

Legal Access For All

COMMUNITY

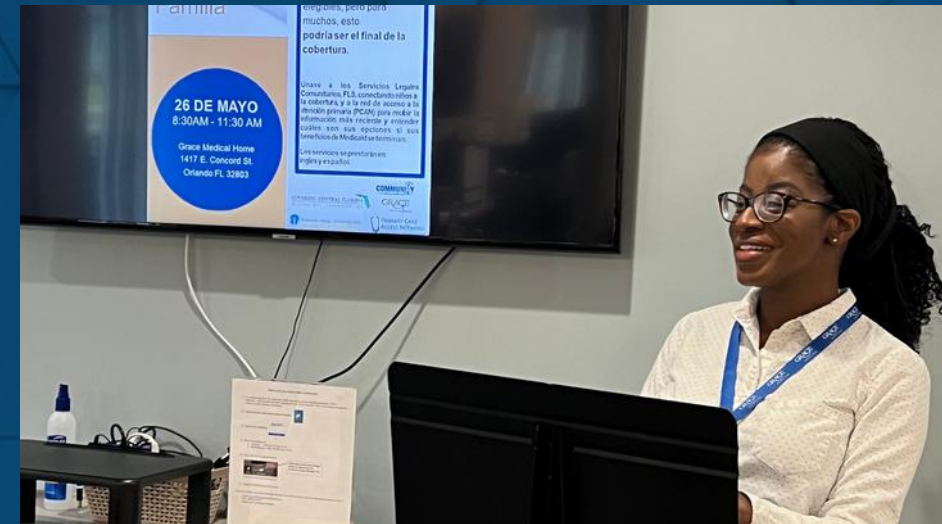
LEGAL SERVICES

A blue line-art illustration of Lady Justice, blindfolded and holding scales of justice in her raised right hand and a sword in her left hand. The background of the entire slide features a faded image of classical building columns.

NAVIGATING THE SYSTEM: KEY LEGAL DOCUMENTS FOR GRANDFAMILIES

MICHAEL WEAVER & LIZZIE L. JOHNSON, ESQ

Who We Are



Community Legal Services (CLS) is the primary provider of no-cost civil legal services to the most vulnerable in Central Florida, helping them to protect their families, health, and livelihoods.

Our advocates provide no-cost legal advice, and representation, to more than 10,000 people each year.

Areas of Assistance



HOUSING LAW



CONSUMER LAW



CHILDREN'S RIGHTS



FAIR HOUSING

FAIR HOUSING



FAMILY LAW &
DOMESTIC VIOLENCE



PUBLIC & VETERAN'S
BENEFITS



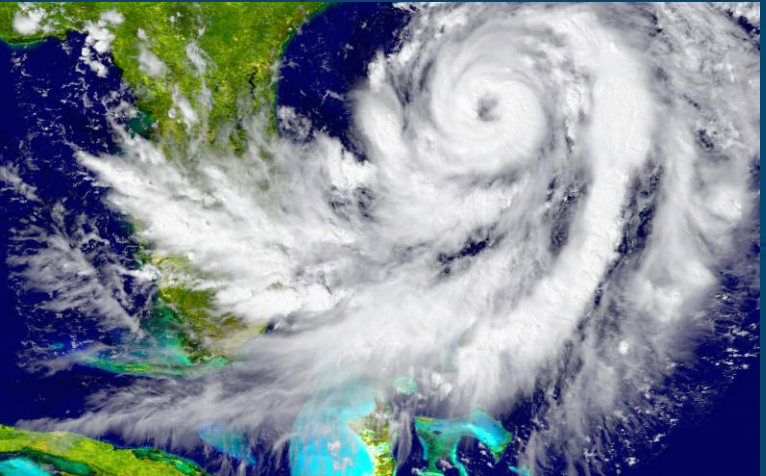
HOUSING & CONSUMER
COUNSELING



COMMUNITY ECONOMIC
DEVELOPMENT



202511 ELDER ADVOCACY



DISASTER RELIEF



MEDICAL-LEGAL
PARTNERSHIPS



HEIRS PROPERTY

Supporting **YOU!**

Our **entire** firm assists youth, seniors (age 60+) and caregivers (age 55+) with a broad spectrum of **civil** legal issues *including* the following:

