health care proxy, is an individual you authorize to make healthcare decisions on your behalf if you are unable to do so. Choosing your representative must take place with careful consideration because they will be tasked with making tough medical decisions for you if you are incapacitated or otherwise unable to do so. You should have a conversation with your potential surrogate about your desires and feelings towards the difficult decisions that may come up. Find someone that can put your mind at ease knowing your body will be in good hands if the time comes.



FREQUENTLY ASKED QUESTIONS

Q CAN I CHANGE OR REVOKE MY WILL?

A You can change and revoke your will at any time. A codicil (an amendment to your will) can be used to change your will, but it must be drafted and executed in the same manner as a will. Additionally, if you create a legally valid will and execute it properly, it will automatically revoke your old one. The last valid will is the one that is used to distribute your assets upon your death.

Q WHO SHOULD KNOW ABOUT MY WILL?

A No one except you and the lawyer should be aware of the exact contents of your will. Your executor, close friends, or the beneficiaries should know where to find it. The original should be kept in a safe place such as a fireproof box or safe deposit box.

Q WHAT HAPPENS IF I DIE WITHOUT A WILL OR TRUST?

A If you die without a will, Florida intestacy laws will determine who the beneficiaries of your estate will be. If the deceased is survived by a spouse and only descendants (children, grandchildren, etc.) of the marriage, then the spouse will receive everything. If the deceased is survived by a spouse and either spouse had children outside of the marriage, then the spouse will receive half and the descendants will receive half per stirpes. If the deceased is survived by only a spouse, the spouse will inherit everything. If the deceased is survived by descendants but no spouse, the descendants will receive everything.

If the deceased is not survived by either a spouse or descendants, the parents of the deceased will inherit 100% of the estate. If the deceased is not survived by a spouse, descendants, or their parents, then the deceased's siblings and their descendants (the deceased's nieces and nephews) will inherit 100% of the estate per stirpes. If the deceased is not survived by any identifiable family members, then the entire probate estate will escheat to the State of Florida. Escheat is a process where the assets are sold and the proceeds are then deposited into the State's School Fund via the Chief Financial Officer.

Q WHAT IS THE DIFFERENCE BETWEEN A WILL AND TRUST?

A will provides the instructions for the transfer of property after one's death. The trust removes ownership of the assets or property from the settlor but still allows for utilization by the individual. The trust is effective immediately upon creation. Also, a trust can avoid probate, whereas a will cannot.

Q ONCE A TRUST IS CREATED, WHAT'S NEXT?

A Assuming the trust has initially been funded correctly, anything you want in the trust needs to be renamed. This includes deeds to land, cars, life insurance policies and more. Additionally, your estate-planning professional should advise you about creating a pour-over will. The purpose of the pour-over will is to capture anything else that is not specifically mentioned in the trust or put into the trust. This could include assets you acquire after the trust but have not renamed yet, new bank accounts, gifts, inheritances, etc.

Q WHAT IS THE DIFFERENCE BETWEEN A WILL AND A LIVING WILL?

A living will and a Last Will and Testament differ in that the living will is not applicable after one's death and only pertains to medical care. A will is only applicable after death and contains specific information relating to property and guardianship.

Q WHAT IS THE DIFFERENCE BETWEEN A LIVING TRUST A LIVING WILL?

A living trust transfers ownership of property or other assets from a person(s) to that of a trust itself. A living trust is enacted during a person's lifetime, immediately removing ownership from the individual. A living will is a legal document created to specify the type of medical treatment appropriate for an individual in situations pertaining to incapacitation, end-of-life care, and other scenarios where a person may not be able to consent to care on their own.



Q WHAT TASKS CAN A POWER OF ATTORNEY PERFORM?

A An agent may perform only the tasks specified in a power of attorney as well as any acts that reasonably fall under the scope of the defined functions. For example, if an agent is permitted to sell a principal's home, then they are allowed to obtain any documents, funds, and provide signatures for any means necessary to sell the home.

Q CAN I AVOID PROBATE?

Q WHAT IS THE DIFFERENCE BETWEEN A LIVING TRUST AND A TESTAMENTARY TRUST?

A A living trust is enacted during a person's lifetime, immediately removing ownership from the individual. A testamentary trust is included in a Last Will and Testament but does not come into existence until after the settlor's death. Ownership of any assets devoted to the trust may remain within the legal possession of the grantor throughout their life. The property or assets dedicated to the trust transfer into it after the estate has cleared probate.

