



FLORIDA COMMISSION ON THE STATUS OF WOMEN

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March 2005

Dear Florida Citizen:

On behalf of the Florida Commission on the Status of Women, we are honored to present our Thirteenth Annual Report, *Legally Yours: A Guide For Florida Women*. This report was created not only to raise awareness about the need for women to have a basic knowledge of Florida's laws and legal services, but to serve as a resource for Florida's women to further seek information about the legal topics outlined in this report. The report includes information, resources and procedures to guide women in answering questions regarding their legal rights and remedies.

The Florida Legislature, through Section 14.24, Florida Statutes, mandates the Commission to study the changing and developing roles of women in American society, including the implementation of recommendations to improve the development of individual potential. The focus of the Commission's mission is to empower women from all walks of life in achieving their fullest potential. It is in fulfillment of our mandate and mission that the Commission has chosen women and the law as the focus of this 2004 Annual Report.

It is our desire that the information provided in this written report impacts those we serve – girls and women, and acts as a catalyst to increase the basic legal knowledge for all of Florida's citizens. We believe that knowledge is empowerment.

Sincerely,

A handwritten signature in cursive script that reads "Blanca C. Bichara".

Blanca C. Bichara
FCSW Chair

A handwritten signature in cursive script that reads "Carrie Estevez Lee".

Carrie Estevez Lee
Annual Report Committee Chair



Acknowledgements

The Florida Commission on the Status of Women is dedicated to empowering women in achieving their fullest potential, to eliminating barriers to that achievement, and to recognizing women's accomplishments.

The Florida Commission on the Status of Women (FCSW) is grateful to the many individuals whose knowledge and dedication to Florida's women made this report possible, in particular the Florida Bar. Much of the information printed in this report was provided by the Bar as published in their Consumer Information Pamphlets. The pamphlets are a tremendous source of information for all citizens, and the Commission is grateful to the Bar for the permission to compile and reprint information from many of these pamphlets. A complete directory of pamphlets available from the Florida Bar is provided in the Resource section of this hand book.

A special note of appreciation goes to the 2004 FCSW Annual Report Committee for their input and guidance of this project: *Carrie Estevez Lee, Chair, Claudia Kirk Barto, Blanca Bichara, Anita Mitchell, J. Kayty Pappas, Kathleen C. Passidomo, Esq.*

For their contributions throughout the creation of this report, current FCSW employees Angella Jones, James M. James, II, Michele S. Manning, and Kelly S. Sciba, APR, are thanked. FCSW would also like to extend our gratitude to Governor Jeb Bush, The Florida Legislature and the Office of the Attorney General for their continued support of the Commission and making this publication possible.

For their contributions:

- Agency for Workforce Innovation
- Commission on Asian Pacific American

- Affairs
- Dr. Miguel Firpi
- Florida Civic Ed
- Florida Coalition Against Domestic Violence
- Florida Commission on Human Relations
- Florida Department of Agriculture and Consumer Services
- Florida Department of Children and Families
- Florida Department of Education
- Florida Department of Financial Services
- Florida Department of Health
- Florida KidCare
- Florida Highway Patrol
- Florida Department of Legal Affairs
- Florida Department of Revenue
- Florida Department of State
- Georgetown University Health Policy Institute
- Ms. Allison Doliner Hockman, Esq.
- Ms. Anastasia Garcia, Esq.
- Ms. Nina Zollo, Esq.
- Ms. Renee C. Starrett
- MyFlorida.com
- National Association of Realtors
- The Collins Center for Public Policy
- The Florida Bar
- U. S. Department of Housing and Urban Development
- U.S. Citizenship and Immigration Services
- U.S. Department of Labor
- U.S. Equal Employment Opportunity Commission
- U.S. Social Security Administration
- Weblocator.com
- Womenslaw.org



Introduction

The Florida Commission on the Status of Women is providing this information to help women know their legal rights, to enable them to more effectively respond to day to day legal issues that impact their lives. This handbook provides women with practical, basic information about numerous state and federal laws affecting them and contains information on marriage and the family, jobs, health, and money matters.

It is important, however, to remember that the law is constantly changing, especially those areas dealing with employment and the family. This handbook is current as of the end of 2004, but portions of this handbook may be outdated quickly as laws are subject to change by future legislatures, and are subject to interpretation by the courts. Also, this handbook cannot list every law which applies to women, nor provide complete details of legal decisions in a specific area.

This publication contains information that has been previously published by expert sources such as The Florida Bar and various agencies of the State of Florida. It is hoped that by compiling these important resources into one document, it will serve as a useful tool to women throughout the state.

This handbook will help women discuss their problems with lawyers and with other professionals. If you think you have a legal problem, be sure to consult with a lawyer. Some legal assistance resources such as the Lawyer Referral Service, Community Legal Aid Society, and Florida Volunteer Legal Services are provided in the back of this book.

Also provided are agencies which can help you with specific problems. In this resource list are hotlines, shelters, and health agencies. If you are unsure of the services you need, you may also contact the Information and Referral Services provided by the State Service Centers and the United Way, or call the office of the Florida Commission on the Status of Women.

Every effort has been made to insure the accuracy of all information and recourses listed in this publication. In the event of an error or omission, the Florida Commission on the Status of Women's responsibility shall be limited to the correction of the error in succeeding editions. Inclusion of resource listings in this publication does not constitute an endorsement on the part of the Florida Commission on the Status of Women.

The information in this Handbook is based upon the law in effect on December 1, 2004.

Any corrections or suggestions to the handbook should be sent to:

The Florida Commission on the Status of Women

Office of the Attorney General

The Capitol, PL-01

Tallahassee, FL 32399-1050

Phone 850-414-3300

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www.fcsw.net



Table of Contents

• Acknowledgments	2
• Introduction	3
• Forward <i>Florida Attorney General Charlie Crist</i>	6
• How an Idea Becomes a Law in Florida	7
• Civic Rights and Responsibilities	9
◇ Voting	9
◇ Florida's Court System	11
◇ Attorneys	11
◇ Jury Service	12
◇ Immigration Law	14
• Family Law	16
◇ Marriage	16
◇ Divorce	17
◇ Spotlight: Getting A Divorce	19
◇ Child Custody	22
◇ Child Support	23
◇ Adoption	25
◇ Childcare	27
◇ Spotlight: Divorce and Children: The Psychological and Legal Impacts	28
• Domestic Violence	30
◇ What Is Domestic Violence?	30
◇ Spotlight: Governor's Peace At Home Awards	32
◇ Immigrants and Domestic Violence	34
◇ Legal Assistance for Domestic Violence Victims	34
◇ Spotlight: Florida Coalition Against Domestic Violence	36
• Employment Issues	39
◇ Discrimination in Employment Opportunities	39
◇ Wages and Hours	40
◇ Right to Work State	41
◇ Sexual Harassment	41
◇ Pregnancy Discrimination	42
◇ Family Medical Leave	44
◇ Worker's Compensation	44
◇ Unemployment Compensation	45
◇ Displaced Homemakers	45
• Housing and Property Rights	46
◇ Rental Agreements	46
◇ Public Housing	50
◇ Fair Housing	51
◇ Buying A Home	52
◇ Obtaining A Mortgage	55



• Financial Management	57
◇ Banking and Credit	57
◇ Spotlight: Protecting Your Financial “Face” from Theft	59
◇ Phishing	61
◇ Debtor’s Rights In Florida	62
◇ Debt Collectors	64
◇ Vehicle Lease	65
◇ Vehicle Purchase	66
◇ Bankruptcy	67
◇ Credit Repair Scams	69
◇ Social Security	70
◇ Financial Assistance	73
• Consumer Issues and Insurance	76
◇ Consumer Issues	76
◇ Florida’s Lemon Law	77
◇ Automobile Insurance	78
◇ Health Insurance	80
◇ Child Vehicle Safety	83
• Important Legal Documents	85
◇ Wills	85
◇ Trusts	86
◇ Power of Attorney	86
◇ Living Will	90
◇ Health Care Power of Attorney	91
◇ Probate	91
• Florida Bar Consumer Pamphlets	93
• Common Legal Definitions	94
• Florida Domestic Violence Resources	99
• Legal Aid	104
• Florida Department of Financial Services Contacts	107
• Florida Department of Financial Services Offices	108
• Florida Department of Financial Services Hotlines	109
• Florida Commission on the Status of Women	110



Forward

By Attorney General Charlie Crist



**Florida Attorney
General Charlie Crist**

Dear Florida Citizen:

I am delighted that the Florida Commission on the Status of Women has chosen to create a women's legal resource handbook. This book will be a tremendous resource to all women, providing them a guide to answer numerous legal questions.

Since I began my term as Attorney General in January 2003, consumer protection and education have been among my top priorities. We launched the first-ever hotline designed exclusively to address complaints of fraud. I'm proud to report that thousands of calls have already been processed by Fraud Hotline personnel. I have worked with the Florida Legislature to pass landmark legislation in the areas of civil rights, prescription drug adulteration and identity theft.

"Legally Yours: A Guide For Florida Women" will continue these efforts by educating women about resources available throughout the state. I am sure that you will find this book a useful and informative resource.

Yours Very Truly,

Charlie Crist,
Florida Attorney General



Spotlight: How An Idea Becomes a Law in Florida

By : Florida Civic Ed, The Collins Center for Public Policy at Florida State University and Angella Jones, FCSW

Florida legislators are elected to represent the interests of the people from their district. Lawmaking is shared equally by the Senate and the House of Representatives. Ideas for new laws or changing existing laws may originate in either the Senate or the House. The Legislature may enact any law it wishes as long as the law does not violate the Florida Constitution or the U.S. Constitution. Both houses must approve a bill before it becomes an act. If the Governor does not veto the act, it becomes a law and is forwarded to the Secretary of State's office where it is incorporated into the Florida Statutes.

How An Idea Becomes a Bill

Ideas are the foundation for the lawmaking process in Florida. Ideas for laws come from the Governor and Executive agencies, the judiciary, legislators, interest groups, corporations, unions, and individual citizens or groups of citizens.

Citizens, groups, or agencies must convince a legislator to sponsor their idea. Citizens with ideas they would like to see become laws may write to their local representatives or senators. Letters should be written well before the new legislative session so that the lawmaker has enough time to consider the idea. If the lawmaker likes the idea and thinks it deserves further consideration, she or he usually discusses it with experts on the issue. If the lawmaker still believes in the merits of the idea, the lawmaker will begin the process that will formally send the idea through both the House and the Senate, and then to the Governor. At any of the many steps along the way, the idea may be "killed," and it will almost certainly be modified many times.

When a legislator decides to introduce a bill it must first be written, given a number, and printed. Then the bill is reviewed within a committee of the legislative house in which it originated. The committee serves to develop and evaluate the bill. They may also suggest some changes to the bill. After the committee finishes the review process, they make a recommendation to the full chamber of their legislative house as to what action to take regarding the bill. The full chamber can vote



favorably for the bill, or if it was revised they can vote favorably for the committee substitute, or they can vote unfavorably for the bill. If the full chamber votes favorably for the bill, it is sent to the other legislative house.

In the other legislative house, the bill undergoes the same process of review by committee and then the full chamber. They can pass the bill as it is or make changes to the bill. If the bill is passed without further changes, it progresses to the Governor for a signature. If the bill is passed with changes, called "amendments," it returns to the house of origin for another vote. If the two houses disagree about the changes, a conference committee is held to discuss the bill. If the committee can reach an agreement, the bill can then be sent to the Governor.

The Governor has seven days to veto an act except during the final seven days of the session when she or he has 15 days. During this time the Governor may take one of three actions: sign the act, approve the act without

The overall proportion of women in the Florida Legislature is 23.8% in 2005 (CAWP, 2005).

(Continued on page 8)



(Continued from page 7)

signature, or veto the act. If the Governor signs the act or approves it without signature, it is forwarded to the Secretary of State, whose responsibility it is to formally declare the act a law.

If the Governor vetoes the act, the Secretary of State returns the act to the house where it originated. If the Legislature is in session, it may attempt to override the veto by a vote

of two-thirds of the members present in each house. If the Legislature is not in session, the veto will be held over to the next regular session. If not considered in the next session, the Legislature loses its opportunity for review and the veto stands.



Sources

Information from this section provided by:

*Florida Women in Elective Office
Historical Summary*
**Center for American Women and Politics
Eagleton Institute of Politics**
Rutgers, The State University of New Jersey
191 Ryders Lane
New Brunswick, NJ 08901-8557
(732) 932-9384 - Fax: (732) 932-0014
www.cawp.rutgers.edu

How A Bill Becomes A Law
Florida Civic Ed
**The Collins Center for Public Policy at Florida
State University**
www.flciviced.org



Civic Rights and Responsibilities

By: The Florida Department of State, The Florida Bar, Weblocator.com and the Commission on Asian Pacific American Affairs

VOTING

Voting is how every American can give back to our country, show support and honor those who have given their lives for our freedom. Your involvement helps keep our country strong.

To register to vote in Florida, you must:

- Be a U.S. citizen
- Be a Florida resident
- Be at least 18 years old (you may pre-register if you are 17)
- Not now be adjudicated mentally incapacitated with respect to voting in Florida or any other state.
- Not have been convicted of a felony in Florida, or any other state, without your civil rights having been restored.
- Not claim the right to vote in another county or state.

Who may not register to vote :

- Persons who have been found by a court in any state to be mentally incapacitated with respect to voting and who have not had their right restored.
- Persons who have been convicted of any felony in any court and who have not had their right to vote restored.
- Any person who is not a citizen of the United States.

How To Register To Vote

You must completely fill out a voter registration application form. Voter

registration applications are available at your local Supervisor of Elections' offices, the Division of Elections, driver license offices, state agencies that provide public assistance, libraries and many other locations.

A voter's registration application is complete if it contains:

- Your name
- Your legal residence address
- Your date of birth
- An indication that you are a citizen of the United States.
- The last four digits of your social security number.
- An indication that you have not been convicted of a felony or that, if convicted, you have had your civil rights restored.
- An indication that you have not been adjudicated mentally incapacitated with respect to voting or that, if so adjudicated, you have had your right to vote resorted.

You must sign the oath printed on the form swearing or affirming under the penalty for false swearing that the information contained in the registration application is true.

NOTE: If you do not designate a political party affiliation you will be registered without party affiliation.

The voter registration application can be completed online or printed out. You can print the online application, fill in the information on the application using a black ballpoint pen, sign it, and mail it in to your county Supervisor of Elections office. If your

(Continued on page 10)

Women's Voting Fact:

Women vote in higher numbers than men, and have done so in every election since 1964. In 2000, 7.8 million more women voted than men in the U.S.

- Center for American Women and Politics, Eagleton Institute of Politics at Rutgers, The State University of New Jersey.

www.cawp.rutgers.edu



Civic Rights and Responsibilities

(Continued from page 9)

application is complete and you qualify as a voter, the Supervisor of Elections will mail you a registration identification card as official notification of your registration.

Assistance in Voting

Upon request, a need for assistance at the polls may be designated on an elector's registration record. The elector can designate someone of his or her own choice, other than an employer, or an officer or agent of the person's union. Election officials may also provide assistance.



Voter's Bill of Rights

Each registered voter in Florida has the right to:

1. Vote and have his or her vote accurately counted.
2. Cast a vote if he or she is in line at the official closing of the polls in that county.
3. Ask for and receive assistance in voting.
4. Receive up to two replacement ballots if he or she makes a mistake prior to the ballot being cast.
5. An explanation if his or her registration is in question.
6. If his or her registration is in question, cast a provisional ballot.
7. Prove his or her identity by signing an affidavit if election officials doubt the voter's identity.
8. Written instructions to use when voting, and, upon request, oral instructions in voting from election officers.
9. Vote free from coercion or intimidation by elections officers or any other person.
10. Vote on a voting system that is in working condition and that will allow votes to be accurately cast.

(Section 101.031(2), Florida Statutes)



Civic Rights and Responsibilities

FLORIDA’S COURT SYSTEM

The Florida court system consists of the Supreme Court in Tallahassee; five district courts of appeal which have appellate jurisdiction for most cases, located in Tallahassee, Daytona Beach, Lakeland (with a branch in Tampa), Miami and West Palm Beach; county courts in each of Florida's 67 counties; and 20 circuit courts having jurisdiction over one or more counties.

County Courts , which are courts of limited jurisdiction, handle among other matters:

- County and city ordinance violations, including traffic infractions.
- Minor criminal offenses.
- Civil cases involving amounts of \$15,000 or less, such as landlord-tenant and small claims disputes.

Circuit Courts , which are courts of general jurisdiction, handle, among other matters:

- Domestic relations cases such as dissolution of marriage (divorce), guardianship, juvenile delinquency and juvenile dependency (cases of child abuse, neglect, and abandonment.)
- Major criminal offenses.
- Probate matters, such as the processing of wills and settling of estates of deceased persons.
- Civil cases involving amounts greater than \$15,000.
- Appeals from county court judgments, except when a state statute or provision of the state constitution is held invalid.

District Courts of Appeal, which sit in panels of three judges, or en banc (special cases) and decide appeals from circuit courts in most criminal and civil cases. They also have

jurisdiction to decide appeals from county courts when (1) a state statute or provision of the state constitution is held invalid, or (2) for orders or judgments of a county court which are certified to be of great public importance and are accepted for review. In Florida, district courts of appeal are courts of finality in many instances.

The Florida Supreme Court , has seven justices, decides the most important legal issues in Florida. Among other issues, the court addresses:

- Constitutional questions.
- District court decisions holding invalid laws or provisions of the state constitution.
- Questions certified by the district courts as being of great public importance or in conflict with another district court's decision.
- Conflicts between those courts or between district courts and the Supreme Court.
- Bond validation judgments.
- The legal sufficiency of Public Service Commission rulings on electric, gas, or telephone utilities rates or service.
- The legal sufficiency of all judgments imposing the death penalty.



The Florida Supreme Court Building, Tallahassee, FL

ATTORNEYS

Good legal advice is one of the greatest preventative measures a lawyer can provide. Not only can it save you money in the long run, it can also save you from unpleasant difficulties later.

(Continued on page 12)



Civic Rights and Responsibilities

The Florida Bar Lawyer Referral Service (LRS), 1-800-342-8011 or 1-800-342-8060 extension 5844, provides referrals to attorneys who will conduct an initial one-half hour office consultation for \$25.

(Continued from page 11)

Situations in which you should consider consulting a lawyer include:

- Before buying or selling real estate or entering into a lease
- Before signing a contract with major financial provisions
- Before making a will or planning your estate
- Before organizing a business
- Whenever you are arrested or charged with a crime
- When you are involved in an accident in which there is significant damage to persons or property
- When there are changes in your family status, marriage, adoption, divorce
- When you have tax problems or questions
- When a lawsuit is brought against you, or you want to bring a lawsuit against someone

What if I cannot afford a lawyer?

In criminal cases a public defender or private counsel may be appointed to represent an indigent defendant.

In civil matters, legal assistance can be found by looking under "Legal Aid" or "Legal Services" in the white pages of the telephone book, or by calling information for the telephone number of the nearest local bar association office.

How do I find a lawyer?

Consult the yellow pages for the number of your nearest lawyer referral service or dial The Florida Bar Lawyer Referral Service toll-free, 1-800-342-8011.

JURY SERVICE

As a juror, you are a part of the judicial system of our state and your services are as important as those of the judge. The judge's duty is to correctly instruct you as to the law in each case. You are required to base your verdict upon the evidence as you hear it in court and upon the law as the judge instructs you in it. You are obligated to perform this service honestly and conscientiously, without fear or favor.

Qualifications of a juror.

Jurors must be 18 years old, U.S. citizens, legal residents of Florida and their respective counties and possess a driver's license or identification issued by the Department of Highway Safety and Motor Vehicles.

Exemptions from jury duty.

All persons who are summoned to serve as jurors must attend unless they have been excused by the court. Attendance is essential to the fair administration of justice. People who fail to respond to a jury summons without being properly excused can be fined up to \$100 and in addition, held in contempt of court.

Disqualifications or excusals from jury service include:

1. Any expectant mother and any parent who is not employed full-time and who has custody of a child under six years of age, will be excused from jury service upon request.
2. A person may be excused from jury service upon showing of hardship, extreme inconvenience, or public necessity.
3. A person 70 years of age or older will be excused from jury service upon request.

(Continued on page 13)



Civic Rights and Responsibilities

(Continued from page 12)

4. A person who has served as a juror in his or her county of residence is automatically excused from jury duty for one year from their last day of service.
5. A presiding judge may, at his or her discretion, excuse a practicing attorney, a practicing physician or a person who is physically unable from jury service.
6. No person interested in any issue to be tried shall be a juror. But no person will be disqualified from sitting on the trial of any suit in which the state, county or municipal corporation is a party just because they live or pay taxes in the state, county or municipal corporation.
7. A person cannot qualify for jury service if he or she is under prosecution for any crime, or who has been convicted in Florida, any federal court, or any other state, territory or country of bribery, forgery, perjury, larceny, or any other offense that is a felony in this state or, which if it had been committed in this state would be a felony (unless restored to civil rights).
8. The governor, lieutenant governor, cabinet officers, clerks of court or judges cannot be a juror. In addition, any full-time federal, state, or local law enforcement officer or such entities' investigative personnel shall be excused from jury service unless such persons choose to serve.
9. Any person who is responsible for the care of a person who, because of mental illness, mental retardation, senility, or other physical or mental incapacity, is incapable of caring for himself or herself shall be excused from jury service upon request.

Payment for jury duty and employee rights.

Effective July 1, 1993, jurors who are regularly employed and who continue to receive regular wages while serving as a juror are not entitled to receive compensation

from the state for the first three days of juror service.

Jurors who are not regularly employed or who do not continue to receive regular wages while serving as a juror are entitled to receive \$15 per day for the first three days of juror service.

Each juror who serves more than three days will be paid by the state for the fourth day of service and each day thereafter at the rate of \$30 per day of service.

Juror service includes being summoned and reporting for jury service as well as actual service on a jury. Juror service does not include days when the juror was notified before reporting that it was not necessary to appear. Regular employment includes full-time employment and part-time, temporary, and casual employment, as long as the employment hours of a juror can be reasonably determined by a schedule or by custom and practice established during the three-month period preceding the term of service as a juror.

Jurors are not entitled to additional reimbursement from the state for travel or other out-of-pocket expenses.

A juror who receives unemployment benefits does not lose such benefits because he or she receives compensation for juror service.

Any juror who is excused from jury service at the juror's own request is not entitled to receive any compensation.



Women did not serve on Florida juries until 1947.



Civic Rights and Responsibilities

IMMIGRATION LAW

U.S. citizens enjoy the entitlements and full protection of U.S. law, including the right to leave and re-enter the United States unobstructed. Those who are not U.S. citizens are not entitled to the same government benefits as U.S. citizens, may not enjoy the protection of all U.S. laws and in many cases, must have a visa to enter the U.S.

A person can become a U.S. citizen either through birth or through a process known as naturalization. A person can be a U.S. citizen from birth either by being born in the U.S. or by being born in a foreign country to a U.S. citizen. Anyone born in the U.S. is an American citizen, regardless of the parents' citizenship. Even if both parents are living in this country illegally at the time of their child's birth, the child is a U.S. citizen if born on U.S. soil. The only exception is that children born to foreign diplomats in the U.S. do not receive automatic citizenship. Anyone not born a citizen must be naturalized to become a citizen. Occasionally, a group of people are naturalized by treaty or by an act of Congress. Usually, a person goes through the process individually.