- Children's Rights (**504, IEP, Expulsions**)
- Landlord/Tenant Issues
- Foreclosure Prevention Counseling
- Mortgage Disputes & Scams
- HECM/Reverse Mortgage Issues
- Deeds & Title Scams
- Heirs Property Rights
- Guardianship & Alternatives
- Power of Attorney/Revocations
- Estate Planning
- Probate
- FEMA/Disaster Survivor Assistance
- Caregiver Legal Assistance
- Pro Se Forms & Legal Assistance



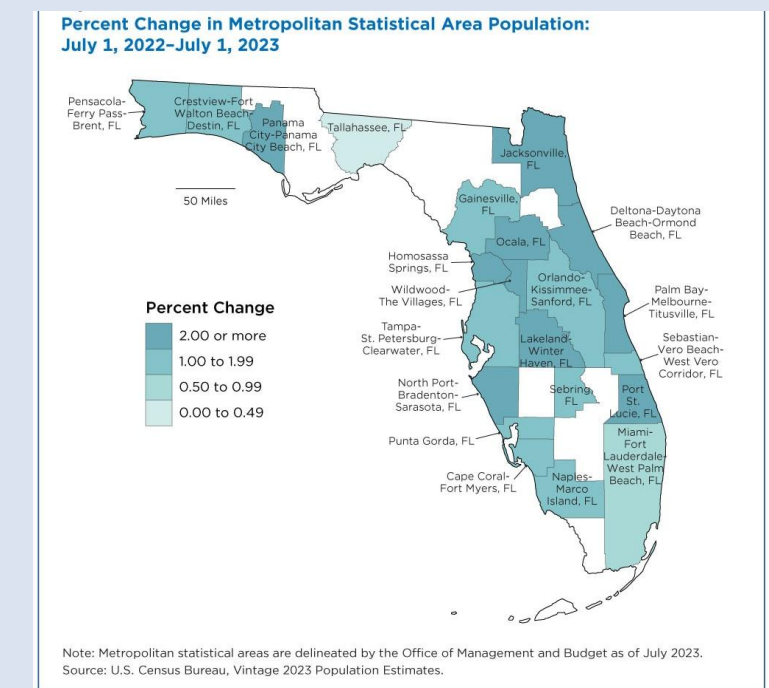
- Consumer Lawsuits
- Bankruptcy
- Debt Collection
- Replevin/Vehicle Repossessions
- Credit Report Disputes
- Identity Theft
- Temporary Custody by Extended Family
- Divorces & Alimony Disputes
- Domestic Violence Injunctions
- Exploitation of Vulnerable Adults
- Public Benefits Overpayments & Terminations
- SNAP Benefits (**aka Food Stamps**)
- Medicare/Medicaid Disputes
- Veteran's Benefits

KINSHIP CARE: SUPPORTING GRANDFAMILIES



Florida's Population: Caregivers

- 29% Has **“some form of a disability”** (CDC 2021)
- 14% **Public school** students have a disability (FL Dept of Ed 2020)
- >65% Youth in the justice system has a disability (ACLU FL)
- 4,561 Reside in Foster homes (FL Children First)
- >30k Children in the state dependency system (FL Children First)
- 10k Children in the foster placements (FL Children First)
- 28% Floridians are aged 60+ (FL Dept of Elder Affairs 2024)
- 22% Grandparents raising grandchildren increase (FL DOEA 2024)
- 60.1% Grandparents over 60+, live with their grandchildren (Census)
- 28.5% Grandparents are responsible for a minor (Census 2023)



GRANDFAMILIES: ***WE SEE YOU!***



Accessibility & Inclusion Hurdles

HOUSING	TRAUMA/GRIEF
FINANCIAL	POLICY
DISCRIMINATION	PROGRAMMATIC
COMMUNICATION	MINDSETS
CULTURE	LANGUAGE
EDUCATIONAL	AGE GAPS
PHYSICAL	TRANSPORTATION



Unexpected Parenthood: The Struggles

- May be Lonely
- Child Living with Trauma
- Unplanned/No Preparation
- No Legal Authority
- Navigating Family & Complication Dynamics
- May Need a License or Court Order
- Parenting Challenges v& New Techniques
- Lack of Family or Healthcare History
- Child with Special Healthcare Issues
- Healthcare & Mobility Limitations
- Maintaining Self-Care
- Limited Financial Resources
- Accessing Supportive Services & Legal Help
- Safe & Affordable Housing
- Subjected to Discrimination
- Legislative Advocacy & Public Awareness



