

LEGALDRAFT

Florida Preneed Guardian Declarations

For Yourself · For Your Minor Children · Complete Fillable Kit

Written to Fla. Stat. §§ 744.3045, 744.3046

LegalDraft™ · Florida template by LegalDraft Technologies LLC

Both Florida preneed-guardian declarations at full drafting depth — naming the guardian a court shall appoint for you, and for your minor children, unless contrary to best interests; with the clerk-filing guide and the named-guardian brief. The pages a court will see are immaculate.

Execution: each declaration is signed before two attesting witnesses present at the same time. Your own declaration may be filed with the clerk of court (§ 744.3045(2)) so it is produced the moment it is ever needed.

LegalDraft™, a LegalDraft Technologies LLC publication, is AI-assisted document-preparation software, not a law firm, and does not provide legal advice. This kit records the answers and choices YOU supply — the questionnaire asks, you decide, the template records your decisions; the software did not choose any term for you. Nothing here applies the law to your specific situation or reviews your entries for legal sufficiency, and no attorney has reviewed your entries. The platform's built-in Opposing Counsel Pass™ is an automated, adversarial AI review, not a review by a lawyer. Your purchase or use of this kit does not create an attorney-client relationship. For advice about your circumstances, consult a licensed Florida attorney.

This cover is an informational page and is not part of the signed document, schedules, worksheets, or signature pages.



Start Here

The complete Florida preneed-guardian packet — both declarations, execution pages, the clerk-filing guide, and the named-guardian brief. Court-facing pages are immaculate.

01 Complete the Information Schedule

Names flow into both declarations.

02 Sign each declaration before two witnesses

Each declaration is a written statement signed by you in the presence of at least two attesting witnesses present at the same time — the statutes' own formality.

03 File with the clerk (yours) — or store (the minors')

Your OWN declaration may be filed with the clerk of court to be produced if incapacity proceedings ever begin (s. 744.3045(2)). The minors' declaration works from your important papers; both may also be filed together.

04 Tell the people you named

A guardian who does not know of the declaration cannot step forward with it. Give each named person a copy and this packet's guide page.

05 Review after every family change

Marriage, divorce, births, moves — re-read and re-execute when the right names change.

Information Schedule

Complete these fields once — your entries flow into the rest of the packet automatically.

Complete the fields for the declaration(s) you intend to make. Entries flow into both declarations and their execution pages.

YOU (THE DECLARANT)

Full legal name _____

County of residence (Florida) _____ Date of birth _____

DECLARATION FOR YOURSELF (S. 744.3045)

Preneed guardian — full name _____

Relationship _____ Phone _____

Alternate preneed guardian — full name _____

DECLARATION FOR YOUR MINOR CHILDREN (S. 744.3046)

Minor children covered (full legal names and birth years)

Preneed guardian for the minors — full name _____

Alternate — full name _____

The other parent's full name (if living) _____

Declaration Naming Preneed Guardian

s. 744.3045, Fla. Stat. — for the Declarant's own future incapacity

I, the person identified in the Information Schedule as Declarant, a competent adult resident of the Florida county identified there, make this written declaration under s. 744.3045, Fla. Stat., naming a preneed guardian to serve in the event of my incapacity.

1. Nomination. If I am ever adjudicated incapacitated, I nominate as guardian of my person and of my property the person identified in the Information Schedule as my preneed guardian. If that person is unable or unwilling to serve, I nominate the alternate identified there.

2. Effect. I understand that on the filing of a petition for incapacity, the court shall appoint my declared preneed guardian to serve unless the court finds the appointment contrary to my best interests, that production of this declaration in a proceeding for incapacity constitutes a rebuttable presumption that my declared preneed guardian is entitled to serve, and that the court retains its duty to confirm qualification.

3. Requests. I request that any guardianship be limited to the least restrictive form my circumstances permit, that my named guardian be permitted to serve without bond to the extent the court allows, and that my written estate-planning instruments (my durable power of attorney, trust, and advance directive) be honored so that plenary guardianship is unnecessary wherever my own arrangements suffice.

4. Revocation. This declaration revokes every earlier preneed-guardian declaration I have made for myself, and it remains effective until I revoke it in writing or make a later declaration.

Date signed _____

County where signed _____

Declarant — signature (before BOTH witnesses, present together)

Declarant — print name _____

Signed by the Declarant in our presence, both of us being present at the same time, and signed by us as attesting witnesses in the Declarant's presence and in the presence of each other.

Witness 1 — signature

Witness 1 — print name _____ Address _____

Witness 2 — signature

Witness 2 — print name _____ Address _____

Declaration Naming Preneed Guardian for Minor

s. 744.3046, Fla. Stat. — for the Declarant's minor children

I, the Declarant identified in the Information Schedule, being a parent of the minor child or children listed there, make this written declaration under s. 744.3046, Fla. Stat., naming a preneed guardian for each listed minor.