Becoming a permanent resident is the first step that an alien must take to become a naturalized American citizen. Persons with permission to live permanently in the United States are issued green cards that allow them to work with few restrictions. A permanent resident can apply to become a naturalized American citizen after five years (three years if married to a U.S. citizen).

The Immigration and Naturalization Services (INS) is diligent in investigating marriages

between U.S. citizens and aliens to ensure that aliens do not become permanent residents through sham marriages. Immigration law specifies that an alien seeking permanent residence based on a marriage to a U.S. citizen of less than two years is first granted conditional permanent resident status. This classification exists for two years and after two years the husband and wife must apply to the INS to remove this conditional status.



- You are eligible to file for U.S. citizenship if, immediately preceding the filing of your application, you:
 - have been lawfully admitted to permanent residence for five years;
 - have resided continuously as a lawful permanent resident in the U.S. for at least five years prior to filing with no absences from the United States for a consecutive period of more than one year. (Absences of more than six months but less than one year break the continuity of residence unless you can establish you did not abandon your residence during such period.);
 - have been physically present in the United States for at least 30 months out of the previous five years;
 - have resided within a state or district for at least three months.

U.S. immigration law is quite complex with more than fifty different non-immigrant visa classifications and a number of methods for obtaining lawful permanent residence (a "Green Card").

The INS maintains a toll-free number with recorded information concerning recent changes in immigration law and INS procedures as well as other information. The toll-free number is (800) 755-0777.

Give me your tired,
your poor,
Your huddled
masses, yearning to
breathe free,
The wretched refuse
of your teeming
shore,
Send these, the
homeless tempest-
tossed to me. . .

—Inscription on the
Statue of Liberty
from Emma Lazarus'
poem, "The New
Colossus."





Immigration and Naturalization Offices in Florida:

Miami District Office
7880 Biscayne Boulevard
Room 100
Miami, FL 33138
(305) 536-5741

Tampa Sub-office
5509 West Gray Street
Room 207
Tampa, FL 33609
(813) 288-1217

Jacksonville Sub-office
400 West Bay Street
Room G-18
Jacksonville, FL 32202
(904) 232-2624

Sources

Information from this section provided by:

Commission on Asian Pacific American Affairs (CAPAA)

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Tel: (360) 586-9500
Fax: (360) 586-9501
www.capaa.wa.gov

The Florida Bar

Consumer Pamphlets
651 E. Jefferson Street
Tallahassee, FL 32399-2300
850/561-5600
Fax 850/561-5826
<http://www.flabar.org>

2004 Registration and Voting Guide

Florida Department of State

Division of Elections
Room 316 R. A. Gray Building
500 South Brounough Street
Tallahassee, FL 32399-0250
(850) 245-6200
<http://election.dos.state.fl.us>

U.S. Citizenship and Immigration Services

<http://uscis.gov/graphics/aboutus/index.htm>

WEBLOCATOR, L.L.C.

Boulder, Colorado
www.weblocator.com



Family Law

By: The Florida Bar, Florida Department of Revenue, Florida Department of Children & Families

MARRIAGE



Florida law requires a three-day waiting period between application and the effective date of a marriage license. The waiting period can be waived if applicants show proof of having recently attended at least four hours of marriage counseling with a provider registered with the Clerk's Office.

If you were married recently or wedding bells will be ringing soon, you've probably received a lot of friendly and helpful advice on the subject of matrimony from your families and friends, your pastor, and your physician. But what about the family lawyer? A little of his or her advice now on the many legal questions and transactions that arise in married life, could save you a great deal of time, trouble and money later. If you don't have a lawyer, now is a good time to select one.

Not only are new personal responsibilities imposed by marriage, but the law imposes certain legal responsibilities as well. A marriage is a legal contract in itself and the State of Florida recognizes the validity of that marriage contract.

Duty to support your family.

The state recognizes the obligation of a husband to support his wife and children, and of the wife to support her husband and children.

In Florida, both husband and wife are personally liable for the debts of the family. This liability for debts is binding on the husband and wife even if one or both are minors. Marriage "emancipates" minors from their status as minors, assuming the marriage meets all legal requirements. Emancipation also frees a married couples' parents of the legal obligation to support their minor son and/or daughter.

Change your beneficiaries.

One of the first things a newly married couple should do is to make appropriate changes in any existing legal documents. Members of your family are probably named as beneficiaries or joint owners on many of these documents and you may wish to make your spouse the new beneficiary or joint owner. These changes can be made by taking insurance policies to your insurance company or agency, and government bonds or securities to your bank or stockbroker. For estate planning, however, always consult your attorney. Additionally, withholdings for Federal income taxes will have to be adjusted after your marriage to reflect your new status.

Newly married persons should inform employers of their new status so they will receive any employment benefits due them as married persons. Many employers offer "fringe benefits" of special interest to married employees.

Changing information on documents.

If your marriage means a change in name and/or address, remember to make the following important notifications:

1. Florida Department of Highway Safety & Motor Vehicles Division of Drivers License Tallahassee, Florida 32304
2. Your nearest Social Security office.
3. Your voter's registration office.
4. Military Reserve commanding officer.

(Continued on page 17)



(Continued from page 16)

A woman is not required by law to change her name when she marries, but if she chooses to do so, the pertinent offices above must be notified.

Premarital agreements.

Although you are beginning your marriage with the intention of remaining together "till death do us part," you should be realistic about the possibility of failure. Just as the law will dispose of your estate if you have not signed a will, the law will determine custody, property, support, and debt rights and obligations in the event of a dissolution of your marriage. A fair premarital agreement signed before your marriage can determine most of these issues at a time when both parties are not under the stress and hostility which usually accompanies an unsuccessful marriage and impending divorce. Such an agreement should be negotiated and signed well in advance of the marriage ceremony and each party should be represented by a separate attorney competent in marital and family law. Some issues such as child custody, visitation, child support, as well as temporary relief while a dissolution of marriage action is pending cannot be conclusively determined in a premarital agreement, but the expense of divorce can be minimized by a properly drafted agreement.

DIVORCE

"Dissolution of marriage" is now the legal term for ending a marriage in Florida. A dissolution of marriage is the legal act of terminating a marriage through a court action.

The purpose of the Florida Dissolution of Marriage Statute is to promote the amicable settlement of disputes that arise between the parties to a marriage and to lessen the potential harm to the spouses and their children caused by the process of the legal dissolution of marriage.

Under Florida law, a dissolution of marriage will not be determined on the basis of the fault of one or both of the parties. There are only two grounds for the dissolution of marriage -- 1) the marriage is irretrievably broken, or 2) one of the parties is mentally incompetent.

The ground for the dissolution based on the incompetence of one of the parties is rarely used. It cannot be used unless the party alleged to be incompetent has been held by a judge to have been incompetent for a period of at least three years.

The more usual reason used to obtain a dissolution is that the marriage has proved to be irretrievably broken. Irretrievably broken means the parties have differences or disputes that cannot be settled, and they must be so serious that they have caused the total and complete breakdown of the marriage.

There are two ways of obtaining a dissolution of marriage in Florida -- 1) Regular Dissolution of Marriage, and 2) Simplified Dissolution of Marriage.

In order to file any petition for dissolution of marriage, one of the parties to the marriage must have lived in Florida for six months before filing the petition. This requirement prevents people from out of state from

(Continued on page 18)



Family Law

(Continued from page 17)

coming to Florida for the sole purpose of using the courts here to dissolve a marriage.

Regular Dissolution of Marriage.

The regular dissolution process begins with a "Petition" for dissolution of marriage, filed with the court by the husband or wife, which states the reason for the divorce and sets out what the person wants from the marriage.

The person who first files the petition is called the petitioner. The other partner, called the respondent, files an "Answer," which includes the matters on which they agree or disagree within the initial petition. The person filing an Answer should be aware that there are time limitations to respond to the Petition. An answer must be filed within 20 days from the time it is received. One copy is sent to the Petitioner. The original answer is sent to the court. If you have received papers, you must not delay in seeking assistance.

Many issues can be determined in the dissolution action: child custody, visitation, parental responsibility, child support, alimony, distribution of assets and debts, and who will pay the attorney's fees. Each party must file a financial affidavit. Other financial documents are required unless both parties agree not to file them.

Some couples agree on property settlements, child custody and other post-divorce arrangements before or soon after the original petition is filed. In those cases, a divorce can become final in a shorter period of time.

Couples who work out their differences, can appear before a judge for a final hearing with a suggested settlement. This can be done

by preparing a written settlement agreement and filing it with the court or by going through mediation and reaching an agreement.

Mediation is a procedure to assist you and your spouse in working out an arrangement for reaching agreement without a long, drawn out process. Its purpose is not to save a marriage, but to help divorcing couples reach a solution to their problems and arrive at agreeable terms for handling their marriage dissolution. Many counties have mediation procedures available.

Finally, if a couple cannot reach a settlement, the couple may be required to appear before a judge or general magistrate to resolve these matters. If the issues remain unresolved, the couple will go to trial--with each side presenting its case. At this trial, both sides must present their witnesses and submit any proof or evidence to the judge to support their case or to challenge the other sides case. The judge makes the final decision on such contested issues.

The dissolution process is designed to make the divorce as fair as possible to both husband and wife. This usually means negotiation and compromise by both partners. In some jurisdictions the couple and their children must attend classes to help them deal with the divorce.

Often, the termination of a marriage involves complex questions of law and court procedure which may permanently affect your property and personal rights. You should seek the assistance of an attorney who is experienced in these matters in order to be certain that these rights are not lost.

"Dissolution of marriage" is the legal term for ending a marriage in Florida.



Spotlight: Getting A Divorce

By: Allison Doliner Hockman, J.D., Commissioner, Florida Commission on the Status of Women.

Family Law

Florida offers a variety of options for couples desiring a dissolution of marriage, otherwise known as a divorce. There are adversarial and non-adversarial processes available to you. Within the adversarial system, you may do it yourself, or hire a family lawyer. Within the non-adversarial process, you may hire a mediator with or without lawyers, or hire a collaborative family lawyer. Florida encompasses a ‘no fault’ policy which removes the necessity of finding a reason for the divorce. It also embraces the concept of ‘mandatory disclosure’ of financial matters which forces the parties to be honest and open about their marital assets and debts.

Going it alone.

For those who chose the ‘do it yourself’ way, or ‘pro se,’ the Supreme Court of Florida has published forms for a simplified process. Those forms pertain to couples who have no children and earn under \$50,000. A non simplified divorce, one with children and earn over \$50,000 together also have forms but involve more topics.

If the parties do not agree on the various issues of divorce, i.e., the division of assets, the custody of the children, the visitation schedule, alimony and child support, then the divorce is contested. A person can still represent herself but, the courts do not bend or ignore the rules of Civil Procedure or the Family Law Rules just because one is representing herself. The Florida Family Law Rules of Procedure has printed forms for this representation and can be found in the Florida Statutes or retrieved from The Florida Bar*. The State of Florida also has a legal aid program and many of the counties have a “pro bono” program which provides family

lawyers to those who are indigent or unable to pay.

What’s next.

The Forms have unified many of the Family Law pleadings which are necessary to obtain a divorce. The First matter is the Petition of one seeking a divorce which must be filed with the court, and served upon the opposing party. The opposing party has 20 days in which to file and Answer to the Petition, denying or agreeing to its allegations. The opposing party can also counter-petition and the initial party has 20 days in which to answer this counter-petition.

The next matter required by the Family Law rules are the “mandatory disclosure form” which include among other things, a sworn financial Affidavit for both sides, a list of all property, stocks, bank accounts, loans, debts and the couple’s tax returns for the last 3 years. These documents must be completed and filed within 45 days after the Petition. After the Petition and Answer, all interrogatories (questions), deposition of the parties or other witnesses and other discovery takes place at this time. If necessary, temporary motion for alimony, child support, attorney fees could be filed during this period. Once a motion is filed, the opposing side had 7 days to respond if mailed, and hearing must be requested by the court. A court will not just set a motion down for hearing once it is received, the party requesting the relief in the motion must call and get a hearing date and time and notice the other side. Formal rules of civil procedure and evidence will apply to all papers filed and conduct during the hearings. This

(Continued on page 20)



Commissioner Hockman is an attorney specializing in civil appellate law and is a certified Family Law mediator.



Family Law

(Continued from page 19)

adversarial process will continue until the parties have a final hearing and an order of dissolution is entered.

What is a General Magistrate?

In some counties, a judge will appoint a case to a General Magistrates, who are members of the Florida Bar and whom have taken an oath of office required of officers by the Constitution. No matter may be heard by a General Magistrate without an appropriate order of reference and the consent to the referral of all parties. The General Magistrate shall assign a time and place for the proceedings and give notice to each of the parties. If any party fails to appear the General Magistrate may proceed ex parte or may adjourn.

A General Magistrate is able to administer oaths and conduct hearings, like a judge , which includes the taking of evidence, taking testimony, examining under oath the parties and all witnesses, and requiring the production of documents. During the hearing before the General Magistrate, he will establish a record which may be taped. The Magistrate will prepare a report which includes findings of fact and conclusions of law, together with recommendations. This Report will be served on all the parties, who may then serve exceptions to the report within 10 days from the time it is served on them. Any party may file cross exceptions within 5 days form the service of exceptions. If exceptions are filed, they shall be heard on reasonable notice by either party or the court. The court shall ratify and adopt the recommendation or reject them.

What is mediation?

Mediation is a court sanctioned process in

which a neutral third party, who is trained and certified, acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. It is an informal and non-adversarial process intended to help parties in reaching a mutually acceptable agreement. A Mediation can be conducted before filing a lawsuit, during the lawsuit and after a lawsuit. The person who is trained and certified to assist parties in reaching an agreement is called a Mediator. Mediators do not take a either party's side and are not allowed to give legal advice. They are only responsible for helping the parties reach an agreement and putting that agreement into writing. A Mediator is governed by Florida Rules and are held under a strict standard.

Mediation has been used for a long time and has been very successful in helping people divorce without great costs. It also allows the parties to participate in settling their own disputes, with or without a attorney, and can be creative in their solutions. In some areas, mediation of certain family law cases may be required before going to court. In all areas, the parties can ask for a mediation to try to resolve some or all of the various issues in a case.

What is Collaborative Law?

Collaborative law is a process that enables parties involved in a dissolution of marriage and other family law matters, to be represented by counsel to resolve their differences in a non-adversarial setting. The process operates in an environment grounded in good faith, cooperation , integrity honest and professional ethics. The process enables the parties to avoid the increasing hostility caused and encouraged by litigation and succeeds because the parties and their counsel are committed to the process and



Family Law

incorporate reasonableness into achieving settlement.

The collaborative family lawyers institute* is comprised of attorneys trained in the innovative process of collaborative law. The process provides the foundation for allowing parties to proceed through the difficult process of divorce or other conflicting family law matters without creating a hostile environment. The results resolution and settlement of all issues.

Collaborative Family law works by the parties and their lawyers entering into a participation agreement wherein all agree that they will work together to achieve a satisfactory settlement in a cooperative manner. The participants agree not to go to court and to voluntarily disclose all relevant information. Settlement is accomplished through four way conferences, informal discussions, mediation and other non-litigation alternatives. Collaborative family lawyers expend their time and effort toward settling your case instead of preparing and

conducting a trial. The result is less financial and emotional cost to you and your family.

If a settlement cannot be reached through the collaborative law process or if one of the parties becomes adversarial or insists that their lawyer act in any manner inconsistent with the terms of the participation agreement or the principles of collaborative, then both lawyers must withdraw from the case. The lawyers will assist the parties to find new counsel to pursue their cases in court and will work to make a smooth transition for their clients.

As one can see, how to get a divorce has choices, which will depend upon the couples situation. I would suggest that one speak to a family lawyer to determine her or his rights in ending their marriage, and then determine which method of divorce is best for her or him. If you do not know a family lawyer, the Florida Bar has a lawyer referral service.

*for further information, see: www.FlaBar.org

* for further information, see: www.collaborativefamlaw.com

About the Author

FCSW Commissioner Hockman of Coral Gables received her first appointment in December 1998 to the FCSW by the late Governor Lawton Chiles and subsequently received her second appointment in February 2000 by Commissioner of Agriculture Bob Crawford. In 2004, Commissioner Hockman was reappointed by Commissioner of Agriculture Charles Bronson.

Commissioner Hockman is an attorney specializing in civil appellate law and is a certified Family Law mediator. She is past

president of the Florida Association of Women Lawyers, Dade County Chapter; past president of the Coral Gables Bar Association; and has been named Who's Who of Executive Women and Outstanding Young Women of America. She formerly served as a research assistant for the late Honorable Norman Hendry and the Honorable Thomas Barkdull on the Third District Court of Appeal. Commission Hockman currently serves on the Board of Directors for CHARLEE of Dade County, Inc., a program providing homes for abused, abandoned, or neglected children.



Family Law



In 2002, 46% of the marriages in Florida ended in divorce.
- U.S. Department of Vital Statistics.

CHILD CUSTODY

One of the most difficult and painful parts of a divorce concerns children. Many times the parents will work out the problems concerning their children between themselves and avoid a court fight. Sometimes parents will be unable to decide how they will share their child or children, and the case must be decided in court.

The parties, or the court, if the parties cannot agree, must determine parental responsibilities, primary custody and visitation. Parental responsibility refers to the rights and responsibilities of both parents as they relate to the children of the marriage. There can be either parental responsibility shared by both parents or sole parental responsibility awarded to one parent.

"Shared parental responsibility" means a court-ordered relationship in which both parents retain full parental rights and responsibilities with respect to their children. Both parents confer with each other in good faith and with cooperation, so that major decisions such as education, religion or medical needs affecting the welfare of the children will be determined jointly.

"Sole parental responsibility" means a court-ordered relationship in which one parent makes the decisions regarding the minor children. This is only awarded if shared parental responsibility would be detrimental to the child. Evidence of domestic violence or child abuse can be considered by a judge in assessing detriment.

Visitation.

Assuming that there will be shared parental responsibility, the children will still need one place to live called the "primary residence." Neither parent is entitled to have the primary

residence of the children with them as a matter of right. The court is guided by the best interests of the children rather than the wishes of either of the parents. The parties or the court must decide both the primary residence of the children and the access or visitation that the other parent will have with the children. Under the statute, the father of the children is given the same consideration as the mother in determining the primary residence of the children, no matter how old or young the children may be.

In reaching its decision, the court will be considering factors such as which parent is more likely to allow the children frequent and continuing contact with the other parent. This is because studies have shown that children will normally do better if they have close contact with both parents rather than just one parent.

The court will also consider the love, affection and other emotional ties existing between the children and each parent since it is important for the children to maintain these ties if they are to reach their maximum potential.

The devotion of the parent to the best interests of the children is one of the most important factors. Children should not be used by parents who are angry at each other because their marriage has not gone the way they expected. The parent who pursues the best interests of his or her children before personal desires is the parent who is truly working toward the best interests of the children.

The court is interested in the ability and desire of each parent to provide financially for the food, clothing, shelter, medical and other needs of the children. In this case, the desire to provide is as important as the

(Continued on page 23)



(Continued from page 22)

financial ability to provide since the court can award child support to assure the ability of parents to provide for their children.

The court will also be concerned with the stability of each proposed home, the success that the children have enjoyed in each home, the morals of the parties, the physical and emotional health of each parent and the reasonable preference of the children if the judge finds that the children are mature enough to express such an opinion. The court will also consider any other fact that is relevant.

CHILD SUPPORT

In any action for a dissolution of marriage, the court has the power to order either or both parents to pay support for a child. The amount of support will depend upon the needs of the child and the ability of the parents to pay. In considering the amount of support that the court should award, the judge will usually consider the age of the child, the earning ability of each of the parents, and the standard of living that the child would have enjoyed if the family had continued to live together, as well as the physical and emotional health of the child and each of the parents. The physical and emotional health of the child may affect the need that the child may have for special care or special schooling.

On October 1, 1989, the child support guidelines became mandatory upon the judiciary and if a judge deviates from these guidelines he or she must explain such deviation. The child support guidelines is a formula for determining a reasonable amount

of child support. It is based on the parents' incomes, the needs of the children and the number of minor children. If a parent is unemployed, or under employed, a court may assign an income to that parent based on such things as prior employment, experience, and education.

The court also has the power to modify the amount of the support at any later time until the child reaches the age of eighteen. Such a change may take place if there is an involuntary, permanent and substantial change in circumstances of the parties, or if it is in the best interest of the child. A substantial change in the circumstances of the parties could include such things as a big change in the salary of either of the parents or an increase in the child's needs because of medical problems or more expense simply because the child has become several years older.

As a part of child support, the court may order a parent to maintain health insurance for the minor child when the insurance is reasonably available. Insurance is reasonably available if the parent who is to provide it can obtain insurance at a reasonable rate.

The court may also order a party who has an obligation to pay child support to purchase and maintain a life insurance policy or a bond. The purpose of the life insurance or bond is to be sure that the child is financially protected in the event that the paying parent were to die before the child reaches the age of eighteen.

Child support payments are usually paid through a central depository, unless otherwise requested by both parents and a court finds it

(Continued on page 24)

Family Law

In any action for a dissolution of marriage, the court has the power to order either or both parents to pay support for a child.



Family Law

Approximately 26% of non custodial parents pay their child support in full and on time without enforcement actions.

(Continued from page 23)

in the best interests of the child/children to order otherwise.

The requirement that payments be made to a central depository is good because there is a clear record as to what payments have been paid and what payments have not been paid. The central depository is the clerk of the circuit court in every county except in Broward County where it is the Support Enforcement Division.

If the parent who is to pay support fails to make payment(s), the parent entitled to receive support can enforce the order by petitioning the court for enforcement. A good way to insure that child support is paid is to obtain an income deduction order. Child support enforcement options include contempt of court, driver's license and motor vehicle registration suspension, withholding a refund due on a motor vehicle impact fee and withholding refunds on federal income taxes. Once all remedies have been exhausted professional licenses or certificates may be sought to be suspended or denied.

Child Support Enforcement

The Florida Child Support Enforcement (CSE) Program is charged with the responsibility of helping assure that children in Florida are supported by both parents.

When a parent does not provide support, there are legal and administrative remedies available to require that they support the child.

Cases are automatically referred to CSE when the custodial parent or caretaker relative has applied for and/or received public assistance.

In cases where public assistance is not a factor, an application for services must be made by one of the parents. This application must be accompanied by a one-time, \$25 application fee.

In many cases, the non-custodial parent is employed and CSE can issue an Income Deduction Order (IDO) for payment of child support. Over half of all support collected comes from IDOs. An IDO is sent to the employer and requires them to automatically deduct the amount of the order from the parent's pay and send it to the Florida State Disbursement Unit, which collects payments, records them and disburses payments to custodial parents.

Unfortunately, in some cases the employer is not known or the non-custodial parent can't be located, delaying the collection of money for the children.

While approximately 26% of non-custodial parents pay their child support in full and on time without enforcement actions, the rest often need some encouragement through use of a number of enforcement tools at CSE's disposal. However, before those enforcement tools can be used, the non-custodial parent must be located.