PROMOTING INDEPENDENCE THROUGH LEGAL PLANNING



The Importance of Legal Authority

HEALTHCARE

FINANCIAL

EMPLOYMENT

SAFETY

PROPERTY

SERVICES

INSURANCE

GENERAL WELFARE

EDUCATIONAL

TRAVEL

VISITATION

RESIDENTIAL

BENEFITS

IDENTITY



Choices & Trust: Establishing Legal Authority

Family Dynamics
Issues

Capacity of the
Principal *and*
Agent

Health of the
Principal *and*
Agent

Protects minors or
disabled persons?

Preserves Health
Insurance & Gov't
Benefits?

Outlines the
Caregiver Duties?

Includes a HIPPA
Release?

Protects Property
located in &
outside of Florida?

Addresses Joint
Assets

Covers federal or
state tax status?

Includes a CARE
PLAN (*in case of an
emergency*)

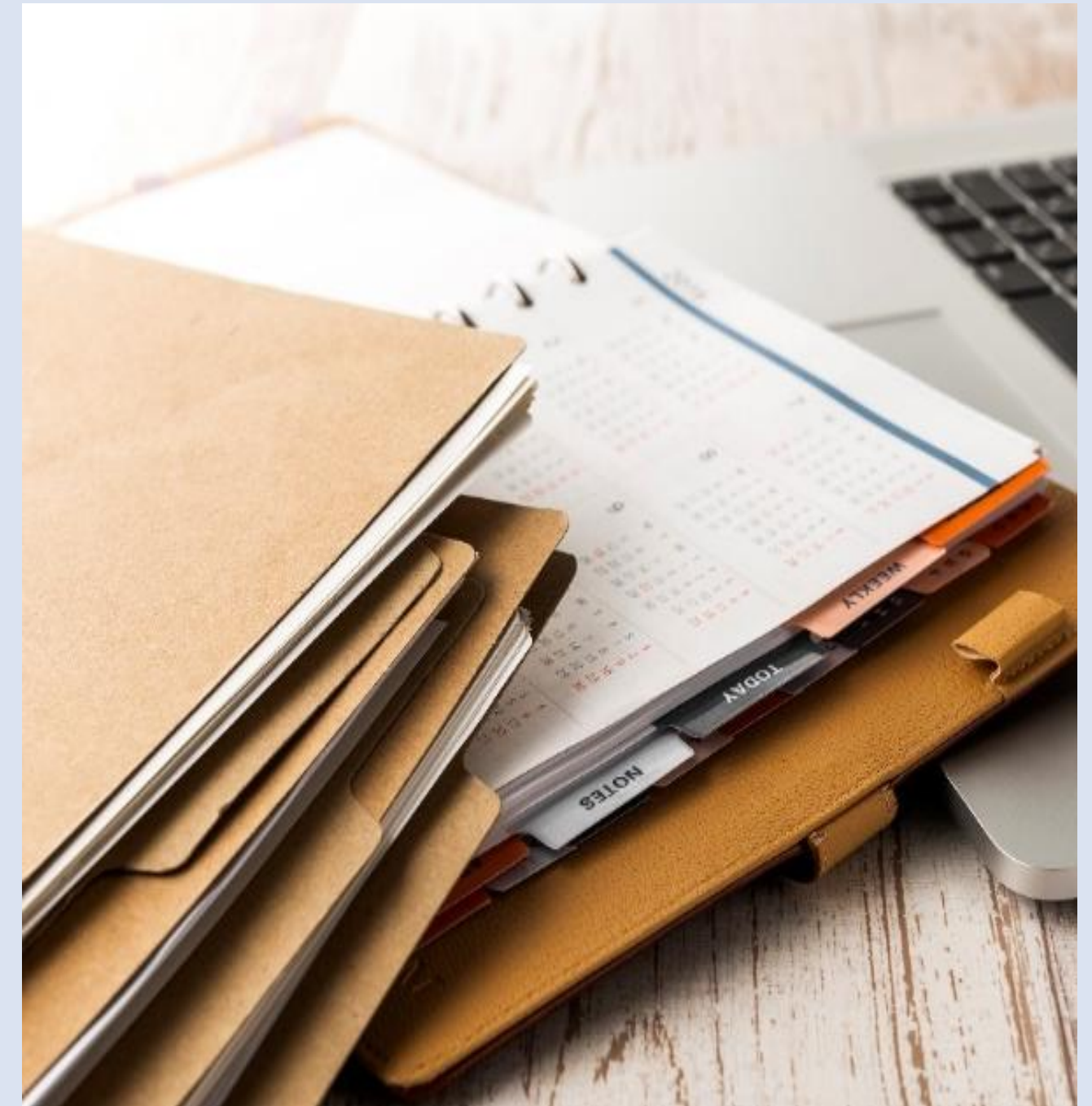
Addresses Trusts?