Q WHAT IS PROBATE?

A Probate is latin for "to prove" and it is the judicial procedure through which a testamentary document is established to be a valid will (if the deceased made one). Generally, the process includes identifying and locating the deceased's assets, paying final bills and taxes, and then distributing the remaining assets to the heirs.

With proper planning, yes! Probate can be avoided by transferring assets into trusts. To discover which trust is right for you, as well as which trusts avoid probate, you should meet with an estate planning attorney to discuss the specifics of your estate.

Q WHAT IS THE DIFFERENCE BETWEEN A LIVING WILL AND A HEALTH CARE SURROGATE?

A A health care surrogate form differs from a living will in that the surrogate authorizes a chosen individual to make decisions on your behalf, whereas the living will provides instructions for end-of-life choices and incapacitation care. The living will is your requests for administering or withholding specific medical treatment, whereas the health care surrogate is the appointment of an individual to make those decisions on your behalf should the circumstances require it.



ESTATE PLANNING QUESTIONS AND ANSWERS	NO WILL OR TRUST	WILL	REVOCABLE TRUST
Can I avoid probate?	No	No	Yes
Can I reduce/avoid federal taxes?	No	No	Yes
Can I keep inheritance from my heirs until they reach age 30 or older?	No	No	Yes
Can I arrange to have funds managed for the benefit of a heir who is handicapped or otherwise unable to handle funds?	No	No	Yes
Can I make sure my grandchildren will receive my estate after my children die, excluding spouses of my children?	No	No	Yes
Can I leave assets to children from an earlier marriage, cutting out my present spouse?	No	No	Yes
How long after my death until all assets are distributed and the estate is closed?	6 months - 2 years	6 months - 2 years	2 - 9 months
Can I retain control over my assets while I'm alive?	Yes	Yes	Yes
Can I change/revoke the plan?	N/A	Yes	Yes
Does the plan provide for someone to handle my finances if I become disabled?	No	Yes	Yes





REASONS TO PLAN

SAFELY TRANSFER PROPERTY

Estate planning empowers an individual to take control of the circumstances that follow life. A person can decide what they want to happen not only to their body but also to their worldly possessions. Failure to plan leaves the big decisions in the hands of a loved one or the state of residence. Allow all your property to reach the desired destination you imagined for it, and in the manner you prescribe. Take control of the things that matter most to you and ensure that they end up with the people who matter most in your life!

PROVIDE FOR MINORS AND DISABLED

Estate planning involves imagining a "post-you" world. Where do you see your minor children living after you pass? Who is taking care of them? Who will properly care for your special needs child or loved one? How will they manage to afford it? Do not lose sleep over all of these unanswered questions. Appoint guardians for your minor children who will lovingly embrace the role you assigned to them. Create special needs trust for loved ones you care for that experience a disability. Do not leave this world without a plan in place to provide for those you care about most.

TAX EXEMPTIONS

Do not give away money you do not have because you failed to plan. There are many tax advantages and loopholes just waiting for you to discover them. Minimize the financial hit your estate will encounter through taxes and fees. Get together with an experienced estate planning attorney to learn about all the ways they can save you money. These savings are not for your benefit alone. The primary reason to maximize savings is to ensure your loved ones receive the most of what you have left them.



PROTECT YOUR LEGACY

Dying without a plan in place can destroy family harmony. Loved ones may become aggressive toward each other trying to fulfill what they perceive to be your wishes. Some people may feel that someone else should inherit your property other than the person who now has it.

Dying without having your wishes known can tear a family apart during a time that should bring them closer together.

Provide everyone with your desired preferences, so they are not questioned and are accepted respectfully in your honor. Ensure the peace among your family is preserved. Protect your legacy by planning whose hands it falls into. Be remembered as the loving relative that made everyone else comfortable at the end of your life. They will not only remember how you treated them when you lived but also how you treated them after you died.