Getting non-custodial parents to pay the full amount of support can be difficult, however, CSE has a number of enforcement tools at its disposal. These include:

1. Income interception from, IRS tax refunds, Lottery winnings, Workers' compensation benefits, Unemployment benefits, Insurance settlements.
2. Asset enforcement - CSE can freeze and/or seize financial accounts. All in-state and some out-of-state financial institutions participate. Institutions check their records against child support delinquencies to



(Continued from page 24)

provide account information to CSE for action.

3. Liens against property such as personal property, vehicles, boats, mobile homes and real property legally prohibit any sale without satisfaction of the lien.
4. Reports to credit agencies - Support delinquencies are reported to credit agencies. The non-custodial parent must pay the past due support to remove the delinquency notice from the credit report.
5. Suspending licenses - The types of licenses/documents that can be suspended include Driver licenses, Passports, Professional licenses, Vessel registrations, Recreational licenses.
6. Judicial intervention - CSE can refer cases to the court system for judicial intervention. Possible penalties vary depending on the parent's past behavior and the court's determination.
7. Arrest order (civil) for failure to appear.
 - Jail time for up to 179 days for contempt of court.
 - Full or partial payment to purge contempt.
 - Misdemeanor and felony criminal prosecution by state attorney.

Assistance with Child Support Enforcement can be addressed by calling the CSE customer service telephone number at: 800-622-KIDS (5437).

ADOPTION

The act of adopting a child establishes a legal parent-child relationship between a child and the adult or adults who are not the birth parents. The adoptive parent or parents and child acquire the same relationship and the same rights and responsibilities as the birth parent-child relationship.

A successful adoption is probably one of the happiest of all legal proceedings. There can be complications and pitfalls, however, and because of this, anyone thinking about adoption should be fully aware of any problems that may be encountered along the way.

Who may adopt a child? With very few exceptions, any couple married and living together or any unmarried adult may adopt a child. A homosexual person may not adopt in Florida. If you are petitioning to adopt a child, the court will need to know the kind of person you are, your mental and physical health, your background, and your ability to provide a child with a good home, both emotionally and financially.

There are four types of adoption. First, the agency adoption; second, the independent adoption; third, the step-parent adoption; and fourth, the adult adoption. Each different method of adoption has its own particular procedure, but certain procedures are alike. Generally, a petition for adoption must be filed first. Consents must be obtained from the birth parent or parents unless abandonment of the child by the parent or parents can be proven, or if an agency is involved, the consent from that agency. After the petition is filed, a period follows during which the child lives with the adoptive parent or parents, and

(Continued on page 26)

Family Law



For Information call
Florida's Adoption
Information Center
at
1-800-96-ADOPT
(1-800-962-3678)
or visit
www.fladopt.org



Family Law

1141 Children have been adopted from Florida's foster care system from July 2004 to December 2004.

-Florida Department of Children and Families, December 2004.

(Continued from page 25)

a representative of a court authorized agency visits to assure the child's needs are being met. When the child's new home situation is found to be satisfactory, a court hearing is held in private in which the qualifications of the adoptive parent or parents are reviewed by the court, and if satisfactory, a permanent decree of adoption is granted. In the case of an agency adoption, a petition for adoption is filed only after the probationary period is satisfactorily completed.

An important decision for most people who want to adopt a child is whether to go through an agency or whether to arrange an independent adoption. There are important points to consider before deciding.

Adoption agencies are responsible to find the best possible home for each child entrusted to their care. The agencies obtain as much information as possible about the birth parents and the physical condition of the child. Often there is a long waiting period for a problem-free infant.

Independent adoptions may cause difficulty for the adoptive parent or parents if the birth parent or parents change their mind about the adoption after the child is born. In cases where the child has been placed and consents signed, and then there is a demand for the return of the child, the court must decide if the consent has been legally obtained and if waivers were knowingly executed.

Step-parent adoption is very common. A husband or wife may want to legally ensure the relationship that already exists with a child from the spouse's previous marriage. This gives the step-child the same name and same rights as other members of the immediate family. Often a step-parent has lived with the child for a number of years, feels a closeness to and a responsibility for the child, and wants to make the relationship legal and permanent. Adoption may seem a mere formality, but it is necessary if the step-parent wants the step-child to have all the same rights his or her birth child would have. In step-parent adoptions, as with all other adoptions, if the child is twelve years of age or older, he or she must give his/her consent to the adoption. The divorced birth parent of the child must also give consent, and care must be taken to find that parent if he or she has not been in the child's life for some years.

In the case of adult adoptions, which are rare, any adult may adopt any other adult. The legal procedure is similar to that involved in other types of adoptions, but is much simpler.

Because of the complicated procedures involved in adoption, it is very important to consult an attorney if you are contemplating any kind of adoption.



CHILD CARE

Choosing an appropriate child care program is an important decision for both the parent and the child. Family needs as well as the child's individual needs should be considered in this process, including the child's age and developmental level.

Quality child care offers the child healthy, social and educational experience under qualified supervision in a safe, nurturing, and stimulating environment.

Children in quality child care settings also participate in daily age-appropriate activities that help develop essential skills, build independence and instill self-respect.

The parent's role in quality child care is vital to it's success. In partnering with the caregiver to achieve this goal, parents should:

- Familiarize themselves with the child care standards used to license the child care facility.

- Inquires about the qualifications and experiences of child care staff as well as staff longevity.
- Know the facility's polices and procedures.
- Communicate with the caregiver.
- Visit and observe the facility and participate in special activities as well as scheduled meetings and conferences.
- Talk to their child about their daily experiences in child care.
- Arrange alternate care for their child if they are sick.

For more information about child care contact:

Child Care Program Office
 1317 Winewood Blvd., Bldg. 6, Floor 3
 Tallahassee, FL 32399-0700
 (850) 488-4900
www.myflorida.com/childcare
 (Please contact your local child care licensing office for assistance).

Family Law



Children's healthy development depends on safe and positive experiences during the first few years of life.

Sources

Information from this section provided by:

The Florida Bar

Consumer Pamphlets
Marriage, Divorce,
 651 E. Jefferson Street
 Tallahassee, FL 32399-2300
 850/561-5600
 Fax 850/561-5826
<http://www.flabar.org>

Florida Department of Revenue

"How Child Support Works"
www.myflorida.com/dor/childsupport/works.htm

The Florida Bar

Call A Law Scripts
Divorce in Florida, Child Custody, Child Support, General Information About Adoption Procedures,
 651 E. Jefferson Street
 Tallahassee, FL 32399-2300
 850/561-5600
 Fax 850/561-5826
<http://www.flabar.org>

Florida Department of Children & Families

"Know Your Child Care Facility"
 Pamphlet



Family Law

Spotlight on Divorce and Children: The Psychological and Legal Impacts

By: *Commissioner Anastasia M. Garcia Esq. and Dr. Miguel Firpi*



Commissioner Garcia is an Attorney practicing in Coral Gables in the areas of family law and real estate.

Divorce is often a very painful and long process for families. The difficulty of divorce could be lessened psychologically and legally, in the way both parents handle the entire process before, during and after the divorce. This article will examine the psychological and legal implications of divorce on families and it will examine which actions which actions should be taken and which actions should be avoided by a parent during the divorce process.

The divorce process for children is especially difficult as they are often unable to understand the end of their family as they have known it. Psychological research has shown that the continuation of conflict between parents after divorce appears to be the most powerful and damaging influence on children. On average, children who experience a conflictive divorce between their parents have higher rates of anxiety, depression, aggression, resistance to authority, poor school achievement, problematic social relationships, delinquency and higher rates of substance abuse.

From the legal perspective, the best interest of a child or children will always be the main concern of a family judge. Therefore, the desire of the parents will be examined in light of what is in the best interest of the children. Judges do not approve of children being taken to Court and placed in the middle of their parent’s conflict. There are times, depending on the age of a child, that the Court may consider the wishes of the child. The Court will either appoint a Guardian-At-Litem who would be appointed to interview

the child or children and conduct an investigation or the Court may decide to interview the child. In order for a child to be interviewed by the Court, the party wanting the interview to be conducted must first seek the permission of the Court and demonstrate why the interview is necessary.

If divorcing parents cannot agree on how to share time with their children, then the Courts must make the decision, which is, of course, a very personal decision. If it is necessary that a child psychologist conduct an evaluation of the children, said psychologist will be interviewing the children for the purpose of making a recommendation to the Court. However, if children demonstrate significant changes in their behavior during the divorce process, it is probably time to consult with a child psychologist for the purpose of therapy for the children. With very few exceptions, the child psychologist performing therapy should not ever be a witness for either parent.

The following actions from children are signs that they need to see a child psychologist: immature behavior, clinginess, nervousness and withdrawal from normal activities or from other children.

Always remember that the divorce you are going through is your divorce and not the divorce of your child. If you concentrate on being a good parent and if you concentrate on avoiding the “anger trap” with your ex spouse and avoid wanting to use the children to “prove” a point in the Court process, the

(Continued on page 29)



Family Law

(Continued from page 28)

chances that your child or children will be unaffected by the divorce are very good.

The following are the things that you **SHOULD AVOID** when in the divorce process:

- Do not make negative comments about the other parent ever even if you think the children are not listening.
- Do not argue in front of the children regarding parenting issues and always present a unified front in your decision making as parents.
- Do not use the children as messengers. This makes them feel anxious and uncomfortable.
- Do not question the children about their visit to the other parent’s home.
- Do not introduce the children to new significant others until they have had a chance to accept the reality of the divorce and adjust to it. If you are unsure whether they have accepted it or not, then consult a child psychologist.
- Do not badmouth step-parents or step-siblings.

The following are the things you should **DO** when in the divorce process:

- Tell your children that you are divorcing in a way they can understand at their age and if possible tell them together with the other parent.
- Reassure the children that you will both continue to be a part of their lives. Make sure they understand that you are not divorcing them.
- Make sure they understand that they are not to blame.
- Encourage the children to ask questions.
- Make sure they understand that you continue to be the parental authority and that you are going to cooperate with the other parent in all matters that are important to them.
- Encourage the relationship with the other parent. Don’t just allow the relationship, encourage it.
- Seek professional assistance if you find yourself too angry at the other parents to cooperate with him/her in a manner that benefits the children.

Always remember that a Court will legally consider, when making decisions about visitation and custody, which parent is the more likely to encourage a positive relationship with the other parent.

About the Authors

FCSW Commissioner Garcia is a practicing Attorney in Coral Gables in the areas of family law and real estate. She is also a Florida Supreme Court Certified Family Mediator.

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divorce cases. He is also a Florida Certified Family Mediator. Dr. Firpi is a graduate of Princeton and Rutgers Universities. He is an Adjunct Faculty member at the University of Miami Department of Educational and Psychological Studies.



Domestic Violence

By The Florida Coalition Against Domestic Violence, The Florida Bar, National Coalition Against Domestic Violence, WomensLaw.org

WHAT IS DOMESTIC VIOLENCE

Physical Abuse:

Infliction of physical pain or injury, physical coercion, confinement, restraining, burning, cutting, pushing, striking, slapping, kicking, pinching, or use of weapons.

Psychological Abuse:

Demeaning you, name-calling, insulting, ignoring, humiliating, frightening, threatening, isolating, harassing, intimidating, denying you a home or personal possessions.

Sexual Abuse:

Sexually molesting you, forcing you to have sex when you say no, using weapons to coerce you into having sex, using weapons during sex.

Neglect:

Intentionally withholding medication, shelter, food, personal hygiene products, or clothing; infliction of physical or emotional stress or injury; abandonment.

If any of these things are happening to you, you do not have to face them alone.

- Do you feel isolated? Are you being deprived of contact with the outside world?
- Are you being denied private space or time?
- Are you being controlled and not allowed to make decisions for yourself?
- Is your spouse or companion withholding or mismanaging your scheduled medications?
- Are you being deprived of good personal hygiene or proper cleanliness when you need assistance?

- Does your spouse or companion make false accusations against you?
- Is your spouse or companion verbally, mentally, emotionally, physically, or sexually abusing you?

No one deserves to be abused. You have the right to feel safe in your own home. If you are not safe in your home, it is sometimes necessary to make changes to become safe again.

What is the legal definition of domestic violence in Florida?

Florida Statute 741.28 defines domestic violence. Under that law, domestic violence means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

This means that if you are being physically or sexually abused, threatened, or stalked by a family or household member, you may file for an Injunction for Protection against Domestic Violence.

What is an Injunction for Protection against Domestic Violence?

An Injunction for Protection against Domestic Violence (sometimes called an Injunction or a Restraining Order) is a court document that orders the abuser to leave you alone. If you have an Injunction, the police can help you before your abuser harms you. Any violation

(Continued on page 31)

Florida Domestic
Violence Hotline:
1-800-500-1119
Florida DV
Hotline TTY
Number:
1-800-621-4202



(Continued from page 30)

of the Injunction for Protection against Domestic Violence order is a crime.

How can an Injunction for Protection against Domestic Violence help me?

An Injunction for Protection against Domestic Violence can do more than protect you and your children. It may:

- tell the abuser to leave you alone
- tell the abuser to leave your house
- prevent the abuser from lawfully entering your home, school, business, or workplace
- establish temporary custody of your children and/or temporary child support
- order the abuser to go to treatment, counseling, or a batterers’ intervention program

Whether a judge orders any or all of the above depends on the facts of your case.

The law makes it clear that Domestic Violence is a crime and that the state of Florida wants to protect people from becoming victims of Domestic Violence. Your safety and the safety of your children and any other person in your household who may be in danger are of primary importance to the judge who reviews your petition.

If you ever call the police to report an incident of Domestic Violence, the law requires the police officers to tell you about your legal rights and to provide you with information regarding the help that is available to you. The police also must help you get medical treatment if you need

it. They also will tell you how to contact the local domestic violence center for additional help.

What can I do besides getting an Injunction?

You may ask the State Attorney to file criminal charges against your abuser. You can do this by going to the police station. Be aware that even if you decide not to pursue your complaint, the state of Florida will not necessarily drop the criminal charges. Unlike an Injunction, which is considered a private matter, a criminal charge is considered a public offense. The state may decide to prosecute the accused abuser even if you are no longer interested in taking action.

Domestic Violence and the Elderly.

Domestic violence is not only a problem of the young. It can occur in older families, too.

Domestic violence can include not only physical violence, but emotional and financial abuse, as well. Domestic violence legally differs from elder abuse in that it is committed against a physically and mentally healthy adult and occurs at the hands of a spouse or companion.

For many older victims of domestic violence, there has been ongoing violence for many years. Yet for others, it does not begin until later in life, often aggravated by the change in lifestyle that comes with retirement, declining physical and mental health, and reduced sexual ability.

Regardless of which category you fall into, domestic violence is wrong, and it is not your fault. No one deserves to be hurt.



Domestic Violence Fact

Domestic violence knows no gender or age barriers and occurs in all economic, racial, ethnic, religious, educational, professional, and societal levels.



Domestic Violence



Spotlight: Governor’s Peace At Home Awards

By: by Renee C. Starrett, Program Administrator Office of Domestic Violence Program, Florida Department of Children and Families

When many of us think of home, we think of a safe and nurturing setting. It is difficult for us to accept that some of the most dangerous and life-threatening violence happens daily in homes throughout our communities. Acts of domestic violence take many forms, including physical battering, verbal abuse, excessive possessiveness, isolation from friends and family, deprivation of physical and economic resources, destruction of personal property, and abuse of pets. It can be any type of behavior used against an intimate partner or family member to establish and maintain power and control.

As awareness of domestic violence crimes has grown over the years, so has the number of individuals who are making a difference. They may include a volunteer at a local domestic violence center who has gone out of their way to provide assistance to a victim; a law enforcement agency that has been proactive in monitoring batterers and protecting victims; a doctor or dentist who has provided free health care to a victim and her children; a judge or state attorney who has required strict accountability and intervention for offenders; a local service organization that has promoted domestic violence awareness; or a research team who has encouraged new solutions.

The Governor’s Peace at Home Awards: Stopping Domestic Violence program was established to recognize these individuals. Awards are given each year for outstanding

achievement in Children’s Services, Survivor Support, Justice System, Health Care, Public Awareness and Education, Research, and Overall. This year, 2004, marked the tenth anniversary of the awards program, which was founded in 1995 by former Governor Lawton Chiles.

The Florida Department of Children and Families’ Office of Domestic Violence Program administers the Governor’s Peace at Home Awards, and is responsible for developing and disseminating nomination forms, accepting nominations, making recommendations to the Governor, and co-hosting the annual awards ceremony. The 2005 awards ceremony will be held on April 11, 2005 at 10:00 a.m. in Tallahassee on the 22nd Floor of the Capitol in Tallahassee. This event will serve to launch Florida’s observance of National Crime Victims’ Rights Week, the annual commemoration to promote victims’ rights and services.

For more information on the Peace at Home Awards or how to submit a nomination please contact the Office of Domestic Violence Program at 850/921-2168.



Governor's Peace At Home Awards: Stopping Domestic Violence Winners

Domestic Violence

2004

CHILDREN'S SERVICES:

The Shelter for Abused Women and Children, Naples

SURVIVOR SUPPORT:

Boca Raton Police Services Department Victim Advocate Unit

JUSTICE SYSTEM:

Denise Moon (posthumously), Director of Victim Witness Office, 11th Judicial Circuit State Attorney's Office, Miami
Ivon Mesa, Director of Domestic Violence Intake Unit, 11th Judicial Circuit, Miami
Ocala Police Department Victim Advocate Program

OVERALL:

Ivon Mesa, Director of Domestic Violence Intake Unit, 11th Judicial Circuit, Miami

2003

CHILDREN'S SERVICES:

Robert "Bob" Whitworth, Victim Advocate, Lake County Sheriff's Office

SURVIVOR SUPPORT:

Melbourne Police Department Domestic Violence Unit

JUSTICE SYSTEM:

Honorable Raymond T. McNeal, Circuit Court Judge, 5th Judicial Circuit, Ocala

HEALTH CARE:

Dr. Bruce Grozier and Staff, Family Medical Clinic, Sarasota
Det. Jorge Fernandez de Lara, Sweetwater Police Department

PUBLIC AWARENESS AND EDUCATION:

Carol Bailey, Victim Advocate, The Haven of Religious Community Services, Clearwater

OVERALL:

Carol Bailey, Victim Advocate, The Haven of Religious Community Services, Clearwater

2002

CHILDREN'S SERVICES:

Alachua County Sheriff's Department's Victim Advocate Unit, Gainesville

SURVIVOR SUPPORT:

Sharlene Humm, CEO, Sharlene's Angels on Earth, Inc., Hollywood

JUSTICE SYSTEM:

Elder Justice Center, Administrative Office of the Courts, Tampa
EVE (Project End Violence Early), Tampa
Nancy Tanner, Director of Victim Advocate Unit, Office of State Attorney, Ft. Lauderdale
Cpl. Lawrence D. Weiland, Deputy Sheriff, Pinellas Co Sheriff's Office, Largo
Judge Robert L. Doyel, Family Division, 10th Judicial Circuit, Bartow

PUBLIC AWARENESS AND EDUCATION:

Rocio Tafur-Salgado, Domestic Violence Project Director, MUJER, Inc., Homestead

RESEARCH:

Miami-Dade County Domestic Violence Fatality Review, with Special Mention of Lauren Lazarus for her leadership as Chair

OVERALL:

Mayor's Task Force on Domestic Violence of Jacksonville with Special Mention of Intimate Violence Enhanced Services Team (INVEST), Jacksonville and Center for the Prevention of Domestic Violence, Jacksonville





Domestic Violence

IMMIGRANTS AND DOMESTIC VIOLENCE

There are many barriers that often prevent battered non citizens from accessing the legal system. These barriers include:

- Lack of knowledge and misinformation about legal system
- Fear of the police and judicial system
- Fear of deportation
- Fear the abuser will be deported
- Language barriers
- Cultural and religious barriers
- Economic barriers
- Barriers to participating in prosecution

Should I call the police if I am being abused, or to report a past incident of abuse? Will I be turned into the INS if I call?

Remember: domestic violence is against the law. The police are not supposed to turn you in to the INS if you are calling to report domestic violence, and almost all follow this rule. However, you might want to contact a domestic violence agency in your area first, to find out how the police in your community handle situations like these.

To find an agency in your area, go to the Resources page in this handbook or call the National Domestic Violence Hotline: 1-800-799-SAFE (7233) or (TTY) 1-800-787-3224.

If you call the police, they can escort you and your children safely out of the house and often will take you to a safe place. The police may arrest your abuser if they believe a crime has been committed. If your abuser is arrested, he may be released in as soon as two hours. You can use this time to find a safe place to go.

If the police officer does not speak your language, try to find someone other than your child or abuser to interpret for you.

Always ask the police to complete a report about the incident. Be sure to get an incident report number so you can get a copy of the report. Also ask for and write down the name and badge number of the officer making the report.

What is VAWA?

VAWA stands for the Violence Against Women Act, and is an act that was passed by Congress in 1994 that, amongst other things, created special routes to immigration status for certain battered non citizens.

LEGAL ASSISTANCE FOR DOMESTIC VIOLENCE VICTIMS

Florida Coalition Against Domestic Violence Statewide Legal Hotline 1-800-500-1119

The FCADV Statewide Hotline, provides legal assistance by telephone to victims of domestic violence in Florida. If you wish to call, dial the statewide hotline and push the number 3 when prompted to be connected to a law office where staff can assist you. If you are calling from outside of Florida, it may be necessary to dial directly to (850)385-0611. The Legal Hotline operates from 9:00 a.m. to 5:00 p.m. Monday through Friday.

When you call, a non-lawyer will answer the phone, inquire about your safety, and will ask you some basic information. You will be asked for your name, the names of the persons with whom you are having difficulty,

(Continued on page 35)

National Domestic Violence Hotline: 1-800-799-SAFE (7233) or (TTY) 1-800-787-3224.



(Continued from page 34)

and a safe number at which an attorney may call you back. An attorney will then contact you, the client, and conduct a phone intake, try to answer your legal questions, spot any additional legal issues, and provide you with legal options. Then, he or she will refer you to legal and domestic violence resources in your county.

Hotline attorneys cannot represent you in court or submit documents for you, but they can refer you to an attorney who can.

Hotline attorneys are trained in both domestic violence and hotline skills and they work with domestic violence shelters throughout the state, ensuring that the callers are referred to their local domestic violence centers and explaining what services the centers can provide.