Will the disabled
adult have
property titled in
their name?

Includes Asset
Protection Against
Creditors?

A Legal Toolkit to Stabilize Kinship Care

- **DESIGNATION OF HEALTH CARE SURROGATE**
- **LIVING WILL**
- **ANATOMICAL GIFT**
- **DECLARATION OF PRE-NEED GUARDIAN**
- **LEGAL RELEASES OR DISCLOSURE AUTHORIZATIONS**
- **SUPPORTIVE DECISION-MAKING AGREEMENT**
- **POWER OF ATTORNEY**
- **LAST WILL AND TESTAMENT**
- **DISPOSITION OF REMAINS WISHES**
- **ACCESS TO PREMISES**
- **ABLE ACCOUNT**
- **TRUSTS (*POSSIBLY*)**

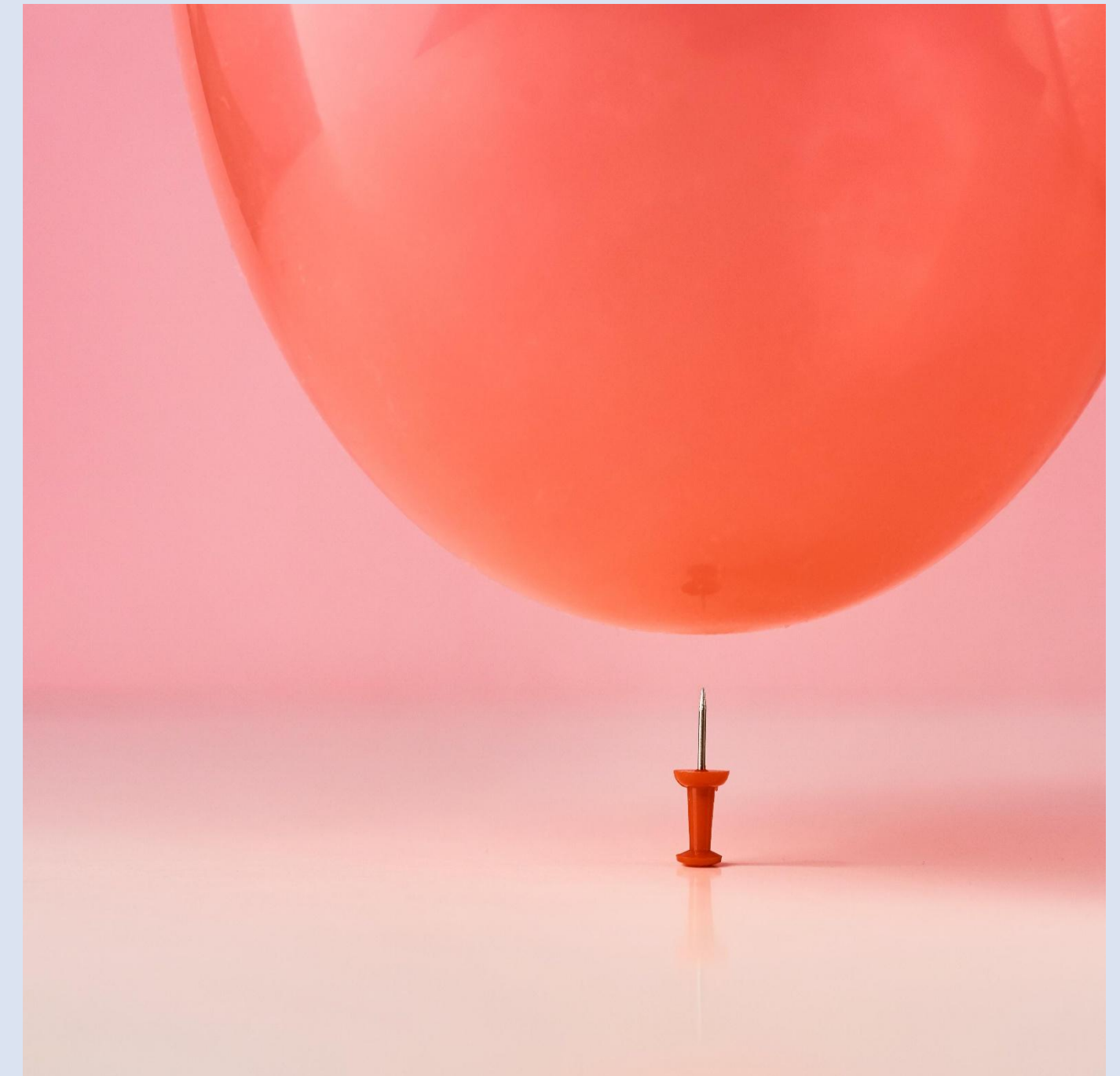


AN OVERVIEW OF LEGAL AUTHORITY FOR KINSHIP CAREGIVERS

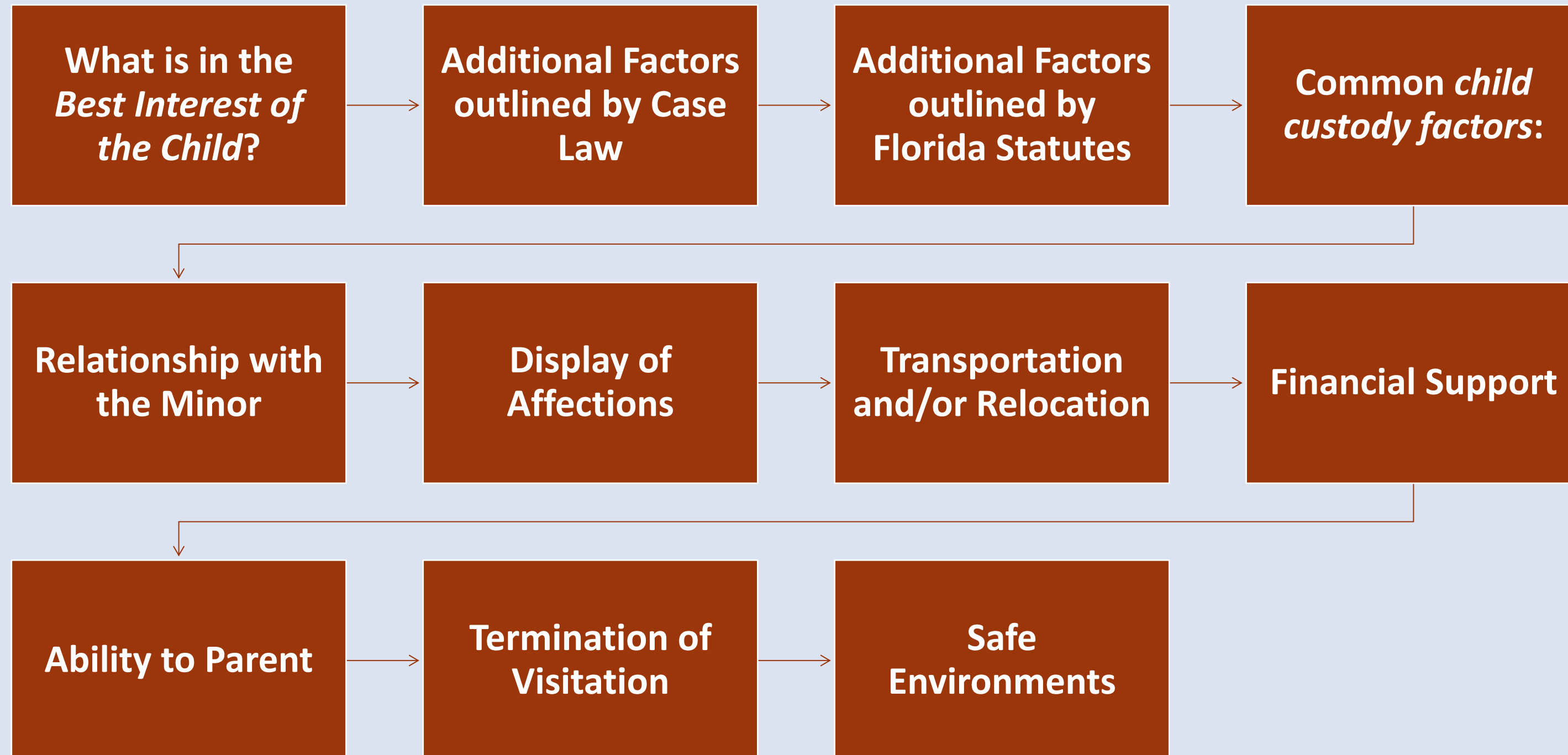


PLAN **Now!** Avoid the Pitfalls

Overwhelms Families and Caregivers
Limitations re Financial Assistance
Lack of Legal Authority to Make Decisions
Caregivers Ignore their Health
Supportive Services Delays/Denials
Delayed Access re Healthcare
Delayed Access to Gov't (*Funded*) Programs
Residential Placement Delays/Denials
May Encounter Discrimination
***Costly* Litigation Expenses**



Best Interest of the Child & Related Factors



Informal Care Agreements

FOR MINORS:

- VOLUNTARY PLACEMENT
- POWER OF ATTORNEY
- LEGAL RELEASE/AUTHORIZATIONS