PLANNING CHECKLIST

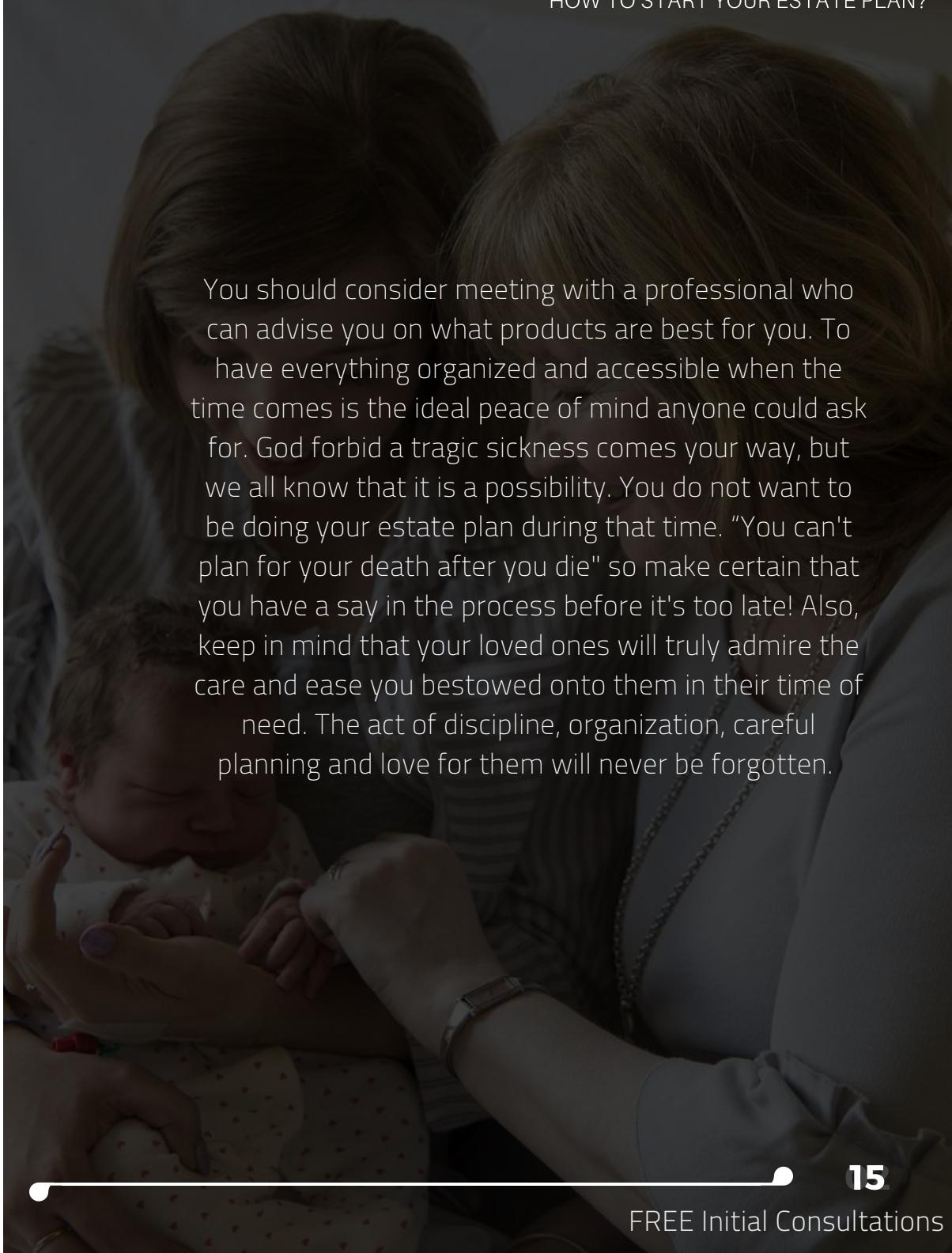
Use this checklist to observe how far along you are in planning your estate. Simply answer "Yes" or "No" to each question to determine if you have completed each component, must fulfill the objective, or decide if it is something that you do not require.

- Did you draft a will?
- Did you nominate an executor (or personal representative)?
- Did you draft a trust?
- Did you choose a reliable trustee?
- Have you chosen guardians for your minor children?
- Did you develop a special needs trust for any of your children?
- Did you choose a knowledgeable trustee able to protect the interests of the special needs trust?
- Did you address long term end of life treatment?
- Did you minimize taxes on the estate?
- Did you draft a pet trust?
- Did you plan your memorial?
- Did you alert loved ones as to where they may find these important documents?