Domestic Violence



Sources

Information from this section provided by:

Women’s Law.Org
150 Court Street, 2nd Floor
Brooklyn, NY 11201
<http://www.womenslaw.org>

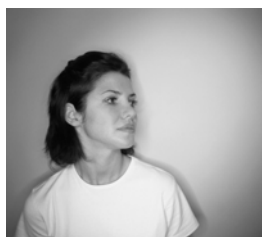
The Florida Coalition Against Domestic Violence
425 Office Plaza Dr.
Tallahassee, FL 32301
Ph: (850) 425-2749
Fax: (850) 425-3091
<http://www.fcadv.org>

National Coalition Against Domestic Violence
P.O. Box 18749
Denver, CO 80218
Phone: 303-839-1852
Fax: 303-831-9251

The Florida Bar
Call A Law Scripts
Injunctions for Protection
651 E. Jefferson Street
Tallahassee, FL 32399-2300
850/561-5600
Fax 850/561-5826
<http://www.flabar.org>



Domestic Violence



Florida Coalition Against Domestic Violence Statewide Legal Hotline 1-800-500-1119

Spotlight: Florida Coalition Against Domestic Violence

By: Nina Zollo, Esq., Legal Advisor, Florida Coalition Against Domestic Violence

Domestic violence is a devastating and pervasive societal issue. In Florida, 120,697 crimes of domestic violence were reported to law enforcement in 2003. In fiscal year 2003-2004, Florida's domestic violence centers responded to 132,629 crisis calls, provided counseling services to 197,787 individuals, and provided emergency shelter to 14,467 individuals, primarily women and children. Many more victims of domestic violence are not reporting their abusers to the police or accessing services at domestic violence centers because of shame, fear, or being prevented from doing so by their abusers.

The mission of the Florida Coalition Against Domestic Violence (FCADV) is to work to end domestic violence through public awareness, policy development, and support for Florida's 40 certified domestic violence centers. FCADV serves as the voice for the needs of victims of domestic, sexual, and dating violence, and for the centers who serve them. One of the most important services FCADV provides is Florida's 24 hour toll-free domestic violence hotline, linking callers to the nearest domestic violence center and providing translation assistance when needed.

FCADV also partners with government and other entities to administer several statewide projects to assist victims and educate the public. Since 1998, FCADV has teamed with Florida Legal Services to operate a statewide legal hotline. Domestic violence victims can obtain free legal advice and referrals from attorneys with expertise in domestic violence and family law. As so many victims of domestic violence do not have the resources to

hire a lawyer, the legal hotline plays a critical role in advising victims of their legal rights, and explaining the legal process.

Another important project is FCADV's Clearinghouse Project, which began in 1997 as a pilot program, the first in the country, to provide free legal representation to victims in final hearings on Injunctions for Protection Against Domestic Violence. FCADV subcontracts with trained and experienced legal service providers around the state who represent victims referred by certified domestic violence centers. Many of these lawyers are funded by other sources to continue to represent these same victims in divorces or other legal matters.

The Office of the Florida Attorney General is currently working with FCADV on a statewide initiative that provides salon professionals with training on the prevalence of domestic violence, warning signs of domestic violence, and how to discuss domestic violence with clients. Salon professionals establish long-term relationships with their clients, who often confide in them. In addition, the salon may be one of the few places a battered woman can go without the abuser. Participants in "Cut Out Domestic Violence" will receive referral information on domestic violence programs in Florida, palm cards and flyers, as well as pens, static cling stickers and emery boards publicizing the FCADV toll free hotline to give to their clients.

FCADV's 40 certified domestic violence centers provide refuge and services in 67 counties to victims and their children seeking to escape violence. The locations of the



Domestic Violence

centers are by law confidential, and the centers are staffed by trained advocates. Communications with advocates are also by law confidential and privileged. Maintaining confidentiality and privilege is critical to protecting victim safety and to encouraging victims to share personal information with advocates, so that the advocates can better assist them.

Certified domestic violence centers provide much more than emergency shelter. All centers offer 24-hour hotline services, safety planning, children’s programs, case management, crisis counseling, and information and referral services. Many centers also provide outreach services, support groups, legal assistance, transitional housing, dating violence education programs, sexual assault counseling, batterer’s intervention programs, and other services designed to empower victims of domestic violence to remain safely separate from the batterer.

Many certified domestic violence centers around the state also partner with FCADV to address the special needs of certain populations of domestic violence victims. Since its inception in 1996, the FCADV Rural Initiative has opened 12 outreach offices serving 21 counties, and established two new shelters, to provide services to some of Florida’s most isolated victims. More than 2500 rural victims were provided with crisis intervention services, and seventeen domestic violence task forces were formed. The task forces have played a key role in increasing the reporting of domestic violence in rural areas, and in the development of interagency protocols to respond to this crime.

FCADV discovered from a community needs assessment that the African American

community was overwhelmingly the most under served population in North Florida's rural communities. The overall goal of the Rural Diversity Initiative is to foster an environment where battered women of color will access domestic and sexual violence services. To date over 500 battered women of color have accessed outreach services, a 98% increase over those whom received services prior to this project. Services provided include: injunction assistance, crisis counseling, support groups, referrals, transportation, and community education.



Three domestic violence centers in Dade, Broward, and Palm Beach counties partner with FCADV to meet the special needs of Haitian immigrant victims through the Haitian Refugee Domestic Violence Project. This project provides victims with direct services including: translation services, injunction assistance, information and referral, safety planning, and provides domestic violence training programs to a variety of civic and community based organizations serving the Haitian-Creole community.

In Palm Beach County, the certified domestic violence center Aid to Victims of Domestic Abuse (AVDA) is serving as a pilot program to provide services to victims of domestic violence who are also victims of severe forms of human trafficking. Victims of human trafficking - modern day slavery- are often lured into trafficking networks through false promises of good working conditions and high pay as domestic workers, factory and farm workers, nannies, waitresses, sales clerks, or models. Many suffer extreme physical and mental abuse, including rape, sexual



**Domestic
Violence**

(Continued from page 37)

exploitation, torture, beatings, starvation, death threats, and threats to family members. It is believed that most victims who are trafficked are isolated and remain undetected by the public because 1) the strategies used by the perpetrators isolate victims and prevent them from coming forward, and 2) the public and the victim service providers have only recently become aware of this issue and may not be familiar with how to recognize or respond to trafficking victims. Through a federal grant FCADV plans to designate three additional centers in Florida to receive training to provide services to trafficking victims.

The 24-hour toll-free Domestic Violence Hotline number is 1-800-500-1119.

The Legal Hotline (1-800-500-1119, press 3), operates from **9:00 a.m. to 5:00 p.m. Monday through Friday.**

The FCADV website (www.fcadv.org) has a directory of certified domestic violence centers and other domestic violence information and links.

About the Author

Nina Zollo, Esq. is a lawyer in private practice with the civil rights firm James K. Green, P.A. in West Palm Beach. She has served as a legal advisor to the Florida Coalition Against Domestic Violence and its

member domestic violence centers since 2000, focusing primarily on public policy, confidentiality, privilege, trafficking of human persons, and appellate issues.





Employment Issues

By : Agency for Workforce Innovation, U.S. Equal Employment Opportunity Commission, U.S. Dept. of Labor, and the Florida Bar

Employment Rights

DISCRIMINATION IN EMPLOYMENT OPPORTUNITIES

Federal and state civil rights laws were enacted to protect certain groups of people who have historically been the victims of discrimination in employment. It is a violation of both federal and state law for an employer, defined as a business that employs 15 or more employees, to discriminate in employment against an individual based upon race, color, gender, age, religion, national origin, marital status or handicap (handicap includes mental or physical disability, and HIV status). Employers with fewer than 15 employees generally do not fall under the state and federal statutes prohibiting discrimination, although their discriminatory actions may give rise to other actions such as workers' compensation, battery, or intentional infliction of emotional distress or may give rise to claims under the Equal Pay Act. City or county governments may also have regulations or ordinances which impact employers with fewer than 15 employees within the city or county.

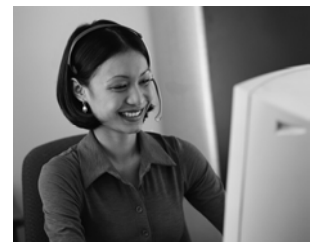
The failure to hire or promote, oppressive working conditions such as harassment, disparate treatment and discharge, or firing may be considered discriminatory acts if the motivation behind the action is based upon the individual being a member of one of the protected classes or categories. If the adverse action is based upon an inability of the person to perform the essential functions of the job, or legitimate business reasons such as reorganization or work force reduction, then the employer's action will not be considered discriminatory unless the action is

unfairly directed toward members of a protected group.

The remedies available under these statutory schemes to stop discrimination are intended to place the victims of discrimination in the position they would have been in had the discrimination not occurred. The remedies available include job reinstatement, injunctions that remove discriminatory conditions, back pay, front pay costs, and attorneys fees. Under recent civil rights statutory enactments, punitive damages are possible, as well as damages for emotional distress.

Before there is a right to file a lawsuit to remedy an illegal act of employment discrimination, it is necessary that the injured person file a charge of discrimination with either the United States Equal Employment Opportunity Commission (EEOC) or the Florida Commission on Human Relations. Please contact the EEOC at 1-800-669-4000 or the Florida Commission on Human Relations at 1-800-342-8170 for further information on their filing requirements and procedures.

After filing the charge of discrimination with these agencies, the agency will investigate the charge and will advise you of your rights under these acts including the right to file a civil lawsuit. Civil actions must be brought under the law based on strict time frames. This area of law is extremely complex; you should also seek the advice of an attorney who is experienced in these matters in order to be certain that your rights are not lost. The court, in its discretion, may allow a reasonable attorney's fee to the prevailing



Contact the Florida Commission on Human Relations at 1-800-669-4000.



Employment Rights

party if your lawsuit is successful. This means that it is possible your attorney could be compensated by your employer if the employer loses the case.

WAGES AND HOURS

The Fair Labor Standards Act (FLSA) prescribes standards for wages and overtime pay, which affect most private and public employment. The act is administered by the Wage and Hour Division of the Employment Standards Administration (ESA). It requires employers to pay covered employees who are not otherwise exempt at least the federal minimum wage and overtime pay of one-and-one-half-times the regular rate of pay. For nonagricultural operations, it restricts the hours that children under age 16 can work and forbids the employment of children under

age 18 in certain jobs deemed too dangerous. For agricultural operations, it prohibits the employment of children under age 16 during school hours and in certain jobs deemed too dangerous.

Florida minimum wage.

2004 Florida voters approved a constitutional amendment to increase Florida's minimum wage to \$6.15 per hour by May 2, 2005 (from the Federal minimum wage of \$5.15 per hour). This change takes effect on May 2, 2005, at which point all Florida employers must be in compliance with the wage increase. In subsequent years, the state's minimum wage will be adjusted annually to reflect the rate of inflation with the new minimum wage taking effect on January 1 of each year.

The Federal laws prohibiting job discrimination are:

- Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on race, color, religion, sex, or national origin;
- Equal Pay Act of 1963 (EPA), which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination;
- Age Discrimination in Employment Act of 1967 (ADEA), which protects individuals who are 40 years of age or older;
- Title I and Title V of the Americans with Disabilities Act of 1990 (ADA), which prohibit employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments;
- Sections 501 and 505 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified individuals with disabilities who work in the federal government; and
- The Civil Rights Act of 1991, which, among other things, provides monetary damages in cases of intentional employment discrimination.
- The U.S. Equal Employment Opportunity Commission (EEOC) enforces all of these laws. EEOC also provides oversight and coordination of all federal equal employment opportunity regulations, practices, and policies.

Florida Commission on Human Relations



RIGHT TO WORK STATE

Article 1, Section 6, of the Florida Constitution states simply that people may work whether or not they join a labor organization, it recognizes collective bargaining, and prohibits public employees from striking.

Can my employer terminate me for no "valid" reason?

Yes. Florida is an employment-at-will state. The employment-at-will doctrine is a judicially created common-law rule that states employment is for an indefinite term is presumed to be at-will. Contact the United States Equal Employment Opportunity Commission.

SEXUAL HARASSMENT

The American Psychological Association estimates that 71 percent of working women will be subjected to sexual harassment during their careers.

Harassment on the basis of sex is a violation of state and federal law. Sexual harassment is defined as any form of unwelcome physical conduct of a sexual nature.

What is Sexual Harassment?

The most extreme form of sexual harassment occurs when an employee loses a job, benefit or other privilege of employment, or is fired or loses a benefit or opportunity because the employee has rejected sexual demands.

However, a determination of sexual harassment does not depend on whether the victim was threatened with the loss of a job or other benefit. Conduct which unreasonably interferes with an individual's work performance or which creates an intimidating, hostile or offensive work environment is also

prohibited by law.

Finally, retaliation by an employer against one who resists sexual harassment or who reports acts of sexual harassment involving co-workers is also illegal.

Examples of conduct which may be prohibited by law include but are not limited to, the following:

- Unwanted sexual advances, flirtations or propositions.
- Demands for sexual favors in exchange for favorable treatment or continued employment.
- Unwanted sexually oriented jokes or remarks.
- Verbal abuse of a sexual nature.
- Graphic verbal commentary about an individual's body, sexual prowess or sexual deficiency.
- A display in the workplace of sexually suggestive objects, pictures, posters or reading materials.
- A coerced sexual act or assault.
- Physical contact of a sexual nature such as pinching, grabbing, patting or brushing unnecessarily against another person's body.
- Leering, whistling or gestures of a sexual nature.

Employers can prevent sexual harassment from occurring in the workplace.

Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right

(Continued on page 42)

Employment Rights

In Fiscal Year 2003, EEOC received 13,566 charges of sexual harassment. Almost 15% of those charges were filed by males.



Employment Rights

(Continued from page 41)

to raise the issue of harassment, and developing methods to sensitize all concerned. Suggested strategies for preventing sexual harassment include the following:

1. Develop a written sexual harassment policy statement. This policy statement should begin by stating that sexual harassment is illegal and will not be tolerated. The policy statement may further include the employees' right to work in an environment free from harassment and from retaliation for reporting harassment, the fact that sexual harassment is a violation of state and federal law, identification of specific behaviors that constitute sexual harassment, and an outline of consequences for engaging in harassing behavior.
2. Communicate the policy by posting it in the workplace and including the policy in employee handbooks or policy manuals.
3. Develop procedures that will be followed upon filing a claim of sexual harassment and identify the person(s) to whom the employee should report the harassment.
4. Charge employees with the responsibility to report harassment or discriminatory practices.

A victim of Harassment can seek relief.

There are a number of options available for seeking relief from sexual harassment. An employee may wish to resolve the complaint informally through use of the employer's established procedures. However, if no complaint procedures have been established in the workplace and the employee feels unable to report the harassment to supervisory personnel, the employee may seek relief in an external forum such as the United States Equal Employment Opportunity Commission, the Florida Commission on Human Relations or the judicial system.

UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1-800-669-3362

FLORIDA COMMISSION ON HUMAN RELATIONS
1-850-488-7082

PREGNANCY DISCRIMINATION

The Pregnancy Discrimination Act is an amendment to Title VII of the Civil Rights Act of 1964. Discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under Title VII, which covers employers with 15 or more employees, including state and local governments. Title VII also applies to employment agencies and to labor organizations, as well as to the federal government. Women who are pregnant or affected by related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations.

Title VII's pregnancy-related protections include:

Hiring

An employer cannot refuse to hire a pregnant woman because of her pregnancy, because of a pregnancy-related condition or because of the prejudices of co-workers, clients, or customers.

Pregnancy and Maternity Leave

An employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work. However, if an employer requires its employees to submit a doctor's statement concerning their inability to work before granting leave or paying sick benefits, the



Employment Rights

employer may require employees affected by pregnancy-related conditions to submit such statements.

If an employee is temporarily unable to perform her job due to pregnancy, the employer must treat her the same as any other temporarily disabled employee. For example, if the employer allows temporarily disabled employees to modify tasks, perform alternative assignments or take disability leave or leave without pay, the employer also must allow an employee who is temporarily disabled due to pregnancy to do the same.

Pregnant employees must be permitted to work as long as they are able to perform their jobs. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, her employer may not require her to remain on leave until the baby's birth. An employer also may not have a rule that prohibits an employee from returning to work for a predetermined length of time after childbirth.

Employers must hold open a job for a pregnancy-related absence the same length of time jobs are held open for employees on sick or disability leave.

Health Insurance

Any health insurance provided by an employer must cover expenses for pregnancy-related conditions on the same basis as costs for other medical conditions. Health insurance for expenses arising from abortion is not required, except where the life of the mother is endangered.

Pregnancy-related expenses should be

reimbursed exactly as those incurred for other medical conditions, whether payment is on a fixed basis or a percentage of reasonable-and-customary-charge basis.

The amounts payable by the insurance provider can be limited only to the same extent as amounts payable for other conditions. No additional, increased, or larger deductible can be imposed.

Employers must provide the same level of health benefits for spouses of male employees as they do for spouses of female employees.

Fringe Benefits

Pregnancy-related benefits cannot be limited to married employees. In an all-female workforce or job classification, benefits must be provided for pregnancy-related conditions if benefits are provided for other medical conditions.

If an employer provides any benefits to workers on leave, the employer must provide the same benefits for those on leave for pregnancy-related conditions.

Employees with pregnancy-related disabilities must be treated the same as other temporarily disabled employees for accrual and crediting of seniority, vacation calculation, pay increases, and temporary disability benefits.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on pregnancy or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII.



In Fiscal Year 2003, EEOC received 4,649 charges of pregnancy-based discrimination.



Employment Rights



**THE STATE OF FLORIDA
EMPLOYEE ASSISTANCE OFFICE
AT:
1-800-342-1741**

FAMILY MEDICAL LEAVE ACT

Administered by the Wage and Hour Division, the law requires employers of 50 or more employees to give up to 12 weeks of unpaid, job-protected leave to eligible employees for the birth or adoption of a child or for the serious illness of the employee or a spouse, child or parent.

WORKER'S COMPENSATION

Simply defined, workers' compensation recompenses, gives something to a worker, one who performs labor for another, for services rendered or for injuries. It is a state required program that provides medical care and part of your lost pay if you are injured as a result of a work-related activity.

All worker's compensation benefits are set by Florida law and it is provided at no cost to you.

What should I do if I am hurt at work?

As soon as you can, you must tell your supervisor (employer) you have been injured at work.

- Go to a medical provider authorized by your employer.

- Give your doctor as many details about your accident as possible.
- Follow your doctor's instructions.
- Ask your doctor when you may return to work.
- Let your employer know how you are doing.
- Under certain circumstances, you may be required to take a drug test.

What Should My Employer Do?

- Your employer is required to provide you the medical care needed to treat your injury or condition, so you can return to work.
- Complete an accident report.
- If you cannot work for more than seven days, due to your injury or condition, you will receive a portion of your normal pay according to a state determined schedule.
- These benefits may be paid by your employer or your employer's insurance carrier.

The State of Florida Employee Assistance Office can assist you in:

- Understanding the Workers' Compensation System.
- Learning about your benefits.
- Communicating with the right people (your employer, Workers' Compensation Insurance Carriers, Doctors, etc).
- If your employer does not have coverage, call the Bureau of Compliance at 1-800-742-2214.

Data by highest disability type show that women make up roughly 35% of claimants in each disability type, with the exception of death cases, of which females compose approximately one-sixth.



UNEMPLOYMENT COMPENSATION

The Unemployment Compensation program provides temporary, partial wage replacement benefits to qualified workers who are unemployed through no fault of their own. It supports economic stability for employers who depend on consumer spending and is funded solely by employers who pay federal and state unemployment compensation taxes to finance the program. Unemployment coverage is provided at no cost to the workers who receive the benefits.

You can file your claim based on Florida employment three ways, Internet, telephone, or mail, however, filing by Internet is the easiest and most efficient method. The Internet application is available 24 hours a day, seven days a week. Go to www.FLUIDNow.com and select internet unemployment compensation claim application. The date your application is completed will determine the date your benefits will begin.

DISPLACED HOMEMAKERS

The Displaced Homemaker Program was established by the Florida Legislature in 1976. Through local program providers such as Community Colleges, the program offers services such as job counseling, job training, employment assistance, financial management development, educational services, and outreach and information services. The local programs are designed to address the educational and job preparation needs of individuals who are: 35 years of age or older; have worked in the home providing unpaid household services for family members; are not adequately employed; have difficulty securing adequate employment; and have been dependent on the income of another family member but are no longer supported by such income, or have been dependent of federal assistance. During the 2000-2001 reporting period, the program served 4,685 clients. Contact your local community college campus for more information.

Employment Rights



For more information regarding unemployment compensation contact:
The Agency for Workforce Innovation
P.O. Box 5300
Tallahassee, FL 32314-5300
www.floridajobs.org

Sources

Information from this section provided by:

The Florida Bar

Consumer Pamphlets

Sexual Harassment in the Workplace

Call A Law Scripts

Discrimination In Employment Opportunities

651 E. Jefferson Street

Tallahassee, FL 32399-2300

850/561-5600

Fax 850/561-5826

<http://www.flabar.org>

U.S. Department of Labor

“Wages and Hours”

Frances Perkins Building

200 Constitution Avenue, NW

Washington, DC 20210

<http://www.dol.gov/opa/aboutdol/lawsprog.htm#wageandhour>

MyFlorida.com

“Florida Minimum Wage”

U.S. Equal Employment Opportunity Commission

1801 L Street, N.W.

Washington, D.C. 20507

Phone: (202) 663-4900

TTY: (202) 663-4494

<http://www.eeoc.gov/facts/fs-preg.html>



Housing and Property Rights

By: Florida Bar, Florida Department of Financial Services, U.S. Department of Housing

RENTAL AGREEMENTS

Rights and duties of landlords.

If you rent a house or apartment or mobile home to another person, you enter into a legal contract known as a rental agreement. This rental agreement need not be in writing. If the rental agreement is in writing, it is a "lease." This agreement has certain basic conditions specified by law which you should understand before you enter into the agreement. As a landlord you have certain rights; you also have certain duties. Even in the absence of a written lease, the law imposes duties and gives rights to the parties.

Your obvious right as a landlord is to receive rent for the use of the property. Another important right is to have your property returned to you undamaged at the end of the agreement. It should be returned in the same condition in which it was received, except for ordinary wear and tear.

In return for these rights, it is your duty to provide a home that is safe, meets housing code requirements and to make reasonable repairs when necessary. It is also your duty to respect the tenant's rights. One of the most important of these is the right of peaceful possession. By renting to the tenant, you give that tenant the possession and use of your property free from interference. That means that you may not enter the home frequently, at odd hours, or without notice. Rights relating to reasonable inspection are often set forth in a written rental agreement, as well as in Florida law. You have a right to protect your property through inspection, but you must give

reasonable notice. You don't have the right to show the property to possible buyers without notice to and agreement of the tenants.

It is unlawful for a landlord to discriminatorily increase a tenants rent or decrease services to a tenant, or threaten to bring an action for possession or other civil action, primarily because the landlord is retaliating against the tenant. Retaliation may be presumed if it occurs after a tenant has complained about housing conditions. It is also unlawful for a landlord to lock the tenant out, intercept or shut off utilities, water or electric services to the tenant or to remove tenants' property, doors or appliances from the home. A landlord who does this can be ordered to pay a tenant damages in the amount of three months rent.

To end the tenancy, if the house or apartment is rented on a month to month basis, you must give at least fifteen days notice in writing prior to the end of any monthly period to terminate the tenancy. A week to week rental period requires seven days notice prior to the end of any weekly period. Any such notice must be in writing and should be delivered personally to the tenant.

Finally, both the landlord and the tenant have the duty to observe state and local laws concerning the use and condition of the property.

The basic rights and duties which have been mentioned apply whether or not the agreement between you and the tenant is in writing. A written agreement is best because it serves as a memorandum of other terms



The landlord/tenant relationship is a legal contract.



and conditions you may wish to include, such as restrictions on the number of adults or children or types of pets to be allowed. And if you wish to provide for lease terms of one year or more or for the payment of attorney's fees to enforce the lease prior to court action, the agreement must be in writing to be enforceable.