FOR DISABLED ADULTS:

- POWER OF ATTORNEY
- ADVANCE DIRECTIVES
- SUPPORTIVE DECISION-MAKING AGREEMENTS
- VOLUNTARY GUARDIANSHIP



Judicial Oversight: Minors

- Temporary Custody by Extended Family Member
- DCF Relative Caregiver Placement
- (Licensed) Relative Foster Care
- Permanent Placement
- Guardianship
- Guardian Advocacy (Adult)
- Adoption



Temporary Custody of Minor Children by Extended Family *(Fla. Stat. Ch. 751)*

- **Eligibility:** relative by blood, marriage, or adoption. Exceptions: Kinship or substitute parent
- **Legal Process:** File a Petition, discovery, parental consent, evidentiary hearing, mediation, and/or final hearing
- **Burden of Proof:** Clear and convincing evidence of abuse, neglect, or abandonment. *(Precise/Credible Evidence vs Mere allegations)*
- **Termination:** Child turns 18, Court modifies the Order, Court terminates the order, adoption, guardianship, DCF Placement, the child or custodian dies, etc.

Guardianship of a Minor

(Fla. Stat. §744.3021)

- Guardianship is NOT custody.
- The Court will appoint a guardian for a minor *without adjudication of incapacity*.
- A Petition must be filed by a parent, sibling, next of kin, or other interested party.
- Parental consent is encouraged.
- The Court will hold a hearing
- The Court will monitor this case until adulthood
- Annual filings (pleadings) are required.)
- An attorney is required.
- Maybe required if a minor receives an inheritance or money judgment/settlement.



Florida Legislative Intent to Preserve Autonomy & Independence *(Fla. Stat. §744.101)*

Acknowledging

- Acknowledging an individual's rights to self-determination and participation in the decision-making process.

Preserving

- Preserving an incapacitated individual's civil and legal rights.

Promoting

- Promoting that guardianship should be the last resort in Florida.

Requiring

- Requiring the court to consider *"the least restrictive form of guardianship"*.

Recognizing

- Recognizing that every individual has unique needs and differing abilities and *may* be able to independently exercise their rights with assistance.

Advocating

- Advocating that the court should only delegate decision-making tasks where an individual lacks the ability to do so.

Establishing

- Establishing a legal process and court system that permits incapacitated individuals to fully participate in decisions that affect them, as much as possible.