1. Nomination. In the event of my death or incapacity — the declaration becoming effective as the statute provides on the death or adjudication of incapacity of the LAST surviving parent — I nominate as guardian of the person and of the property of each listed minor the person identified in the Information Schedule as preneed guardian for the minors; if that person is unable or unwilling, the alternate identified there.

2. Effect. I understand the court shall appoint the declared preneed guardian unless it finds the appointment contrary to the minor's best interests, and that production of this declaration creates a rebuttable presumption the named guardian is entitled to serve.

3. Coordination. This declaration is consistent with, and supplements, the guardian nomination in my Will. The other parent identified in the Information Schedule, if surviving and with parental rights intact, raises the children as a matter of law — this declaration operates when no such parent can.

4. Revocation. This declaration revokes every earlier declaration for the listed minors and remains effective until revoked in writing or replaced.

Date signed _____

County where signed _____

Declarant — signature (before BOTH witnesses, present together)

Declarant — print name _____

Witness 1 — signature

Witness 1 — print name _____ Address _____

Witness 2 — signature

Witness 2 — print name _____ Address _____

NOTARY CERTIFICATE (OPTIONAL FOR VALIDITY — INCLUDED FOR ACCEPTANCE)

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me, by means of the method indicated below, by the signer(s) named below, who are personally known to me or produced the identification listed.

Physical presence

Online notarization

Name(s) of signer(s) _____

Identification produced (or 'personally known') _____ Date _____

Signature of Notary Public — State of Florida

Print, type, or stamp commissioned name of Notary Public _____

My commission expires _____

Filing & Notice Guide

Where each declaration goes, and who must know

File your OWN declaration with the clerk. s. 744.3045(2) lets your declaration be filed with the clerk of the circuit court in your county. Take the original; the clerk keeps it and produces it if an incapacity petition is ever filed. Call the probate division for the filing window and any fee.

The minors' declaration. Keep the original with your important papers (and it may also be filed). The named guardian should hold a copy — the statute's presumption works when the declaration is PRODUCED.

Tell the named guardians. Each named person should receive a copy, this guide, and your family point-person's contact.

Consistency check. Confirm the same names appear in your Will's guardian article. Conflicting nominations invite the litigation these declarations exist to prevent.

When to redo it. A named guardian moves away, a marriage ends, a child reaches majority — re-execute with current names. The latest declaration controls.

SAMPLE
FICTIONAL INFORMATION
DO NOT SIGN OR FILE

Plain-English Glossary

The key words in this packet, defined simply.

Preneed guardian. The person you name IN ADVANCE to be appointed if a guardianship is ever needed.

Declarant. The person making the declaration — you.

Rebuttable presumption. The court starts from your choice; only a best-interests finding displaces it.

Guardian of the person. Decides residence, care, and daily life.

Guardian of the property. Manages assets and income.

Least restrictive alternative. Florida's guardianship principle — your own planning documents can make full guardianship unnecessary.

SAMPLE
FICTIONAL INFORMATION

DO NOT SIGN OR FILE

Storage & Copies

Where the original Preneed Guardian Declarations lives — and who holds copies — decides whether it works when it matters. Commonly: the signed original stays with your important papers (a fireproof box or a bank box), and the people below receive complete copies.

COPY CHECKLIST

The named preneed guardian (copy + guide)

The alternate guardian

The clerk of court (your own declaration — original, if filed)

My family point person

My attorney (if I engage one)

ANNUAL REVIEW

Once a year — or after any major life change (a move, a marriage or divorce, a birth or adoption, a death in the family) — re-read the document and confirm it still says what you want. Note each review here.

Review date _____

Reviewed by _____

Review date _____

Reviewed by _____

Review date _____

Reviewed by _____

ABOUT THIS KIT

Florida Preneed Guardian Declarations

Both declarations · clerk-filing guide · named-guardian brief

Provenance. This Florida template was assembled by the LegalDraft deterministic template engine. Statutory anchors: §§ 744.3045 · 744.3046. The platform maintains the underlying statutory text in a hash-pinned corpus captured from official Florida sources and re-verified on a standing schedule.

LegalDraft™, a LegalDraft Technologies LLC publication, is AI-assisted document-preparation software, not a law firm, and does not provide legal advice. This kit records the answers and choices YOU supply — the questionnaire asks, you decide, the template records your decisions; the software did not choose any term for you. Nothing here applies the law to your specific situation or reviews your entries for legal sufficiency, and no attorney has reviewed your entries. The platform's built-in Opposing Counsel Pass™ is an automated, adversarial AI review, not a review by a lawyer. Your purchase or use of this kit does not create an attorney-client relationship. For advice about your circumstances, consult a licensed Florida attorney.

Enforceability of any signed agreement is ultimately a decision for a court. Blank templates are provided for your own completion; keep your executed originals with your important papers and tell someone you trust where they are.

Typefaces: Bodoni Moda, EB Garamond, and Libre Baskerville, used under the SIL Open Font License. LegalDraft™ and the balance seal are marks of LegalDraft Technologies LLC.

Florida edition · generated August 2026 · legaldraft.io