If the tenant permanently moves out before the end of the rental term and leaves your property vacant, this is usually considered as an abandonment of his or her rights. The law presumes an abandonment if the tenant is absent for at least 15 days without previously notifying you of his or her intent to be absent. After abandonment, the landlord may then re-enter the dwelling unit. The rights and remedies often are complex, and legal advice or assistance should be considered.

The situation is more complicated if the tenant seems to have gone away but has left some of his or her personal property on the premises or there is a considerable amount of unpaid rent. In such a case, you should consult an attorney before trying to dispose of the tenant's possessions or re-renting the property.

Another complicated problem is the situation in which a tenant fails to pay the rent or refuses to move out at the end of the rental term. Under these circumstances you may evict the tenant, but only after you have taken the proper legal steps to commence an action for possession according to a very specific timetable. You must serve proper notice or notices on the tenant to terminate this rental agreement. If the tenant ignores these notices, you are next required to file a complaint in Court and have the tenant properly served with a summons and

complaint. Five business days after the complaint is served, you may request the court to set a date for a hearing. If you wish to collect money damages from the tenant, you must wait 20 days to set a hearing on damages. At the hearing, you can ask that the tenant be evicted. If the judge agrees that the tenant has violated the terms of the agreement, a sheriff will serve an eviction notice on the tenant. The tenant now has twenty-four hours to get out of your property, or the sheriff can return to remove the tenant and the tenant's belongings. Because these proceedings are so technical, it is wise to have them handled by an attorney. Even if you decide to file the claim yourself in county court, you should have an attorney review the notices you have given and the ways you have served them to make sure you have properly observed all of the necessary requirements of the timetable. A single mistake can result in serious delay in your regaining possession of your property.

Because the landlord/tenant relationship is a legal contract, you should understand its various provisions before you rent your property to anyone. Remember that as a landlord you will be required to provide living quarters that are safe and keep them in good repair. You will have to turn over possession of the property to the tenant, free from unnecessary interference from you. In return, you may collect rent, and on reasonable notice you may inspect the property. At the end of the rental term, the property must be returned to you with no damage beyond ordinary wear and tear. The landlord has certain duties to account for or refund tenant deposits upon termination of the tenancy. Many of these basic conditions apply whether or not there is a written agreement.



**Housing and
Property Rights**

Rights and duties of tenants.

When a person pays to live in a house, apartment or mobile home--whether payment is made weekly, monthly, or at other regular periods and whether the apartment or house or mobile home is rented from a private person, a corporation, or most governmental units, the renter becomes a tenant governed by Florida law.

A tenant has certain basic rights protected by Florida law, which the landlord must observe. Of course, the tenant also has certain responsibilities.

The tenant's rights are specified in the Florida Statutes at chapter 83 part 2. A tenant in public housing has rights under federal law, as well. If there is no written lease, these laws regulate the tenant's rights. There may also be a written lease which could affect a tenant's rights. If there is a written lease, it should be carefully reviewed.

A tenant is entitled to the right of private, peaceful possession of the dwelling. Once rented, the dwelling is the tenant's to lawfully use. The landlord may only enter the dwelling in order to inspect the premises or to make necessary or agreed repairs, but only if he or she first gives the tenant reasonable notice and comes at a convenient time. If an emergency exists, the requirement for notice may be shortened or waived.

The landlord is required to rent a dwelling that is fit to be lived in. It must have working plumbing, hot water and heating, be structurally sound and have reasonable security, including working and locking doors and windows, and it must be free of pests. The landlord must also comply with local health, building and safety codes. If the

landlord has to make repairs to comply, the landlord must pay.

If the landlord claims the tenant has violated the rental agreement, he or she must inform the tenant in writing of the specific problem and give the tenant time to correct the problem--even if the problem is non-payment of rent--before the landlord can go to court to have the tenant removed. If the tenant commits a serious act endangering the property (such as committing a crime on the premises) or the tenant fails to correct a problem after written notice from the landlord, the landlord must still go to court to be permitted to evict the tenant. In any court proceeding, the tenant has the absolute right to be present, argue his or her case and be represented by an attorney.

If the landlord requires the tenant to pay a security deposit, the landlord must preserve the deposit and return it to the tenant within (15) days after the tenant leaves the dwelling or give the tenant written notice of why it won't be returned within thirty (30) days after the tenant leaves the dwelling. The tenant then has the right to object in writing within fifteen (15) days of receipt of the notice. Under some circumstances, the tenant may receive the security deposit plus interest. The tenant must provide the landlord with an address for receipt of the security deposit.

The tenant has the right, under certain very aggravated circumstances caused by the landlord's neglect, to withhold rent. This can only be done when the landlord fails to comply with an important responsibility, such as providing a safe and habitable home in compliance with local housing codes. Before rent is withheld, the tenant must give the

(Continued on page 49)



(Continued from page 48)

landlord seven (7) days written notice of the problem so the landlord can fix it. Even after withholding rent, the tenant should preserve the money and seek court permission to spend part of it to do what the landlord should have done. If the tenant does not preserve the money and seek court assistance, the tenant may be evicted for nonpayment.

Finally, the tenant has the right to move out. If there is a written lease, the tenant can move out when a written lease is up. If there is no written lease, the tenant may move out for no reason by giving written notice of his or her intent to leave no less than seven (7) days before the next rent payment is due if the rent is paid weekly or fifteen (15) days if the rent is paid monthly. The tenant may terminate the rental agreement whether written or not for cause--that is, that the landlord has failed to live up to one of his or her major obligations, provided the tenant has sent written notice to the landlord.

If a landlord loses in court, the landlord may be held liable for any costs and attorney's fees incurred by the tenant. If the tenant loses in court, the tenant may be liable for the landlord's costs and attorney's fees.

A tenant also has responsibilities, which if not observed can lead to eviction. The tenant must pay the agreed upon rent and do so on time. The tenant must comply with building, housing and health codes. The tenant must maintain the dwelling without damage, keep the dwelling clean, and maintain the plumbing. The tenant must not violate the law or disturb the peace, nor allow guests to do so.

In trying to evict a tenant, a landlord will try to prove the tenant violated a tenant responsibility. However, the landlord may not seek to evict a tenant in retaliation for legitimate complaints about housing conditions to proper authorities. No eviction can occur, though, until the landlord first gives the tenant notice of the problem, and then gets a court order. Without the court order, the landlord has no power to interfere with the tenant. The landlord cannot, for instance, lock a tenant out or cut-off a tenant's utilities. A landlord engaging in this type of prohibited practice may be liable to the tenant for damages in the amount of three months rent. The landlord must get a court order of eviction before he or she can interfere with the tenant's occupancy. If a tenant is served with papers seeking eviction, the tenant should immediately seek legal assistance. The tenant may have legal defenses. For instance, the landlord cannot try to get even with a tenant by evicting him or her when the tenant has not violated tenant responsibilities. To raise defenses in an eviction proceeding, a tenant normally must pay into the court registry past due rent if any is owed and rent which comes due during the proceeding. If the tenant disputes the amount of rent claimed to be due, he or she may ask the court to determine the correct amount, but the tenant must show why he or she believes the amount is wrong. In an eviction proceeding, a tenant has very little time to respond, so quick action is extremely important.

The landlord can never remove the tenant's property or lock the tenant out. Only the sheriff's office may do this after a Court Order and Writ of Possession.

Housing and Property Rights





Housing and Property Rights



There are approximately 1.3 million households living in public housing units in the U.S.

PUBLIC HOUSING

WHAT IS PUBLIC HOUSING?

Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. Public housing comes in all sizes and types, from scattered single family houses to high-rise apartments for elderly families. There are approximately 1.3 million households living in public housing units, managed by some 3,300 housing agencies (HAs). The U.S. Department of Housing and Urban Development (HUD) administers Federal aid to local housing agencies that manage the housing for low-income residents at rents they can afford. HUD furnishes technical and professional assistance in planning, developing and managing these developments.

WHO IS ELIGIBLE?

Public housing is limited to low-income families and individuals. An HA determines your eligibility based on: 1) annual gross income; 2) whether you qualify as elderly, a person with a disability, or as a family; and 3) U.S. citizenship or eligible immigration status. If you are eligible, the HA will check your references to make sure you and your family will be good tenants. HAs will deny admission to any applicant whose habits and practices may be expected to have a detrimental effect on other tenants or on the project's environment.

HAs use income limits developed by HUD. HUD sets the lower income limits at 80% and very low income limits at 50% of the median income for the county or metropolitan area in which you choose to live. Income limits vary from area to area so you may be eligible at one HA but not at another. The HA serving your community can provide you with the income levels for your area and family size,

or you can also find the income limits on the internet.

HOW DO I APPLY?

If you are interested in applying for public housing, contact your local HA. If you have trouble contacting the HA, contact the local HUD Field Office.

There are four U.S. Department of Housing and Urban Development offices serving the State of Florida.

Jacksonville Field Office

301 West Bay Street
Bell South Towers,
Suite 2200
Jacksonville, Florida 32202
Phone: (904) 232-2627
Fax: (904) 232-3759

Jurisdiction: The following 35 counties in North Florida: Alachua, Baker, Bay, Bradford, Calhoun, Columbia, Clay, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Marion, Nassau, Okaloosa, Putnam, St. Johns, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, and Washington.

Miami Field Office

Brickell Plaza Federal Building
909 SE First Avenue,
Room 500
Miami, FL 33131-3028
Phone: (305) 536-4456
Fax: (305) 536-5765
TTY: (305) 536-4743

Jurisdiction: The following 10 counties in South Florida: Broward, Charlotte, Collier, Dade, Glades, Hendry, Lee, Martin, Monroe, and Palm Beach.

(Continued on page 51)



Housing and Property Rights

Orlando Field Office

3751 Maguire Blvd.,
Suite 270
Orlando, FL 32803
Phone: (407) 648-6441
Fax: (407) 648-6310

Jurisdiction: The following 9 counties in East Central Florida: Brevard, Indian River, Lake, Okeechobee, Orange, Osceola, St. Lucie, Seminole, and Volusia.

Tampa Field Office

Timberlake Federal Building
500 E. Zack Street,
Suite 402
Tampa, FL 33602-2945
Phone: (813) 228-2026
Fax: (813) 228-2431
TTY: (813) 228-2115

Jurisdiction: The following 12 counties in West Central Florida: Citrus, De Soto, Hardee, Hernando, Highlands, Hillsborough, Manatee, Pasco, Pinellas, Polk, Sarasota, and Sumter.

FAIR HOUSING

Housing discrimination is not only illegal, it contradicts in every way the principles of freedom and opportunity we treasure as Americans.

Fair Housing Act

The Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents of legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability).

What housing is covered?

It covers most housing, except owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker and housing operated by organizations and private clubs that limit occupancy to members.

What is Prohibited?

In the sale and rental of housing, no one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap (disability):

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale or rental
- For profit, persuade owners to sell or rent (blockbusting) or
- Deny anyone access to membership in a facility or service (such as a multiple listing service related to the sale or rental of housing).

In mortgage lending, no one may take any of the following actions based on race, color national origin, religion, sex, familial status, or handicap (disability):

- Refuse to make a mortgage loan
- Refuse to provide information regarding loans
- Impose different terms or conditions on a loan, such as different interest rates, points or fees
- Discriminate in appraising property
- Set different terms or conditions for purchasing a loan.



Housing and Property Rights



A building with a "no pets" policy must allow a visually impaired tenant to keep a guide dog.

Additional Protections for the Disabled

If you or someone associated with you:

- Have a physical or mental disability that substantially limits one or more major life activities
• Have a record of such a disability or
• Are regarded as having such a disability

Your landlord may not:

- Refuse to let you make reasonable modifications to your dwelling or common use areas, at your expense, if necessary for the disabled person to use the housing.
• Refuse to make reasonable accommodations in rules, policies, practices or service if necessary for the disabled person to use the housing.

Housing Opportunities for Families

Unless a building or community qualifies as housing for older persons, it may not discriminate based on familial status. That is, it may not discriminate against families in which one or more children und 18 live with:

- A parent
• A person who has legal custody of the child or children or
• The designee of the parent or legal custodian, with the parent or custodian's written permission.
• Familial status protection also applies to pregnant women and anyone securing legal custody of a child under 18.

If you think your rights have been violated.

HUD is ready to help with any problem of housing discrimination. You have one year after an alleged violation to file a complaint

with HUD, but you should file it as soon as possible.

Contact:

Southeast Office

Fair Housing Enforcement Center
U.S. Department of Housing and Urban Development
Five Points Plaza
40 Marietta Street, 16th Floor
Atlanta, GA 30303-2808
Telephone (404) 331-5140 or 1-800-440-8091
Fax (404) 331-1021 TTY (404) 730-2654

BUYING A HOME

Buying a home may be the biggest single investment of your lifetime. A life's savings may be invested in this one venture. Therefore, it is extremely important that you, the prospective buyer, use the greatest caution in buying a home which will not only provide you with comfort, but will cause you as little trouble as possible while living in it and when you decide to sell it.

For your protection, consult your family lawyer before you sign or buy. His or her training and experience will help you avoid trouble.

The Purchase and sale agreement.

The paper first given to a prospective buyer by a real estate broker is the purchase and sale contract. Few people realize that this paper is the most important step in purchasing a home — the details of this agreement determine what you buy and how you buy it. Before signing, read the agreement carefully and discuss with your family lawyer such items as the following:

(Continued on page 53)



(Continued from page 52)

1. Exactly what land, buildings and furnishings are included in your offer? Are stove, refrigerator and the like included?
2. What details regarding payments should be stated?
3. When can you take possession?
4. Is the seller to furnish you with a good, marketable title?
5. Which kind of deed should the seller give?
6. Who pays for the examination of the title to the property in the event the offer is accepted? Who pays for the abstract of title or title insurance?
7. Have utilities been installed and paid for?
8. Should a surveyor be employed to determine whether the improvements are actually located on the property? Who should pay for the cost of the survey?
9. If a mortgage is to be given, who will pay the intangible tax on the mortgage?
10. If a loan is to be obtained from an outside lender, who will pay the loan closing costs?
11. If termite damage is found, shall the seller pay the cost of repairs?
12. What are the zoning regulations, or restrictions, on the use of the property?
13. What is the time within which the purchase should be accepted or refused? Is the date of such acceptance to be vital to the offer?
14. If your offer is accepted, what steps should be taken with respect to insuring the improvements to protect you, the prospective purchaser, pending the final closing?
15. What persons (husbands and wives) should be required to sign and accept the offer?
16. Are boundary lines properly specified?
17. Are timber, mineral and water rights, if any, properly covered?

18. Who is responsible for paying of taxes?
19. How should the agreement be executed to make it binding?
20. What are the remedies if the buyer or seller defaults?
21. Should the purchase be contingent on any outside matters such as the availability of financing on acceptable terms or the sale of the house which you presently own?
22. Whose responsibility is it to pay for the broker?
23. Whose responsibility is it to pay for governmental special assessments that arise prior to closing?

Your lawyer may not be able to answer some of these questions until examining many public records, including court and governmental files.

It is desirable that your purchase agreement be prepared by your own lawyer or reviewed by him or her before you sign. Only then will you know the agreement covers your requirements.

The title to real estate.

A real estate title is a right to partial or whole ownership to land and improvements upon the land. If you can prove your title against all the world, and if it is for whole ownership, it is a good title. If, in addition, the evidence or proof of ownership is contained in proper public records, it is a good record title. Ordinarily only a good record title is marketable.

When purchasing a home, you should request a "marketable" whole title. Your lawyer, after proper investigation, can tell you whether the seller is able to convey such a title to you. No one can advise you without a proper investigation.

(Continued on page 54)

Housing and Property Rights



For all women, home ownership has its share of challenges and rewards.



Housing and Property Rights

Women and Homeownership

- The single female segment of the homebuyer population accounted for 21% of all homebuyers in 2001
- Single females accounted for 13% of all second/vacation homebuyers
- Single women purchased approximately one in five homes in 2003, while more than one in ten were purchased by single men.
- More women (15.5 million) than men (11.8 million) lived alone. Among these, women were more likely than men to own their homes (56% vs. 47%).

Sources: 2003 NAR Profile of Home Buyers and Sellers, (Chicago, IL: National Association of REALTORS®, 2003).

2000 census delivers insights on homeownership, (Community Banker, Mar. 2002).

(Continued from page 53)

Warranty deed.

A warranty deed is a conveyance of title plus some warranties or guarantees. The usual guarantees or warranties by the seller are: good title, freedom from encumbrance other than as excepted, and possession to the buyer as against all others.

These guarantees are not adequate protection since they are no better than the present and future financial responsibility of the seller. A warranty from a financially responsible seller is comforting and desirable. It is not a substitute for a title examination. Title defects have a way of lying dormant for years and perplexing a buyer long after he has paid for the land and after the seller is dead.

Necessity for title examination.

A title examination is a study of the abstract of title and sometimes of other title evidence. (An abstract of title is a collection of public records relating to the ownership of a parcel of real estate.) Your lawyer examines the applicable title information to determine who owns the lands, defects in or claims against the ownership and any action needed to secure good record title.

This may seem to be a simple operation. It is not. It requires interpreting numerous deeds, mortgages, wills, court decrees and other instruments; considering the sequence of time of transactions and events affecting the title; and applying laws and court decisions to the various situations disclosed in the applicable title information.

The examination of a title requires a thorough knowledge of many phases of law. An examination of applicable title information

may involve evaluating a variety of problems such as the validity of divorces, the effectiveness of foreclosures, the scope of restrictions, the presence of federal and state tax liens and the effect of old claims against the land.

Title insurance.

Your lawyer can bolster the title examination by issuing or obtaining for you an owner's policy of title insurance. In such a policy, the title insurance company contracts with the insured person named in the policy to protect the title as insured against financial loss and the cost of defending the title in court.

But like any insurance policy, the coverage is no greater than is stated in the policy. Any policy can list matters substantially affecting title which are exceptions to the coverage and are not insured. Another type of policy, mortgagee's or lender's title insurance, protects only the holder of the mortgage and not the owner.

Your lawyer representing your interest can advise the extent of protection given by your owner's policy. Some attorneys include the policy's cost in an overall charge for all legal services. Other attorneys separate the charge with the cost for the policy being based on the real estate purchase price. This price is the maximum amount for which you are insured. There is only a one-time charge for an owner's policy and its protection continues for as long as you or your heirs own title to the insured property.

Joint Ownership

Buyers often have the title to a home placed in a joint ownership arrangement with special words inserted so that title passes

(Continued on page 55)



(Continued from page 54)

automatically to the survivor when one of the joint owners dies. This arrangement is known as "joint tenancy." In Florida, when land is owned jointly by husband and wife, it is known as an "estate by entirety." Owning property in this manner may be a good idea for some, but, again, it may not be good for you. You should determine the income, gift and death tax consequences before having your home placed in joint ownership.

Joint ownership occasionally leads to lawsuits over a right of occupancy, the right to the rents if not occupied by all the joint owners and the duties of the various owners as to payment of mortgages, taxes and cost of repairs and upkeep. If the joint owners are parent and child, or brothers and sisters, the subsequent marriage of one of them may lead to conflicts and complications.

OBTAINING A MORTGAGE

Many financing arrangements are available to today's home buyers: variable rate mortgages, conventional mortgages, government insured VA and FHA loans, as well as specialized mortgages designed for specific financial institutions.

Regardless of the type mortgage loan, you should be aware of specific terms the lender may require such as:

- prepayment penalties
- limitation of your right to sell without lender's consent
- maintenance of insurance levels
- tax and insurance escrow payments

- collateral rights to borrow from another source
- limitations on your use of the property
- lender's right to change interest rates if you assume an existing mortgage
- lender's right to change interest rates during term of the loan. You should also determine if, in the future, you'll be allowed to borrow additional money secured by the same mortgage. You'll want to ask your attorney to explain all costs of the loan, including service charges, appraisal fees, survey costs, escrow fees and lender's attorneys fees.

Remember, when you sign a mortgage note, you are ordinarily responsible for the full payment of the total indebtedness. Even if you later sell to someone who agrees to assume payment of the mortgage, your responsibility continues unless the lender releases you.

Closing your purchase.

Closing a real estate sale is a technical and complex operation. The careful drafting of papers to carry out the actual intent of the parties is part of the job. Meeting the technical title requirements is another step. The proper signing and acknowledgement of papers is another. Delivery and recording of the papers are usually the last steps.



Beware of predatory lenders.

Some mortgage and home equity brokers and lenders try to pressure potential borrowers into signing loan agreements they cannot afford. Watch for these warning signs of predatory lending:

- Higher-than-market interest rates and hidden fees.

Housing and Property Rights

(Continued on page 56)



Housing and Property Rights

(Continued from page 55)

- “Bait and switch” tactics—A broker/lender initially offers one set of terms, then tries to pressure the consumer into agreeing to different, more expensive terms.

- Door-to-door salespeople pitching unsolicited home improvement loans.
- Mail and TV ads that claim “No job? No credit? No problem! We can qualify you for a home equity loan.”
- Someone asks you to sign a document with blank spaces that may be filled in later.

Sources

Information from this section provided by:

The Florida Bar

Consumer Pamphlets
 Buying A Home
 Call A Law Scripts
 Rights and duties of tenants
 Rights and duties of Landlords
 651 E. Jefferson Street
 Tallahassee, FL 32399-2300
 850/561-5600
 Fax 850/561-5826
<http://www.flabar.org>

Florida Department of Financial Services

Shopping for A Mortgage?
 Consumer Pamphlet
 Florida Department of Financial Services ·
 200 East Gaines Street
 Tallahassee, Florida 32399
<http://www.fldfs.com/Consumers/>

U.S. Department of Housing and Urban Development

451 7th Street S.W.,
 Washington, DC 20410
 Telephone: (202) 708-1112
<http://www.hud.gov>

Consumer assistance and answers to general insurance and financial questions are available through the Department of Financial Services toll-free helpline, 1-800-342-2762, which is available 8 a.m. to 7 p.m.

Be a **SMART** Borrower—Review these tips before you sign a mortgage contract or refinance your current mortgage:

- **Shop** around for reputable broker/lenders. Call the Department of Financial Services’ toll-free Consumer Helpline to fine out if they are licensed, and if they have been subjected to disciplinary action.
- **Manage** your money. Review your income and expenses and borrow within your means.
- **Ask** questions about all the terms of a loan. Make sure the terms you discuss are clearly written in the loan documents.
- **Read** the entire mortgage contract carefully. Be certain you fully understand all your obligations and all the contract’s provisions before you sign it.
- **Talk** to a financial professional you trust before you sign a loan agreement. Never allow someone to pressure you into signing a contract that you are unsatisfied with or do not fully understand.

(Source—“Shopping for a home mortgage?” Pamphlet by the Florida Department of Financial Services, www.fldfs.com)



Financial Management

By: Florida Bar, FL Dept. of Legal Affairs, Florida Dept. of Financial Services, FL Dept. of Children and Families

BANKING AND CREDIT

When you apply for credit, you'll be asked for information about yourself that covers several different areas. The company, business firm, bank, or store granting or extending credit will want to know your past credit record and whether or not you have a large enough income to meet all your expenses. It will want to know if your income is steady and how long you've been at your job. It will want to know if you've shown signs of poor money management in the past. It will also want to know how long you've been living in the community, how long in your present home and whether you are renting or buying. It will want to know about your assets -- your home, your furniture and your automobile and your liabilities, such as outstanding loans, credit card debts, final judgments, support obligations, etc. And it will want references.