Understanding *COURT-APPOINTED* Guardianship

GUARDIANSHIP: Florida Statutes, Chapter 744	GUARDIAN ADVOCACY: Florida Statutes §393.12 and Ch.744
TYPES: <i>Emergency, Limited, Plenary, Standby, Veteran, Voluntary, Mental Health, Minors or Preneed</i>	Restricted to seven (7) developmental disabilities that manifest before 18 yr old
Capacity <u>must</u> be determined	Capacity is <u>not</u> determined
Court appoints a Guardian	Court appoints a Guardian Advocate
Stringent judicial oversight	Stringent judicial oversight
Complex process	Streamlined process
Lose <i>substantial</i> constitutional rights	Lose <i>considerable</i> constitutional rights
<i>The most restrictive & possibly unnecessary</i>	<i>Less restrictive than guardianship</i>
An attorney <u>is</u> required	An attorney is <u>not</u> required
Relocation To or From Florida: Difficult	Relocation To or From Florida: Difficult

Declaration of Preneed Guardian

Special Note:

*Additional steps
are required if this
if the document is
for a minor.*

*Fla. Stat.
§744.3045-3046*

- A **written** declaration that names such guardian to serve in the event of the declarant's incapacity.
- Reasonably *identify the declarant* and preneed guardian.
- Signed by the declarant in the presence of at least two (2) attesting witnesses present at the same time.
- *Note: Effective upon a petition for incapacity of the last surviving parent, typically.*
- **A Notary is recommended!**



Supporting Decisions, *Semi-Formally*

- Supportive Decision-Making Agreements
- Power of Attorney
- Court Order for Treatment
- Order re Involuntary Examination/Stabilization
- Injunction for Protections
- Injunction for Protection against Exploitation of a Vulnerable Adult
- Informal (**Written**) Agreements
- Informal Mediation (*not court-ordered*)
- Living Will
- Designation of Healthcare Surrogate
- Medical Proxy
- Anatomical Gifts
- Trusts (*Special Needs, QIT, Medicaid, etc.*)
- 529a (**ABLE**) Accounts
- Veteran Affairs Fiduciary
- Social Security Representative Payee
- DCF Authorized Representative and/or Payee
- Medicaid Waiver & Other Benefits
- Lease or Co-Habitation Agreement
- Access to Premises Agreement
- Joint Bank Accounts or Assets
- Bill Payment Services/Budget Counselors
- Mental Health Counseling
- Peer or Informal Support Groups
- Case Management Services
- Authorization to Disclose/Legal Releases
(*VA, IRS, FERPA, HIPPA, etc.*)
- Enhanced Life Estate Deed (*aka Lady Bird Deed*)
- Temporary Custody (re Minors)
- Adoption (re Minors or Adults)
- Grandparent Visitation Rights (re Minors)
- **Voluntary** Guardianship

OTHER LEGAL AND FINANCIAL MATTERS FOR GRANDFAMILIES



What is Probate?

Probate is legal proceeding to determine the legal heirs of a deceased person.

- Strict judicial oversight
- Ensures that probate *assets are accounted for, valued, and given to the heirs* of the estate.
- A *valid and uncontested* Last Will and Testament streamlines the process and reduces costs.

Probate may be required to obtain an inheritance for a minor or Ward.

In Case of an Emergency ...

What are 988, 911, & 211?

988 Suicide and mental health crisis care
New number for National Suicide
Prevention Lifeline

911 Dispatching emergency medical
services, fire and police

211 Suicide & mental health crisis care with
emphasis on local community resources
and care coordination

211 Big Bend is a 988 Suicide &
Crisis Lifeline Center.

2.1.1

Big Bend

Safety Planning & Supporting a Person Showing Signs of Behavioral or Mental Challenges

PLEASE SEEK HELP EARLY.

- **ASK: ARE YOU OR ANOTHER PERSON IN IMMEDIATE DANGER OR RISK OF HARM?**
IF YES, CALL 9-111
- **SEEK PROFESSIONAL HELP, QUICKLY!**
- **DEVELOP A SAFETY PLAN**
- **KNOW YOUR LEGAL RIGHTS: CONSULT AN ATTORNEY**
- **IMMEDIATELY REPORT ANY ABUSE OF CHILDREN OR VULNERABLE ADULTS**
- **(POSSIBLY) FILE A PETITION AND AFFIDAVIT SEEKING EX PARTE ORDER REQUIRING INVOLUNTARY EXAMINATION**

EARLY ACTION SAVES LIVES. YOUR SUPPORT MAKES A DIFFERENCE.