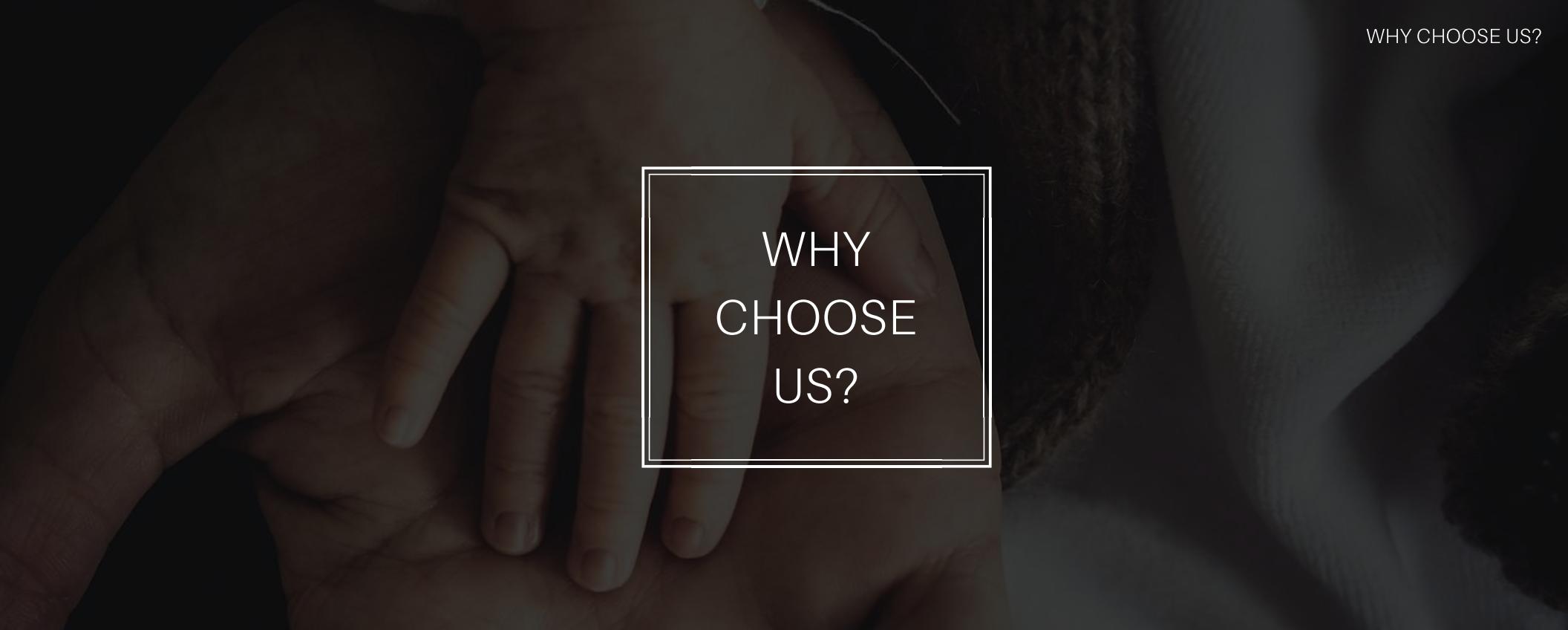


HOW TO START YOUR ESTATE PLAN?

If you're reading this, you have already begun!



You should consider meeting with a professional who can advise you on what products are best for you. To have everything organized and accessible when the time comes is the ideal peace of mind anyone could ask for. God forbid a tragic sickness comes your way, but we all know that it is a possibility. You do not want to be doing your estate plan during that time. "You can't plan for your death after you die" so make certain that you have a say in the process before it's too late! Also, keep in mind that your loved ones will truly admire the care and ease you bestowed onto them in their time of need. The act of discipline, organization, careful planning and love for them will never be forgotten.



WHY CHOOSE US?

In the probate world, Florida is known as a "strict compliance" state, meaning that if a will and/or trust is not executed to specific Florida laws the estate plan will not be recognized. Hiring an attorney that specializes in estate planning will ensure that your legacy is properly left behind. Be cautious if you use documents downloaded from the internet for free as they are most likely not tailored to Florida's specific laws. Further, be weary of places that advertise "free wills" as many times they require that the estate be probated through their firm which will yield them significantly more money in legal fees on the backend. Remember, if it sounds too good to be true, it probably is!



WE ARE HERE FOR YOU
FREE INITIAL CONSULTATIONS



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