These are the most important things a company, business firm, bank, or store granting or extending credit will need to know about you before it will let you borrow money. Your age isn't usually important unless you've just reached the age of eighteen and don't have an employment history. Or if you are a senior citizen who can't offer a steady job as proof of your ability to repay a loan, you may have some difficulty also. Usually, however, even people in these categories can get credit if they meet all the other requirements. You should be aware, however, that it is unlawful to be denied credit for a loan based solely upon your race, color, religion, national origin, sex, marital status,

age, receipt of public assistance income, or the good faith exercise of rights under the Federal Consumer Credit Protection Act. And don't forget that good references do matter.

Beware of companies offering "advanced-fee" or "guaranteed" loans. The company will ask you to send a "handling fee" with your initial application. It often is the case that after you pay the requested fee, the loan is denied or the company disappears. Call the Florida Department of Financial Services at 1-800-848-3792 to check on the company before you send any money.

Before you decide to buy or borrow from anyone, become a comparison shopper -- look around for the best deal in goods and for loans. Deal only with recognized companies or agencies, and if you are in doubt about a company, contact the Florida Department of Financial Services, ask for information at your Better Business Bureau or from your attorney or the Legal Aid Society.

When you get a loan or buy on time, make sure you understand exactly what you are responsible for. Read all of the contract and read it carefully. Make sure all the details are spelled out for you and all blanks are filled in. Don't ever sign a contract that you don't understand and consult an attorney if necessary. Always keep a copy of every contract you sign.



(Continued on page 58)



Financial Management

Equifax Credit Information Services, Inc
P.O. Box 740241
Atlanta, GA 30374
To order report:
1-800-685-1111
To report fraud:
1-800-525-6285
Web site:
www.equifax.com

Experian (formerly TRW)
National Consumer Assistance Center
PO Box 2002
Allen, TX 75013
To order report:
1-888-397-3742
To report fraud:
1-888-397-3742
Web site:
www.experian.com

TransUnion LLC
Consumer Disclosure Center
P.O. Box 1000
Chester, PA 19022
To order report:
1-800-888-4213
To report fraud:
1-800-916-8800
Web site:
www.transunion.com

(Continued from page 57)

If you make application for credit and you are turned down, you can get the name and address of the credit bureau which prepared the report used to deny you credit. That credit bureau has to tell you the nature, substance and, in most cases, sources of the information on the report -- in other words, just exactly what has been said about you and who said it.

You can take anyone you like with you to the credit bureau -- this includes an attorney. If there is information on your report which is incomplete or incorrect, you can, in most instances, have this information reinvestigated, and if it is found to be false, you can have it removed from your file. If after all this you are still not satisfied with the accuracy of the report, you can have your own version of the material included in the report.

You can find out who has received a credit report on you within the last six months. If incorrect information has been sent out, the bureau will let you know to whom it has been sent.

You may have your credit report withheld from any business which does not legitimately need it, and you may sue an agency that used a report dishonestly. If you sue and your suit is successful, you may also collect your own attorney's fees from the company.

Finally, there can be no unfavorable information about you reported after seven years. There are several exceptions to this rule. You should contact the credit bureau to find out this information or you can contact an

attorney who specializes in this area of law.

If you are applying for a credit card, there are several things to watch. Credit cards usually don't have the conditions and liabilities involved in their use printed on the card itself, so before signing and using a credit card, you should read carefully all the information that comes along with it. Be aware of finance charges, expected monthly payments and types of accounts or uses the card is limited to.

Notify the credit card company at once if your card is lost or stolen. If someone else is using your card, even if they don't have your permission, you can still be held responsible for up to \$50.00 charged on your card, unless the company is notified promptly. Let the company know right away -- call first, and then confirm in writing your report of a lost or stolen card. Keep a list of your credit cards. You won't be responsible for any charges on the card if you let the company know in a reasonable amount of time about any loss or theft of your card.

Credit cards are often stolen, so take care of your cards just as you would take care of your money. Remember, credit has responsibilities and rights. Make sure you always know those responsibilities and rights so you get the most for your money



Spotlight: Protecting Your Financial “Face” from Theft



Financial
Management

By: Lauren Cain, Florida Department of Financial Services

If your TV is stolen, you can easily replace it. If your car is stolen, you can replace that. But there is one possession that, if stolen, could cripple you financially, personally and professionally: your financial identity.

In today’s world, we are defined by our financial face: social security number, bank account routing number, birth date, credit card number. These are the common numbers that delineate you from your neighbor. In the hands and minds of the criminal, these numbers add up to grand theft. Victims spend about 175 hours and \$800 in out of pocket expenses to clear their name.

Your financial face is one possession we cannot afford to have stolen. Yet, identity theft is the fastest-growing white-collar crime in this country. Floridians have some good news: thanks to our focus on preventive measure, Florida has dropped from second in the nation to fifth in the number of victims of identity theft.

The Department of Financial Services is committed to helping you make informed financial decisions and avoid unscrupulous people who try to separate you from your money. Through a statewide effort, called Your Money, Your Life, we educate Floridians about personal financial issues, including making informed investment choices, debt management, planning for retirement, avoiding financial scams and defending against identity fraud. In 2005, we will focus on investor education and protection, including how to make informed investments choices, plan for retirement and avoid investment fraud.

Your financial identity is critical in every transaction you make. How do criminals steal your identity? More importantly, how can you guard your identity from theft? All it takes is one piece of financial information about you and a thief can use that to open a new credit card account, a new bank account or a phone or wireless service in your name. They can even file for bankruptcy in your name. These accounts can become the foundation for other accounts: a new debit card, a credit card from a different store or provider.

Here are some practical tips every Floridian should take to protect their most important possession from being stolen:



Receipts

- Never leave receipts at point of purchase
- Clean out your purse regular and collect receipts for monthly review

Mail

- Retrieve mail from mailbox daily
- Take outgoing mail to a post office – do not leave in residential mailbox
- Shred – all financial statements, pre-approved credit card offers

Internet

- Never give out personal information over the phone or Internet or for prizes – no matter how great they sound! If you purchase over the internet, use a separate card for internet purchases and use only secure sites: Key or Padlock are closed.
- Do not write down passwords or important identification numbers like social security number – memorize them.

(Continued on page 60)



**Financial
Management**

(Continued from page 59)

Credit cards

- Sign the back of credit cards with this unique signature: ASK FOR ID!
- Save receipts to compare against monthly billing statements. If there is a difference, call the vendor immediately to report it.
- Notify credit card companies and financial institutions of changes in address in advance of the move, so that your information is not abandoned.
- If you have ordered a new credit card, contact the company if it has not arrived in a timely manner.
- Report lost or stolen cards immediately.
- Never loan your credit or debit cards to anyone.

Credit Report

- Review your credit report annually to check for changes in your rating or items that are irregular.

If you find yourself the victim of identity theft, it is important to remember that you can work with your financial partners to stop the thief.

Contact the fraud departments of any one of the three major credit bureaus to place a fraud alert on your credit file. The fraud alert requests creditors to contact you before opening any new accounts or making any changes to your existing accounts.

Close the accounts that you know or believe have been tampered with or opened fraudulently. Use the ID Theft Affidavit when disputing new unauthorized accounts.

File a police report. Get a copy of the report to submit to your creditors and others that may require proof of the crime.

File with the Federal Trade Commission (FTC) FTC. The FTC maintains a database of identity theft cases used by law enforcement agencies for investigations.

If you or your friends would like more information on how to thwart identity theft, contact the Department of Financial Services at 1-800-342-2762, or visit our website at www.flds.com. We can provide educational programs to help you avoid becoming a victim and to assist you if you have been victimized.



In 2003, there were 14,119 victims of identity theft in Florida. Florida ranks fifth in the nation in the percentage of victims per population behind Arizona, Nevada California and Texas. Nationwide there were 214,905 reported cases.

-Federal Trade Commission, 2004



PHISHING

Phishing is the term coined by Internet scammers who imitate legitimate companies in e-mails to entice people to share user names, passwords, account information or credit-card numbers.

The term Phishing comes from the fact that Internet scammers are using increasingly sophisticated lures as they "fish" for users' private information. The most common ploy is to copy the look and feel of a web page from a major site and use that design to set up a nearly identical page that appears to be part of the company's site.

Tips For Consumers

Internet scammers casting about for people's financial information have a new way to lure unsuspecting victims: They go "phishing." Phishing, also called "carding," is a high-tech scam that uses spam to deceive consumers into disclosing their credit card numbers, bank account information, Social Security numbers, passwords, and other sensitive information.

According to the Federal Trade Commission (FTC) and other responsible company websites, the emails pretend to be from businesses with whom the potential victims already have a relationship. These include, their Internet service provider (ISP), online payment service or bank. The "phisher" tells recipients that they need to "update" or "validate" their billing information to keep their accounts active, and direct them to a "look-alike" Web site of the legitimate business, further tricking consumers into thinking they are responding to a bona fide request. Unknowingly, consumers submit their financial information - not to the businesses - but the scammers, who use it to order goods and services and obtain credit. Other related

crimes include credit card fraud or theft and identity theft.

There are several steps you can take to make sure you never fall for one of these scams:

- If you get an email that warns you, with little or no notice, that an account of yours will be shut down unless you reconfirm your billing information, do not reply or click on the link in the email. Instead, contact the company cited in the email using a telephone number or Web site address you know to be genuine.
- Avoid emailing personal and financial information. Before submitting financial information through a Web site, look for the "lock" icon on the browser's status bar. It signals that your information is secure during transmission.
- Review credit card and bank account statements as soon as you receive them to determine whether there are any unauthorized charges. If your statement is late by more than a couple of days, call your credit card company or bank to confirm your billing address and account balances.
- Always ensure that you're using a secure server when submitting credit card information. To make sure you're using a secure server, check the beginning of the web address in your browsers address bar - it should be https:// rather than just http://.
- Contact your bank or credit card company if you think you may have replied to a fraudulent E-Mail with sensitive personal information.
- Report suspicious activity to the FTC. Send the actual spam to uce@ftc.gov. If you believe you've been scammed, file your complaint at www.ftc.gov, and then visit the Attorney General's identity Theft Web site at <http://myfloridalegal.com/identitytheft> for information on how to protect yourself from identity theft.
- Finally Microsoft has recently created a

Financial Management





Financial Management

security update for Internet Explorer that will help you avoid Phishing scams. It removes a vulnerability that could allow an attacker to misrepresent the location of a Web page in the Address bar of an Internet Explorer window. We strongly urge you apply this patch if your computer has Internet Explorer installed (even if you do not use Internet Explorer as your primary web browser). To install this security update, please visit: <http://www.microsoft.com/technet/security/Bulletin/MS04-004.asp> for additional information.

money owed under a judgment. The judgment creditor pays a bond to the local sheriff to seize personal property owned by a judgment debtor so that it can be auctioned and the proceeds applied to pay the judgment.

Your Home

If you own the home you live in, your home is protected from all creditors except those holding a mortgage or lien on your residence. You can exempt or protect your home and up to one-half acre of land from any forced sale if you live in an incorporated area. This also applies to mobile homes. If you live in an unincorporated area, you can protect up to 160 acres as homestead property.

Under most circumstances, a lien cannot be placed on your home for a debt. However, creditors who loan you money to buy, improve, or repair your home may put a lien on your home.

To protect your home, an affidavit describing your home and claiming it as your homestead must be filed with the court. This is different from the homestead tax form you file with the county property appraiser every year.

Your personal property.

The Florida Constitution gives you the right to exempt up to \$1,000 in personal property from confiscation by a creditor. Unless the judgment creditor has a lien or security interest in this property, this constitutional exemption allows you to protect up to \$1,000 worth of your property from execution or attachment. This \$1,000 can include wages and money held in a bank account. If you own more than \$1,000 worth of personal property, you can choose which

(Continued on page 63)

DEBTORS' RIGHTS IN FLORIDA

You can't go to jail for failing to pay a debt or a judgment. If you do not pay a debt or if a judgment is entered against you, this information can be reported to the credit bureau and made a part of your credit history. The credit bureau can report this information for seven years in your credit history. If a judgment is entered against you, you are called a judgment debtor.

A judgment is an order entered by a judge at the end of a lawsuit. A creditor who obtains a judgment against you is called a judgment creditor. A judgment creditor can require you to attend a deposition and give information about your income and assets. The court can require you to give written information or testimony about your income, assets, property, employer and Social Security number. If a judgment is entered against you by a court, your wages or bank account may be taken from you to pay the judgment. This is called garnishment and attachment.

The garnishment law allows the judgment creditor to obtain a continuing writ of garnishment which orders your employer to deduct money from your periodic wages until you have paid off the judgment. Through a process called execution a creditor can collect



- U.S. consumers' average debt is 12 percent higher compared to the same time last year.
- U.S. consumers have an average debt of \$11,224 compared to last year's average debt of \$10,024.

- Experian Consumer Direct, January 2005



(Continued from page 62)

property to protect. If the judgment is only against you and not your spouse, your spouse is entitled to protect his or her interest in the property. Property that is held by a husband and wife as tenants by the entireties cannot be divided and thus is not subject to the claims of creditors of the husband or wife individually. The judgment debtor and/or the debtor's spouse must file an affidavit with the court and the sheriff to obtain the exemption and protect the property from the judgment creditor.

Your wages.

Wages of the head of a family are exempt from garnishment unless the person's net wages are more than \$500 per week and the person has agreed in writing to allow wages to be taken to pay the debt. A head of family includes all persons who reside in Florida and who provide more than one-half of the support for a child or other dependent. Wages in a bank account that belong to a head of family retain their protection from being seized for six months even if the wages are mixed with money from other sources. If a head of family had not agreed in writing to allow the garnishment or attachment of wages, all the wages are exempt. You must file an affidavit with the court to declare your head of family status and protect your wages from being taken.

Persons who do not qualify as head of family will still have the protection of federal law which limits the amount of wages that can be garnished. If you take home less than 30 times the minimum wage per week, all of your wages are exempt. Otherwise, a judgment creditor can obtain 25 percent of your net wages under a continuing writ of garnishment

until the judgment is paid in full.

Your vehicle.

Your interest in a vehicle is exempt up to \$1,000 of its value. This means that your vehicle cannot be taken to satisfy a judgment unless the value of the car, less all debts for which the vehicle is collateral, is greater than \$1,000. If a judgment creditor or sheriff takes your vehicle under an execution and its value to you is \$1,000 or less, you can apply to the court for recognition of your exemption and request the return of your vehicle. Your affidavit of exemption should be filed with the court and the sheriff.

Other property and income.

All professionally prescribed health aids used by you or your dependents are exempt from being taken by creditors. Other types of income, including Social Security benefits, workers compensation, unemployment benefits, disability benefits, Veteran's benefits and retirement benefits are exempt from garnishment.

Procedure for claiming your exemptions.

You may claim your exemptions by filing an affidavit with the court describing the exemption and your claim to it. Your affidavit must also be sent to the judgment creditor and any attorney for the judgment creditor. The judgment creditor must then file an affidavit with the court within two days to challenge your exemption. If the judgment creditor doesn't object by filing an affidavit, you can ask the court for a hearing to stop the garnishment or execution and have your exempt wages or property returned to you. Notice of the hearing must be given to the judgment creditor.

(Continued on page 64)

**Financial
Management**



**Financial
Management**

(Continued from page 63)

Under current Florida law, if your wages or bank account are going to be garnished, you will not receive any notice until after the wages have already been withheld or a hold placed on your bank account. The judgment creditor must send you a copy of the writ of garnishment, a copy of the answer filed by your employer or bank and a notice telling you about your right to request that the court stop the garnishment or execution.

Your spouse or any other person who has an ownership interest in the property may file an affidavit showing the right of ownership and requesting the court to return the property. The judgment creditor may contest the claim of exemption and request a hearing.

Transfers of property that are fraudulent or are made solely to keep the property from creditors may cause the property to lose its exempt status.

If you need assistance with establishing your exemptions to protect your income or property, please contact your local legal services or legal aid office or a private attorney. Forms and instructions for asserting your exemptions are available free of charge from your local legal services or legal aid office.

DEBT COLLECTORS

If you are behind in your payments to a creditor on a personal, family or household debt, or if an error has been made in your account, you may be contacted by a “debt collector,” someone who regularly tries to collect debts owed to others.

A debt collector may contact you in person,

by mail, telephone, telegram, or fax. However, a collector may not communicate with you or your family with such frequency as can reasonably be expected to be harassing. A debt collector may not contact you at work if the collector knows your employer disapproves. A collector may not contact you at unreasonable times or places, such as before 8 a.m. or after 9 p.m., unless you agree.

A debt collector is required to send you a written notice within five days after you are first contacted, telling you the amount of money you owe. The notice must also specify the name of the creditor to whom you owe the money, and what action to take if you believe you do not owe the money.

You may stop a collector from contacting you by writing a letter to the agency telling them to stop. Once the agency receives your letter, they may not contact you again except to say there will be no further contact, or to notify you if the debt collector or the creditor intends to take some specific action.

If you do not believe you owe the debt, you may write to the collection agency within 30 days after you are first contacted saying you don't owe the money. The agency may not contact you after that unless you are sent proof of the debt, such as a copy of the bill.

A debt collector may not harass or abuse any person. For instance, a collector may not use threats of violence against the person, property or reputation, use obscene or profane language, or advertise the debt.

A debt collector may not use false statements, such as: falsely implying that they are attorneys, that you have committed a crime, or that they operate or work for a credit

(Continued on page 65)



Financial Management

bureau or misrepresenting the amount of your debt, the involvement of an attorney in collecting a debt, or indicating that papers sent to you are legal forms when they are not.

Debt collectors may not tell you that you will be arrested if you do not pay, that they will seize, garnish, attach, or sell your property or wages, unless the collection agency or creditor intends to do so and has a legal right to do so, or that a lawsuit will be filed against you, when they have no legal right to file or do not intend to file such a suit.

If you have a question about whether the collection agency which has contacted you is properly registered, you may file a complaint either with the Attorney General's office or the Federal Trade Commission, Washington, D.C. You may file suit against the collection agency for violating state and/or federal law. If you prevail, you may be awarded your actual damages, attorneys fees and costs.

VEHICLE LEASE

Although lower monthly payments make auto leasing appear to be an attractive alternative to financing the purchase of a car, the technical and complex language, and the greed of some car salesmen, cause car leasing to be an option that is fraught with many pitfalls for the average consumer. Be aware that once you sign a lease, you have no automatic legal right to cancel.

What is a Vehicle Lease?

A lease is a long-term rental agreement. You are paying for the right to drive a vehicle for the term of the lease, but you do not own it. In most instances, you will be responsible for all maintenance on the vehicle, and your insurance rates will usually be higher.

Isn't a lease a good deal if my monthly payments are less than if I purchased the car with financing?

Not necessarily. The monthly payments should be significantly less because you don't own the car. Your monthly payments are based upon the following items:

CAPITALIZED COST or "Cap Cost." This is just fancy terminology for the price of the car. The lower the cap cost, the lower your monthly payment. Cap cost may be the same as the STICKER PRICE of the car, but you can negotiate for a lower cap cost, just like you can to buy it, so don't be afraid to shop around. The cap cost is reduced by the amount of cash or trade equity that you put into the deal that exceeds inception and acquisition fees. The correct amount of credit for your trade-in should be indicated. If manufacturer rebates or dealer coupons are offered, such credit should also reduce the cap cost. Your total credits should be specified.



MONEY FACTOR. This is a fancy term for "interest rate." The lower the money factor, the lower your monthly payment. The money factor will usually range from .0021 to .0046. Ask the dealer to put your money factor in writing. Then you can multiply it by 2400 to calculate the interest rate. Remember that even the money factor is negotiable!

What else should I know about leasing?

The Motor Vehicle Lease Disclosure Act took effect on October 1, 1995, and it provides that all leases must meet certain requirements. You are entitled to copies of all documents which you sign during the course of the lease transaction especially the lease contract which will contain several very important terms. First, the lease contract will be clearly marked as a lease. Second, the price of the car or truck,



Financial Management

(Continued from page 65)

with any added options and costs, will be listed. Third, your net trade-in value, cash, or rebate will be listed. And fourth, the bottom line price of what you are leasing will be indicated. It is important for you to review these disclosures carefully. Make sure that they reflect what you negotiated with the dealer. Many of the complaints which the Attorney General's Office has received relate to disclosures, so please read the disclosures with care.

You should beware of:

- Leasing a car on the first visit;
- Relying on verbal promises made by agents or Lease Managers (whose profit motive may well out-weigh their motive for telling the truth);
- Giving the agent a deposit before you thoroughly read, reread, understand and are satisfied with any completed lease agreement;
- Paying a lot of extra money for an extended service contract when your new car warranty will provide coverage for the major portion of the lease term.



VEHICLE PURCHASE

Many consumers prefer to finance their car purchase, rather than paying cash. But don't be misled by an auto dealer's fancy computer-generated cost comparisons or other claims that you will save money by financing. Remember that when you pay cash, you have no monthly payments to make. Even if you were to invest each month's car payment in a Certificate of Deposit or other interest paying investment, you would not come out ahead, unless the interest rate of the investment exceeded the loan interest rate.

An advantage of financing is that you will

retain your cash and improve your cash flow, thereby enabling you to use your money for emergencies, college tuition or other purposes. Under some circumstances, if you finance a car that develops serious problems, you may have recourse against the finance company as well as against the dealer or manufacturer.

Interest rates.

The Federal Truth-in-Lending Law requires lenders to disclose the ANNUAL PERCENTAGE RATE ("APR"). The APR is the cost of your credit as a yearly rate. These rates may vary significantly. By comparing the APR's offered by various lenders, you can begin to compare deal's. Check with your bank, credit union or even your insurance company or motor club and compare to the APR offered by the dealer. Be aware that car sales agents may earn additional commissions if they can convince you to finance your car through their dealership. Besides the APR, in comparing financing offers, you should determine the amount of any down payment or trade-in allowance, the number and amount of monthly payments, and the total of those payments.

Sometimes dealers seek to entice customers by offering very low financing rates, or even zero percent interest for a specified time period.

- Beware of the following:
You may be required to make a large down payment to qualify;
- You may be required to pay the sticker price ("MSRP") for your new car, rather than be able to negotiate a lower price;
- You may be required to repay the loan in a shorter period of time, such as 24 months;

(Continued on page 67)



- You may be required to purchase additional options such as undercoating, or you may be asked to sign over a manufacturer's rebate to the dealer; and
- The zero percent offer may come with a very high APR which kicks-in after the grace period, and you may forfeit the zero percent interest incentive and be required to pay a back-interest penalty, if you fail to make your scheduled payments when due.

BANKRUPTCY

People who are having trouble paying their debts sometimes consider bankruptcy as a remedy for this situation.