Navigating Your Legal Rights in Florida

ADOPTION

CONSERVATORSHIP

DCF DEPENDENCY PLACEMENT

GUARDIANSHIP

GUARDIAN ADVOCACY

GRANDPARENTAL VISITATION

POWER OF ATTORNEY

TEMPORARY CUSTODY

Florida Statutes, Ch.63

Florida Statutes, Ch. 747

Florida Statutes, Ch. 39

Florida Statutes, Ch.744

Florida Statutes, Ch. 393

Florida Statutes, Ch. 752

Florida Statutes, Ch. 709

Florida Statutes, Ch. 751, 61, & 742

ANCILLARY MATTERS:

- Social Security Representative Payee
- Probate (***Florida Statutes, Ch. 732-735***)

* VA Fiduciary Appointment

* Trusts (***Florida Statutes, Ch. 736-739***)

SELF-HELP RESOURCES & FORMS

- Community Legal Services (www.clsmf.org)
- County Clerk's Website: Template Forms & Brochures
- Local Courthouse's Law Library *(Law Librarians are at the Courthouse, often!)*
- The Florida Bar's Website: Consumer Pamphlets
- Florida Supreme Court's Self-Help Center
- Florida Statutes
- Florida Rules of Court

Additional Information

- COMMUNITY LEGAL SERVICES: WWW.CLSMF.ORG
- FLORIDA'S AGENCY FOR DISABLED PERSONS: [HTTPS://APD.MYFLORIDA.COM/](https://APD.MYFLORIDA.COM/)
- FLORIDA'S VOCATIONAL REHABILITATION: [HTTPS://WWW.REHABWORKS.ORG/](https://WWW.REHABWORKS.ORG/)
- FLORIDA DIVISION FOR BLIND SERVICES: [HTTPS://DBS.FLDOE.ORG/INDEX.HTML](https://DBS.FLDOE.ORG/INDEX.HTML)
- FLORIDA'S DCF: [HTTPS://WWW.MYFLFAMILIES.COM/YOUTH-YOUNG-ADULTS](https://WWW.MYFLFAMILIES.COM/YOUTH-YOUNG-ADULTS)
- FLORIDA DEPT. OF HEALTH: [HTTPS://WWW.FLORIDAHEALTH.GOV/PROGRAMS-AND-SERVICES/CHILDRENS-HEALTH/CHILDRENS-MEDICAL-SERVICES/YOUTH-TRANSITIONS/INDEX.HTML](https://WWW.FLORIDAHEALTH.GOV/PROGRAMS-AND-SERVICES/CHILDRENS-HEALTH/CHILDRENS-MEDICAL-SERVICES/YOUTH-TRANSITIONS/INDEX.HTML)
- US VA DISABLED YOUTH: [HTTPS://WWW.VA.GOV/FIND-FORMS/](https://WWW.VA.GOV/FIND-FORMS/)
- FLORIDA'S VA - YOUTH [HTTPS://FLORIDAVETS.ORG/BENEFITS-SERVICES/EDUCATION/](https://FLORIDAVETS.ORG/BENEFITS-SERVICES/EDUCATION/)
- SOCIAL SECURITY: [HTTPS://WWW.SSA.GOV/YOUTH/](https://WWW.SSA.GOV/YOUTH/)
- PROJECT 10 TRANSITION EDUCATION NETWORK: [HTTPS://PROJECT10.INFO/](https://PROJECT10.INFO/)
- DISABILITY RIGHTS FLORIDA: [HTTPS://DISABILITYRIGHTSFLORIDA.ORG/DISABILITY-TOPICS/DISABILITY_TOPIC_INFO/TRANSITION_THE_PASSAGE_FROM_YOUTH_TO_ADULTHOOD](https://DISABILITYRIGHTSFLORIDA.ORG/DISABILITY-TOPICS/DISABILITY_TOPIC_INFO/TRANSITION_THE_PASSAGE_FROM_YOUTH_TO_ADULTHOOD)

Contact Us

INTAKE & LEGAL ADVICE HELPLINE

MONDAY & THURSDAY	8:30-4:30
TUESDAY & WEDNESDAY	8:30-6:30
FRIDAY	8:30-3:30

APPLY ONLINE AT

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1-800-405-1417

LegalAccessForAll.org