An individual, called a debtor, usually files bankruptcy to obtain a discharge, which will wipe out his or her debts so that they will not have to be paid. Once the bankruptcy begins, creditors cannot try to collect discharged debts from the bankruptcy debtor or sue the debtor to obtain a judgment. With a few exceptions, the creditors have no claim on the debtor's future income or future assets.

Alternatives to Bankruptcy.

Bankruptcy is not the only method of dealing with too much debt. In some situations another way might be more advantageous to the debtor than filing bankruptcy. Such alternatives may include an out-of-court settlement with creditors, reduction of payments to creditors, attaining help from a consumer credit counseling service, or payment of debts by sale of assets or borrowing on assets. However, these methods require some cooperation from creditors, and the chances of success are greater if the debtor attempts these alternatives soon after financial difficulties begin.

Types of Bankruptcy

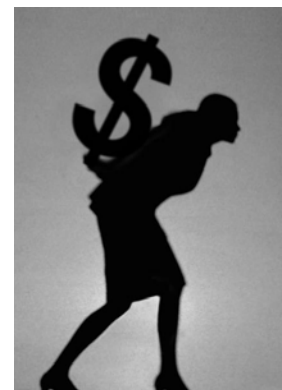
There are three main types of bankruptcy cases. These are referred to by their chapter number in the Bankruptcy Code.

Chapter 7: This is a liquidating bankruptcy, the most common bankruptcy case. In return for having debts discharged, the debtor must turn over to the bankruptcy trustee all property except for certain assets which Florida law allows the debtor to keep as exempt. The trustee sells the property and distributes the proceeds to the creditors according to priorities established by law. Very often there is not enough money to pay for anything more than the costs of administration, and the creditors will receive nothing. The principal advantage of Chapter 7 is that the debtor emerges from bankruptcy without any future obligations on his or her discharged debts.

Chapter 11: Another type of case in bankruptcy is a Chapter 11 reorganization. It is generally used by businesses, or by individual debtors who do not qualify for Chapter 13 because of their substantial debts, and/or have assets that would be lost in Chapter 7. In a Chapter 11 case, the creditors are temporarily stopped from taking any action against the debtor while the debtor tries to work out a plan of reorganization. Such a plan may involve a method of paying all or part of the debts or claims. The debtor may also deal with taxes through a plan. The creditors vote on the plan, and it must also be approved by the court. The Debtors typically use Chapter 11 to preserve an ongoing business or source of income that might otherwise be lost in a liquidation. Chapter 11 can be complicated and costly.

(Continued on page 68)

Financial Management



There were **378,253 non-business bankruptcies** filed in Florida in 2003, up from just **210,289** in 1996.

—Rand Florida Statistics based on Administrative filings from the U.S. Courts.



Financial Management

(Continued from page 67)

Chapter 13: This case often used by individuals who want to catch up past due mortgage or car loan payments and keep their assets. In Chapter 13, the debtor must propose in good faith to pay all or part of the debts from future income over a period of time ranging from three to five years. If the court approves the plan of payment, the debts may be settled in this manner, even if the creditors are not willing to go along with the plan. If the debtor makes the payments as required, he or she will not have to surrender property to the trustee.

Chapter 13 can be more advantageous than a liquidating bankruptcy. Some of the debts not discharged in a Chapter 7 will be discharged once the debtor completes a Chapter 13 plan. Also, the debtor can pay most non-dischargeable federal taxes over the term of the Chapter 13 plan without interest. However, Chapter 13 can only be used by an individual debtor, not by a corporation, and only if the total debts owed are less than certain limits for secured and unsecured debts. An individual engaged in business not as a corporation might use Chapter 13 to pay debts or settle them over a period of time while he or she continues to own and operate the business.

Bankruptcy does not wipe out most mortgages or liens; however, judgment liens and some liens on personal property, called "non-purchase money security interests," may be voided if they are liens on exempt property. If a debtor wants to keep his or her house, generally the debtor must continue the payments on the mortgage. If the debtor wants to keep a car which is liened, he or she must likewise continue the payments. A debtor facing foreclosure on his or her home may use



Bankruptcy does not wipe out most mortgages or liens.

Chapter 13 to repay past due payments and other costs, while also making the regular mortgage payments, and keep the home. Chapter 13 may also be used to get back a car that has been repossessed by a creditor. In a Chapter 7 liquidating bankruptcy, certain property can be "redeemed" from a lien by an appropriate proceeding in the bankruptcy, which would require paying to the lien holder the market value of the property.

If a creditor or the trustee objects, a debtor may be denied a discharge and continue to owe the debts as if the bankruptcy had never been filed. Some of the reasons for being denied a discharge are fraudulent transfer of an asset to keep it away from creditors or the bankruptcy trustee, concealment of assets, or disobeying or making a false statement to the court. Such acts may also constitute federal crimes for which the debtor can be fined or imprisoned.

Certain types of debts, such as child support, alimony, some federal income taxes, and all employer withholding taxes cannot be discharged in bankruptcy. Generally, student loans cannot be discharged. The debtor's wrongful conduct may make some debts non-dischargeable in a liquidation bankruptcy, such as incurring credit card charges when the debtor had no intent or ability to repay, or obtaining loans using false financial information.

Credit ratings.

The bankruptcy filing is picked up and noted by the commercial credit reporting companies. Federal law limits the length of time that this information may be carried on a report. Today, the limit on reporting bankruptcy filing is 10 years. Also, the law

(Continued on page 69)



(Continued from page 68)

prevents certain governmental units and agencies from discriminating against persons who have filed bankruptcy. Again, a lawyer can give you guidance in this area.

After filing bankruptcy, some people have found that if they promptly make the payments they are left with, such as the car, house, rent or utility payments, then they can re-establish their credit in about two years' time. However, individual credit ratings are based on overall credit history, as well as income and assets, and it may be harder for some people to re-establish a good credit rating than it is for others.

CREDIT REPAIR SCAMS

- "Credit Problems? NO problem..."
- "We can erase your bad credit! 100% guaranteed."
- "We can remove bankruptcies, judgments, liens, and bad loans from your credit file, FOREVER!"
- "Create a new credit identity - Legally!"

Don't believe these statements. Credit repair companies typically charge from \$50 and up, but often do little or nothing for you before vanishing. **Accurate negative credit information can not be erased.**

If a credit repair company tells you that it will be able to remove negative information from your credit report, the company is not telling you the truth. Accurate information which is within seven years of the reporting period, or ten years if the information relates to a bankruptcy, cannot be erased from a credit report. The only information that can be

changed are items which are actually wrong, or are beyond the seven or ten year reporting date. If you have a poor credit history, time is the only thing that will heal your credit report.

Hiding bad credit may be illegal.

Some credit repair schemes promise you that they can "hide" bad credit by helping you to establish a new credit identity. If you pay a fee for such a service, the company may direct you to apply for an Employer Identification Number (EIN) from the Internal Revenue Service, and to use the EIN in place of your social security number when you apply for credit. You may also be instructed to use a new mailing address. This practice, known as file segregation, is a federal crime.

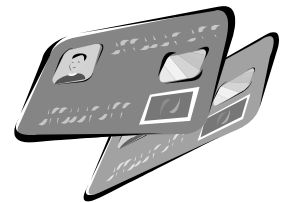
How to clean up your credit.

The truth is, you can help yourself re-build a better credit record. Start by contacting your creditors when you realize that you cannot make scheduled payments. If you need help working out a payment plan and a budget, contact your local credit counseling service. These non-profit groups offer credit guidance to consumers, and their services are available at little or no cost to you. Also, check with your employer, credit union, or housing authority for other no-cost credit counseling programs. Anything a credit repair company can do, you can do on your own. Contact a local credit bureau and request a copy of your credit report. You are entitled to a free copy of your credit report if you've been denied credit, insurance or employment and request the report within 60 days of notice, or if you can prove that (1) you're unemployed and plan to look for a job within 60 days, (2) you're on welfare, or (3) your report is inaccurate because of fraud.

Otherwise, the credit bureaus may charge

(Continued on page 70)

Financial Management





Financial Management

(Continued from page 69)

you a small fee for a copy of your credit report. Review your credit report for mistakes and outdated information - anything beyond the seven or ten year reporting period. If there are mistakes, contact the credit bureau and request a dispute form. The form is available at no charge. Then submit the form with any supporting documentation which provides as much information as possible about the inaccurate information. The bureau must reinvestigate the matter, and delete or correct any information which they are unable to verify. If the dispute still exists, you can file a written explanation, which the credit bureau must include in your credit report.

Other facts you should know:

- Bankruptcy information can be reported for 10 years.
- Information about a lawsuit or judgment against you can be reported for seven years or until the statute of limitations runs out, whichever is longer.
- Information reported because of an application for a job with a salary of more than \$75,000 has no time limit.
- Information reported because of an application for more than \$150,000 worth of credit or life insurance has no time limit.

SOCIAL SECURITY

Social Security is our country's government-sponsored social insurance begun under the Social Security Act of 1935. It provides old age or retirement benefits, along with disability and health insurance for 90 percent of the country's work force and their families. The program is funded by employees, their

employers, and self-employed individuals, all who are required to make Social Security tax contributions which are put in special trust funds. When a worker retires, becomes disabled or dies, the workers' dependents or survivors can receive monthly cash benefits from these trust funds. Part of the Social Security tax contributions are used to finance the hospital insurance program under Medicare.

A Social Security card can be obtained from the local Social Security office, along with duplicates which should be obtained if there is a name change.

Most Social Security records are kept at the Social Security Administration headquarters in Baltimore. However, local Social Security offices can obtain records of an individual's earnings upon request. An individual can obtain information concerning his/her earnings by calling the Social Security Administration's toll free number, 1-800-772-1213, or writing the local Social Security office. Earnings records should be checked periodically because some employers in the past have neglected to forward Social Security taxes withheld from employees' paychecks.

The amount of disability or retirement benefits an individual can receive is based on his/her average earnings for a period of years for work covered by Social Security.

To collect any benefits from Social Security, you must get in touch with your local Social Security office. Social Security does not automatically pay benefits even if an individual is eligible. Both retirement and

(Continued on page 71)



(Continued from page 70)

disability benefits must be applied for by either calling the Social Security Administration's toll free number, or contacting the local Social Security office. Failure to apply for benefits which become due on account of disability will sometimes result in past due benefits being forfeited. An application for lump sum death payment must be made within two years of the workers' death.

Social Security retirement benefits can be paid as early as age 62. However, if your payments start before age 65, the amount you receive each month will be reduced to take account of the longer period you will be receiving payments. The amount of the reduction depends on the number of months you receive benefits before you become 65.

When you retire, benefits can be paid to certain members of your family, including unmarried children under 18, full time students under 19, or children who were severely disabled before age 22 and who continue to be disabled. In addition, a spouse or divorced spouse who is 62 or over or spouse under 62, caring for a child entitled to benefits, may be eligible to obtain benefits on the spouse's record. It is wise to apply for retirement benefits three months before an individual reaches age 65 so full Medicare protection can commence the month the individual reaches age 65.

If you are 61 years old or older, your Social Security office can give you an estimate on how much you would collect if you retired at age 62, 63, 64, and 65.

Additional earnings after retirement may affect the size of an individual's benefits. However, non-earned income, such as interest on savings accounts and capital gains on investments will normally not affect retirement benefits.

Social Security is a disability plan, as well as a retirement plan. A person becomes eligible for disability if he/she is stricken by a disease or injury or mental condition that will keep the worker out of work for a minimum of a year or could be the cause of death. If a person meets these conditions, he/she may be entitled to benefits even if recovery from disability is expected. As soon as you find that a current injury or illness may keep you out of work for a year, you should contact your Social Security office and apply for benefits.

Judgment as to whether your medical condition qualifies you for disability benefits is made by a state agency under contract to Social Security.

An individual who has been denied benefits on his/her initial application may ask for reconsideration within 60 days of the denial by the state agency. If, upon reconsideration, an individual is again denied, a request for a hearing before an administrative law judge can be filed, also within 60 days. It is important to understand that the hearing before the administrative law judge is the first time in the process that the people who are determining disability ever see the applicant.

SSI or supplemental security income is a Federal program which pays monthly checks to people in financial need who are 65 or

(Continued on page 72)

Financial Management





Financial Management

Social Security provides dependent benefits to spouses, divorced spouses, elderly widows, and widows with young children.

For unmarried women – including widows – age 65 and older, Social Security comprises 52 percent of their total income. In contrast, Social Security benefits comprise only 38 percent of unmarried elderly men's retirement income and only 35 percent of elderly couples' income.

Social Security is the only source of retirement income for 29 percent of unmarried elderly women.

(Continued from page 71)

older or who are blind or disabled. People who have little or no regular cash income and do not own much property or things that can be turned into cash, such as stocks, bonds, jewelry or other valuables may get SSI if they are disabled. As with regular Social Security disability, to be considered disabled, a person must be unable to perform work because of a physical or mental impairment which impairment has lasted or is expected to last for at least 12 months. There is not a specific work or earnings requirement to receive SSI and a person can collect SSI even if they have never worked. In Florida, people who are eligible for supplemental security income are also eligible for Medicaid. Benefits of Medicaid include hospital service, both inpatient and outpatient, skilled nursing home services, home health care and physician's services.

People entitled to Social Security disability insurance benefits for two years or more are eligible for Medicare. Medicare is a hospital and medical insurance program which helps to pay for services you receive as a patient in a hospital or skilled nursing care facility and for certain follow-up services you may receive after leaving the hospital or nursing facility.

The medical insurance portion of Medicare helps pay physicians' and surgeons' bills, including visits to your regular doctor in his office. Medicare coverage is limited in very important ways and it is important to understand what is and what is not covered under this program.

Because of its complexity and frequently changing rules, few Americans understand the Social Security program well enough to know what their rightful benefits are and how to collect them. One in five Americans collects Social Security benefits; one in four is entitled. You may be one of them.

An applicant for Social Security benefits has the right to have the assistance of a qualified representative or an attorney throughout the agency proceedings and on Federal Court appeals of Social Security denials of benefits.

In most cases, attorney fees amount to no more than 25 percent of past due benefits. Retroactive regular Social Security benefits are payable from a claimant's initial entitlement date which is five months after the onset of disability. Past due supplemental security income benefits are payable from the date of application as long as the applicant is disabled on or before the date she applies.

Visit the Social Security Administration Website for information specific to women at:

www.socialsecurity.gov/women/



Financial Management

FINANCIAL ASSISTANCE

The Economic Self-Sufficiency Program provides financial and medical assistance, food stamps, and other supportive services to needy persons and families. Each program has eligibility requirements set by the state or federal law.

Assistance may be applied for by contacting the local Children and Families Economic Self Sufficiency office. Offices are located in each county in the state.

Temporary Cash Assistance (TCA)

The TCA program provides cash assistance to families with children under the age of 18 or under age 19 if full time students, that meet the technical, income, and asset requirements of the program. The program helps families become self-supporting while allowing children to remain in their own homes.

Pregnant women in their third trimester of pregnancy may also be eligible to receive TCA if they are unable to perform work activities. Otherwise, TCA eligibility is available in the 9th month of pregnancy.

Work Requirements

TCA participants are required to participate in work activities unless a participant meets certain exemptions from work. Work activities and services needed to obtain or retain employment are provided by Regional Workforce Boards.

The parent(s) or relative, whose needs are included, must participate in activities to become employed, unless otherwise exempted. Examples of work exemptions include:

1. Individual with a child under three months of age,
2. Individual who is unable to work due to a disability as verified by receipt of SSI or Social Security disability benefits, or
3. Individual required in the home to care for a disabled family member.

Time Limits

Cash assistance under the TCA program is limited to a lifetime cumulative total of 48 months as an adult (except for child only cases who have no time limit). Most families are limited to receiving 24 months of cash assistance in a 60-month period; however, a time limit of 36 months out of 72 months is assigned to certain recipients.

Certain exemptions to the 24/60 or 36/72 periodic time periods may be made for employment, participation in mental health or substance abuse programs, pending SSI/SSDI applicants, or due to hardships granted by the Regional Workforce Board to assist obtaining self-sufficiency.

Caretaker relatives may opt to receive one-time limited TCA benefits for relative children provided they opt to exclude their needs from the benefit. An adult household member, who is responsible for providing care to a disabled family member in their home, may receive non-time limited TCA benefits for the months in which they provide care.

Family Cap

This policy limits the amount of additional TCA that can be received for a child born to a mother who is a current TCA recipient. The first child born more than 10 calendar months from the date of application for cash assistance will be added to the assistance group at one half of the normal increase to add a person. Any additional children born

(Continued on page 74)



Financial Management

(Continued from page 73)

to a TCA recipient will receive no increase in the TCA benefit. This policy does not apply to a first-born child, when legal custody of a child has been transferred, when the children no longer live with their parents due to death or incapacitation, or if the mother is a recipient of SSI.

Learnfare

This policy requires school age children age 6 to 18 to attend school and for parents or caretaker relatives to participate in school conferences as a condition of eligibility for Temporary Cash Assistance.

Children who are determined by a local school board to be habitually truant or dropouts as defined by state law will have their needs removed from the Temporary Cash Assistance grant, unless “good cause” for school nonattendance exists or the child has been exempted from educational participation by a school official due to a hardship.

Parents or caretaker relatives with a school age child are required to have a conference with an appropriate school official each semester to discuss the child(ren)’s progress in school. A parent or caretaker relative who, without “good cause”, fails to conference with an appropriate school official will have their needs removed from the TCA benefit.

Immunization

All households applying for TCA must verify that all children under age 5 have completed or are current with their immunizations. Children under age 5 whose immunizations are not verified are not eligible.

Residency and Citizenship

Individuals must be US citizens or qualified non-citizens.

Individuals must be residents of Florida. They are considered residents if they are living in the state for purposes other than vacation and intend to remain.

Everyone applying for TCA must have a social security number or submit an application for one. Individuals who are not requesting their needs be included in the TCA benefit are not required to provide their SSN or proof of application for one.

Assets

Assets are resources or items of value that are owned (solely or jointly) by an individual who has access to the cash value of the assets. **The asset value limit is \$2,000 per family.** Licensed vehicles needed for individuals subject to the work requirement may not exceed a combined value of \$8,500. The value in excess of \$8,500 is counted toward the \$2,000 asset limit. Families not subject to the work requirement may exclude one vehicle valued at no more than \$8,500. A vehicle used to transport a physically disabled member of the assistance group is excluded from asset consideration.



**Financial
Management**

Sources

Information from this section provided by:

The Florida Bar

Consumer Pamphlets

Debtors' Rights in Florida

Bankruptcy

Call A Law Scripts

Your Rights and Responsibilities When

Applying for Credit or Loans

Supplemental and Social Security Income

651 E. Jefferson Street

Tallahassee, FL 32399-2300

850/561-5600

Fax 850/561-5826

<http://www.flabar.org>

Florida Department of Financial Services

Shopping for A Mortgage?

Consumer Pamphlet

Florida Department of Financial Services ·

200 East Gaines Street

Tallahassee, Florida 32399

<http://www.fldfs.com/Consumers/>

Florida Department of Legal Affairs

Office of the Attorney General

The Capitol, PL-01

Tallahassee, FL 32399-1050

Consumer Protection information

How to Protect Yourself: Phishing

Car Financing

Car Leasing

Debt Collectors

Credit Repair Scams

<http://myfloridalegal.com/consumer>

Florida Department of Children and Families

Health and Human Services

Office of the Attorney General

1317 Winewood Blvd.

Building 1, Room 202

Tallahassee, Florida 32399-0700

<http://www.dcf.state.fl.us/ess/tcafactsheet>





Consumer Issues and Insurance

By: The Florida Bar, Florida Department of Legal Affairs, Florida Dept. of Financial Services, Georgetown University Health Policy Institute, Florida Highway Patrol

CONSUMER ISSUES

A number of Florida state agencies work to protect consumers in their special areas of responsibility, but two state agencies have a special interest in consumer protection on a statewide basis: the Florida Department of Agriculture and Consumer Services and the Florida Department of Legal Affairs. The Division of Consumer Services of the Florida Department of Agriculture maintains a toll-free statewide consumer hotline and handles complaints. The hotline number is 1-800-435-7352. The Division mediates complaints in instances where no agency exercises jurisdiction over the dispute. The Division also mediates complaints over which it has jurisdiction, such as health clubs, travel and telemarketing. The Division refers complaints to other agencies if the agency exercises jurisdiction over the dispute. It is also responsible for intake on the Florida Automobile Lemon Law. The Lemon Law hotline is 1-800- 321-5366.

The other state agency with general consumer interest responsibilities is the Florida Department of Legal Affairs, in the office of the Florida Attorney General. The Department of Legal Affairs' Economic Crime Division and Fair Trade Practices Unit oversees state regulations which protect consumer interests in a number of different types of transactions. The Department can file suit on behalf of the public, although it does not act as a private attorney would in handling individual cases on behalf of individual consumers. The Economic Crime

Division has specific enforcement authority and interest in some major consumer problem areas, including misleading advertising and deceptive trade practices.

You may be able to tell which agency might have an interest in your problem simply by looking up the listings of state agencies in your telephone directory. You can call the local listings to ask for help in determining whether the agency can assist you with your particular problem. Following is a short list of different agencies and toll-free numbers.

National Highway Traffic Safety Administration
1-800-424-9393

U.S. Consumer Product Safety Administration
1-800-638-2772

Florida Division of Consumer Services
1-800-435-7352

The Department of Insurance
1-800-342-2762

The Department of Business and Professional Regulation
1-800-342-7940

Client Relations/Human Rts. Advocacy
1-800-342-0825

Agency for Health Care Administration, Consumer Assistance Unit
1-888-419-3456

(Continued on page 77)





(Continued from page 76)

The Public Service Commission

1-800-342-3552

The Toxic Substances Information Center

1-800-367-4378

If you cannot determine who might assist you with your problem, call the Division of Consumer Services. Local Better Business Bureaus or similar organizations may be able to assist you as well. In many cases, consumers with legitimate complaints will have to pursue their problems through an attorney or attempt to go to court on their own behalf by using the Small Claims Court which is available in every county in Florida.

If you are considering Small Claims Court, call or visit the Office of the Clerk of the County Court. You will usually find the members of the Clerk's staff quite helpful in answering your questions regarding procedures and fees for handling your own case. Also, some counties have small claims clinics to assist in the preparation of small claims cases. Contact your local bar association to find out if a clinic is available in your area.

FLORIDA'S LEMON LAW

Florida's Lemon Law applies to NEW or demonstrator vehicles sold or long-term leased in the state of Florida. When consumers buy or lease a new or demonstrator motor vehicle, they must receive from the selling dealer or lessor the "Consumer Guide to the Florida Lemon Law." This publication explains consumer rights, gives steps to follow to resolve problems, contains a toll-free number for the Lemon Law

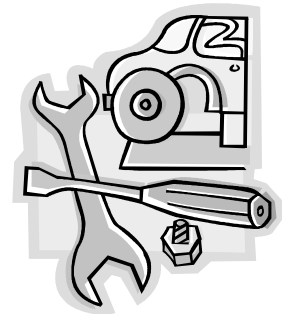
Hotline and a form the consumer can use to notify the manufacturer of chronic defects and time out of service for repair.

The Lemon Law covers defects or conditions that substantially impair the use, value or safety of the new or demonstrator vehicle (these are called "nonconformities"). These defects must be first reported to the manufacturer or its authorized service agent (usually, this is the dealer) during the "Lemon Law Rights Period," which is the first 24 months after the date of delivery of the motor vehicle to the consumer. If the manufacturer fails to conform the vehicle to the warranty after a reasonable number of attempts to repair these defects, the law requires the manufacturer to buy back the defective vehicle and give the consumer a purchase price refund or a replacement vehicle. The law does not cover defects that result from accident, neglect, abuse, modification or alteration by persons other than the manufacturer or its authorized service agent. DO NOT DELAY in reporting a problem as this may cost valuable time and protection.

Consumers should KEEP RECORDS of all repairs and maintenance. A written repair order should be obtained from the service agent (dealer) for each examination or repair under the warranty. The consumer should note the date the vehicle was taken in for repair and date he or she was notified that work was completed. Odometer mileage when the vehicle was taken to the shop and when it was picked up after repair should also be noted. Consumers should keep all receipts or invoices for payment of expenses related to the purchase/lease of the vehicle and to any repair.

(Continued on page 78)

Consumer Issues and Insurance





Financial Management

(Continued from page 77)

To obtain a "Consumer Guide to the Florida Lemon Law," or speak with someone about the Lemon Law, consumers in Florida may call the Lemon Law Hotline at 1-800-321-5366, or 1-850-488-2221 for consumers outside Florida. This phone line should be answered between the hours of 8:30 a.m. to 4:30 p.m., Eastern time.

AUTOMOBILE INSURANCE

According to Florida law, if you own a motor vehicle with four or more wheels you must carry \$10,000 of personal injury protection insurance (PIP) and a minimum of \$10,000 of property damage liability insurance. You may have a deductible of up to \$2,000 for PIP coverage and \$500 for Property Damage Liability.

Personal injury protection (PIP) insurance covers you regardless of whether you cause an accident (are "at-fault") -- up to the limits of the policy. PIP is designed to reduce the necessity of suing for reimbursement of medical and related bills from auto accidents. PIP pays:

- 80 percent of reasonable medical expenses
- 60 percent of lost wages
- \$5,000 for death benefits

For accidents that happen in Florida, PIP covers you and relatives who live in your home, certain passengers, and others who drive your car with your permission. Pedestrians and bicyclists are also covered if they are Florida residents.

For accidents that happen outside Florida but inside the U.S. or Canada, PIP covers you and relatives who live in your home. In this case, you must be driving your own vehicle. Persons other than you or your relatives are not covered.

Property Damage Liability Insurance pays, for damage you or members of your family cause to another persons property while driving. The term "property" includes, for example, a fence, telephone pole or building, as well as another car.

Coverage applies even if you drive someone else's car. Depending on the terms and conditions of your policy, it may also include anyone else who uses your car without your permission.

Although not required by law, many drivers buy other types of insurance coverage in addition to the mandatory PIP and property damage liability insurance. Common optional coverage include: bodily injury liability, collision, comprehensive, uninsured motorist, medical payment, towing, rental reimbursement, and accidental death and dismemberment.

If you have comprehensive coverage, windshield replacement is the only claim for which you are not charged a deductible. Florida law requires this waiver to encourage drivers to immediately replace damaged windshields.

You may be required to purchase comprehensive and collision insurance if your car is financed. It is illegal for the lending institution to require you to purchase insurance from a particular company or agent. Uninsured Motorist Insurance only pays if you,

(Continued on page 79)



**Consumer Issues
and Insurance**

(Continued from page 78)

your passengers or family members are hit by someone who is "at-fault" and does not have insurance, or has less liability insurance than you. This applies whether you are riding in your car, someone else's car or are struck by a car while walking.

Uninsured Motorist Insurance only pays for medical expenses, lost wages (beyond your PIP coverage) and for permanent injuries that you and your passengers suffer.

Property Damage and Bodily Injury Liability Insurance is required for drivers who are convicted of certain traffic violations. One example is driving under the influence of alcohol or drugs. If that driver had an accident where he or she was "at-fault" and could not pay for the damages, then he or she must thereafter obtain insurance coverage.

Rental Reimbursement Coverage will permit you to be reimbursed for car rental according to the terms of the policy, if you are in an accident with your own car and it is not drivable.

If the other driver was "at-fault," that driver's liability insurance coverage may reimburse you for renting a vehicle similar to your own. Check with your agent and the insurance adjuster.

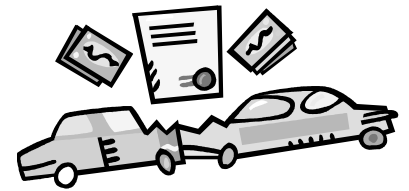
Rental cars companies often sell collision damage waiver which, although similar to insurance, is not insurance and does not fall under the regulatory authority of the Department of Financial Services Office of Insurance Regulation.

If you have collision coverage or property damage liability, you may be covered for damage to rental cars driven by you, depending on the terms and conditions of your policy. You may also be automatically covered by your credit card company if you used the card to rent the vehicle. Therefore, the collision damage waiver may not be necessary.

Check your policy before you rent a car and call your agent if you have any doubts.

When you buy auto insurance:

1. Request a quote from several licensed insurance agents. Be sure to ask for the same coverage from each so your comparisons will be accurate. A quote is an estimate of your premium -- it is not a firm price or a contract. It is against the law for an agent to intentionally quote you a low premium just to get your business.
2. Be sure the information on your application is accurate. False or inaccurate information could cause the company to cancel your policy or refuse to pay a claim. Always get a copy of the signed application form.
3. Be sure to get a binder from the agent once you sign the application. The binder is proof of your coverage until you receive your policy. It should show the name of the agent and insurance company, list your cars and the coverage you purchased, and be signed by the agent.
4. Always pay by check or money order made payable to the insurance company -- never to the agent or the agency.



(Continued on page 80)



**Consumer Issues
and Insurance**

(Continued from page 79)

5. You should receive your policy no later than 60 days after the effective date. If you do not, contact your agent immediately.

6. Immediately report any changes affecting your policy to your agent. This would include address or name changes, the addition of a new driver or car, or any change in the use of your car.

7. Keep track of your policy renewal date. Policies are usually for a term of 6 or 12 months. Most companies will send you a bill at least 45 days in advance of your renewal and premium due date.

8. If your son or daughter is a legal resident of Florida, attends college in another state and uses a car registered in Florida, you must have PIP and property damage liability coverage on the car. Also, the state where they attend school may have other car insurance requirements.

Any person who has a car in Florida for more than 90 days during a 365-day period must purchase PIP and property damage liability insurance. The 90 days do not have to be consecutive.

If you have recently moved to Florida, it's best to immediately find an insurance agent who will assist you with auto insurance information. Check with your local Department of Highway Safety and Motor Vehicles Office for information on driver licensing and auto registration procedures.

HEALTH INSURANCE

Health Insurance

Numerous state and federal laws make it easier for people with pre-existing conditions to get or keep health insurance, or to change from one health plan to another. A federal law, known as the Health Insurance Portability and Accountability Act (HIPAA) sets national standards for all health plans. In addition, states can pass different reforms for the health plans they regulate (fully insured group health plans and individual health policies), so your protections may vary if you leave Florida. Florida has expanded protections for certain kinds of health insurance beyond what federal law requires. Neither federal nor state laws protect your access to health insurance in all circumstances.

The following information summarizes how federal and state laws do – or do not – protect you as a Florida resident.

How am I protected?

In Florida, as in many other states, your health insurance options are somewhat dependent on your health status. Even if you are sick, however, the laws protect you in the following ways:

- Coverage under your group health plan (if your employer offers one) cannot be denied or limited, nor can you be required to pay more, because of your health status. This is called nondiscrimination.
- All group health plans in Florida must limit exclusion of pre-existing conditions. There are rules about what counts as a pre-existing condition and how long you must wait before a new health plan will begin to pay for care for that condition. Generally, if you join a new plan your old coverage will be credited toward the pre-existing condition exclusion period, provided you did not have a long break



(Continued from page 80)

in coverage.

- Your health insurance cannot be canceled because you get sick. Most health insurance is guaranteed renewable.
- If you leave your job, you may be able to remain in your old group health plan for a certain length of time. This is called COBRA continuation coverage or state continuation coverage. It can help when you are between jobs or waiting for a new health plan to cover your pre-existing condition. There are limits on what you can be charged for this coverage.
- If you have had at least 3 months of coverage under a fully insured group health plan and then lose it, you are guaranteed the right to buy an individual health policy from the company that provided your group coverage. This is called a conversion policy. There are rules about what conversion policies must cover and limits on the premium you can be charged. You will not face a new pre-existing condition exclusion period under a conversion policy.
- If you are HIPAA eligible, but do not qualify for a conversion policy, you are guaranteed the right to buy an individual health policy from any insurance company that sells such plans in Florida. Insurers that sell individual health insurance must offer you a choice of at least two policies.
- You may be eligible to buy a guaranteed-issue policy if your individual health insurer or HMO terminated your coverage due to insolvency, dropped all individual coverage in Florida, or if you moved out of your individual health insurer's service area.
- If you are a small employer buying a group health plan, you cannot be turned down because of the health status, age, or any factor that might predict the use of health services of those in your group. This is called guaranteed issue.
- If you have low or modest household

income, you may be eligible for free or subsidized health coverage for yourself or members of your family. The Florida Medicaid program offers free health coverage for pregnant women, families with children, elderly, and disabled individuals with very low incomes. In addition, some women who are diagnosed with Breast or Cervical Cancer may be eligible for medical care through Medicaid.

- If your children are 18 years old or younger, do not have health insurance and meet other qualifications, they may be eligible to buy health insurance through the Florida KidCare Program.
- If you have lost your health insurance and are receiving benefits from the Trade Adjustment Assistance (TAA) Program then you may be eligible for a federal income tax credit to help pay for new health coverage. This credit is called the Health Coverage Tax Credit (HCTC), and it is equal to 65% of the cost of qualified health coverage, including COBRA, state

(Continued on page 82)

Consumer Issues and Insurance



FLORIDA KIDCARE

Florida KidCare is a state-designed program that provides health coverage to low-income children under the age of 19 who are not eligible for Medicaid and who have limited or no health insurance.

A child whose family has a household income below 200% of the federal poverty level is eligible for Florida KidCare. For a family of 3, this works out to an annual income of \$31,340 or a monthly income of about \$2,612. Premiums are on a sliding scale. Benefits include doctor visits, hospital and emergency services, surgery, immunizations, prescription coverage, vision, hearing, and behavioral health.

You can get an application for the Florida KidCare Program from county health departments, the Department of Children and Families service center, community health centers, local libraries, many schools, day care centers, and hospitals. You can also call the KidCare Hotline at 1-888-540-5437 or visit them online at <http://www.floridakidcare.org>.



Consumer Issues and Insurance

THE GEORGETOWN UNIVERSITY HEALTH POLICY INSTITUTE HAS WRITTEN A CONSUMER GUIDE FOR GETTING AND KEEPING HEALTH INSURANCE FOR EACH STATE AND THE DISTRICT OF COLUMBIA ON ITS WEBSITE AT WWW.HEALTHINSURANCEINFO.NET/

(Continued from page 81)

continuation coverage, and a specific policy offered through Blue Cross and Blue Shield of Florida.

- If you are a retiree aged 55-65 and receiving pension benefits from Pension Benefit Guarantee Corporation (PBGC), then you may also be eligible for the HCTC.

What are the limits on my protections?

As important as they are, the federal and state health insurance reforms are limited. Therefore, you also should understand how the laws do not protect you.

- If you change jobs, you usually cannot take your old health benefits with you. Except when you exercise your federal COBRA or state continuation rights, you are not entitled to take your actual group health coverage with you when you leave a job. Your new health plan may not cover all of the benefits or the same doctors that your old plan did.
- If you change jobs, your new employer may not offer you health benefits. Employers are required only to make sure that any health benefits they do offer do not discriminate based on health status.
- If you get a new job with health benefits, your coverage may not start right away. Employers and health maintenance organizations (HMOs) can require waiting periods before your health benefits begin.
- If you have a break in coverage of 63 days or more, you may have to satisfy a new pre-existing condition exclusion period when you join a new plan.
- Even if your coverage is continuous, there may be a pre-existing condition exclusion period for some benefits if you join a group health plan that covers benefits your old plan did not. For example, say you move from a group plan that does

not cover prescription drugs to one that does. You may have to wait one year before your new health plan will pay for drugs prescribed to treat a pre-existing condition.

- If you work for certain non-federal public employers in Florida, not all of the group health plan protections may apply to you.
- If you are not HIPAA eligible, health insurers that sell individual health policies in Florida are free to turn you down because of your health status and other factors.
- Even if you are HIPAA eligible, you can be turned down for some individual health policies. The law permits insurers to limit your choices to two policies, which are supposed to be comparable to others they sell in the individual market in Florida. Except when you are HIPAA eligible, individual health policies can permanently exclude coverage for your pre-existing condition through a rider, which is an amendment to your insurance contract.
- The law does not limit what you can be charged for individual health policies except when you are buying a conversion policy. You can be charged substantially higher premiums because of your health status, age, gender, and other characteristics.
- If you are a small employer buying a group health plan, you can be charged more, within limits, due to the health status of those in your group. In addition, you can be charged higher premiums, within limits, because of the age, gender, family size, tobacco use of those in your group, and where your business is located.

Georgetown University
Health Policy Institute
www.healthinsuranceinfo.net/fl01.html



CHILD VEHICLE SAFETY

ALL CHILDREN 5 YEARS OLD OR YOUNGER MUST USE A RESTRAINT DEVICE WHEN RIDING IN A MOTOR VEHICLE.

The number one killer of young children in the United States is traffic crashes in which children were not restrained at all. Over 90 percent of the deaths and 80 percent of the injuries in car crashes could be prevented by using crash-tested child restraints.

Children should be secure in the rear seat. Never secure a child in the front passenger side, especially if your vehicle has an air bag.

The law requires every driver to properly secure children five years of age or younger in child restraint devices riding in a passenger car, van, or pick-up truck, regardless of whether the vehicle is registered in this state. Infant carriers or children's car seats must be

used for children three years old and younger. For children aged 4 through 5 years, a separate carrier, an integrated child seat or a seat belt may be used. All infant carriers and car seats must be crash-tested and approved by the U.S. Government.

Children being carried or riding bicycles should wear properly fitted bicycle helmets.

What is the Best Child Seat?

- The one that fits your child.
- The one that fits your vehicle.
- The one that you will use correctly every time.

For more information on the best child seat, please visit: <http://www.fhp.state.fl.us/html/CPS> and obtain information on occupant Protection and Child Passenger Safety News.

Consumer Issues and Insurance



INFANT CARRIERS OR CHILDREN'S CAR SEATS MUST BE USED FOR CHILDREN THREE YEARS OLD AND YOUNGER.

Mary Brogan Breast and Cervical Cancer Program

The Mary Brogan Breast and Cervical Cancer Program provides full healthcare benefits through Medicaid to qualified women who are screened through the Florida Breast and Cervical Cancer Early Detection Program and diagnosed with breast or cervical cancer.

In order to be eligible for screening through the Florida Breast and Cervical Cancer Early Detection Program, you must be 50 to 64 years of age, do not have insurance that covers the service, have not been screened in the past year, and have an income at or below 200% of the federal poverty level. For a family of three, this is an annual income of no more than \$31,340.

For more information regarding please call the Florida Department of Health (Family Healthline) at 1-800-451-2229 or visit www.doh.state.fl.us/Family/bcc/.





**Consumer Issues
and Insurance**

Sources

Information from this section provided by:

The Florida Bar

Consumer Pamphlets

Call A Law Scripts

General Information on Consumer Protection in Florida

Automobile Insurance

651 E. Jefferson Street

Tallahassee, FL 32399-2300

850/561-5600

Fax 850/561-5826

<http://www.flabar.org>

Florida Department of Financial Services

Consumer Pamphlet

Florida Department of Financial Services ·

200 East Gaines Street

Tallahassee, Florida 32399

<http://www.fldfs.com/Consumers/>

Florida Department of Legal Affairs

Office of the Attorney General

The Capitol, PL-01

Tallahassee, FL 32399-1050

Consumer Protection information

Lemon Law

<http://myfloridalegal.com/consumer>

Florida Department of Health

4052 Bald Cypress Way

Tallahassee, FL

850-245-4147

<http://www.doh.state.fl.us/>

Health Policy Institute

Georgetown University

A Consumer Guide for Getting and Keeping Health Insurance in Florida

2233 Wisconsin Avenue, NW

Suite 525

Washington DC 20007

(202) 687-0880

(202) 687-3110 (fax)

<http://www.healthinsuranceinfo.net/fl00.html>



Important Legal Documents

By: *The Florida Bar, Florida Department of Legal Affairs*

WILLS

A will is a legal document in which you list persons and organizations to whom you wish to give your money, possessions and property when you die.

You, the maker of the will, must be at least eighteen years old and of sound mind at the time you sign your will. Your will must be in writing and then signed by you in the presence of two witnesses. To be effective when you die, your will must be presented to the probate court in the county where you legally reside.

In addition to declaring who will receive your money, property, and possessions, your will can specify whom you want to take care of any minor children if both you and your spouse die. In Florida, children are minors until age 18. By law, a guardian must be chosen for all minor children who have lost both parents. By naming a guardian in your will, you can avoid an additional guardianship proceeding.

Your will may also create a trust whereby your estate or a part of it will be kept intact and the income and income producing assets can be used to provide for your spouse or children over a certain period of time.

Children born or adopted after a will is made, or a child without adequate means of support may still have certain rights in the estate under particular circumstances.

Regardless of what your will says and provided there is no prenuptial or postnuptial agreement, a spouse has certain rights in your estate. For example, marriage does not

cancel a will in Florida. A person who becomes your spouse after the making of a will may receive the same portion of your estate that he or she would have received had you died without a will. This portion is normally at least 30% of the probate estate and a life estate of the homestead property.

In your will, you may name the person you have selected to be responsible for seeing that the requests stated in your will are carried out. In Florida, this person is called your "personal representative." Personal Representative means the same as executor. The Personal Representative may be anyone over 18 years of age, who is competent and resides in Florida. If the person named as Personal Representative resides outside Florida, the person must be a blood relative of yours or the spouse of your blood relative.

If you wish to make a new will or change your existing will, you must again do so in writing, signed by you in the presence of two witnesses. A will's terms cannot be changed by writing something in or crossing something out after the will is signed and witnessed. Writing on the will after its execution may invalidate part or all of it.

If you die without a will, your money, property and possessions will be distributed among your relatives according to a formula established by law. The court will appoint a personal representative, known or unknown to you, to manage your estate.





Important Legal Documents

TRUSTS

In simple terms, a trust is a relationship in which a person transfers something of value, called an "asset", to another person, called a "Trustee." The Trustee then manages and controls this asset for the benefit of a third person, called a "beneficiary." Individuals, banks, trust companies or corporations may all serve as trustees.

Why create a trust? Some people use trusts for personal reasons relating to their own particular family situation; others use trusts to reduce income, gift, or federal estate taxes. All trusts should be created with both considerations in mind.

Frequently, a trust is used to provide flexible control of assets for the benefit of minor children. In Florida, minor children cannot legally handle their own financial affairs before they reach the age of 18. Parents sometimes want their children to be even older before they are allowed full use of their gifts or inheritance. By establishing a Trust, parents can select a Trustee and specifically instruct the Trustee how to use the assets for the benefit of the children. They can also allow the Trustee much more flexibility in managing these assets than a legal Guardian would have. This kind of trust often comes into effect when both parents have died. It is usually set up to provide for the support, care, and education of the children until they have reached the age set by their parents.

You can also create a trust during your lifetime and act as Trustee yourself. If set up properly, this type of trust becomes a will substitute. Upon your death or disability, a successor Trustee would either continue managing the trust, or would simply distribute the trust assets according to your directions.

The benefit of this kind of Trust is that assets in trust are not considered part of the probate estate. The advantage of avoiding probate is that the trustee can act without court approval to use the assets for the beneficiary. Also, avoiding probate often reduces expenses.

Sometimes, trusts are created between a husband and wife in order to avoid having their assets subjected to federal estate taxes twice--once when one spouse dies and then again when the other spouse dies. If everything is properly arranged, the couple's assets can be given to their children when the last parent dies with less total federal estate tax having been paid.

Remember that creating a trust might have significant income, gift, or federal estate tax consequences that are too complicated to explain fully here. All trusts should be reviewed by an accountant or attorney for an opinion as to the tax consequences.

POWER OF ATTORNEY

A Power of Attorney is a legal document delegating authority from one person to another. In the document, the maker of the Power of Attorney grants the right to act on the maker's behalf. What authority is granted depends on the specific language of the Power of Attorney. A person giving a Power of Attorney may make it very broad or may limit it to certain specific acts.

What are some uses of a Power of Attorney?

A Power of Attorney may be used to give another the right to sell a car, home or other property. A Power of Attorney might be used to allow another to sign a contract, make health care decisions, handle financial

(Continued on page 87)



Important Legal Documents

(Continued from page 86)

transactions, or sign legal documents for the maker of the Power of Attorney. A Power of Attorney may give others the right to do almost any legal act that the maker of the Power of Attorney could do.

Where may a person obtain a Power of Attorney?

A power of attorney is an important and powerful legal document. It should be drawn by a lawyer to meet the person's specific circumstances. Pre-printed forms are often a disaster and may fail to provide the protection desired.

What is a "principal?"

The "principal" is the maker of the Power of Attorney - the person who is delegating authority to another.

What is an "attorney-in-fact?"

The "attorney-in-fact" is the recipient of the Power of Attorney - the party who is given the power to act on behalf of the principal. An "attorney-in-fact" is sometimes referred to as an "agent," but not all "agents" are "attorneys-in-fact." The term "attorney-in-fact" does not mean the person is a lawyer.

What is a "third party?"

A "third party" is a person or institution with whom the attorney-in-fact has dealings on behalf of the principal. Examples include a bank, a doctor, the buyer of property that the attorney-in-fact is selling for the principal, a broker, or anyone else with whom the attorney-in-fact must deal on behalf of the principal.

What is a "Limited Power of Attorney?"

A "Limited Power of Attorney" gives the

attorney-in-fact authority to conduct a specific act. For example, a person might use a Limited Power of Attorney to sell a home in another state by delegating authority to another person to handle the transaction locally through a "limited power of attorney." Such a Power could be "limited" to selling the home or to other specified acts.

What is a "General Power of Attorney?"

A "general" Power of Attorney typically gives the attorney-in-fact very broad powers to perform any legal act on behalf of the principal. Often a list of the types of activities the attorney-in-fact is authorized to perform is included in the document.

What is a "Durable Power of Attorney?"

Limited and general Powers of Attorney terminate if and when the principal becomes incapacitated. Because many people would like Powers of Attorney that may continue to be used upon their incapacity, Florida law provides for a (special) power known as a "Durable Power of Attorney." A Durable Power of Attorney remains effective even if a person becomes incapacitated; however, there are certain exceptions specified in Florida law when a Durable Power of Attorney may not be used for an incapacitated principal. A Durable Power of Attorney must contain special wording that provides the power survives the incapacity of the principal. Most Powers of Attorney granted today are durable.

Must a person be competent to sign a Power of Attorney?

Yes. The principal must understand what he or she is signing at the time the document is signed. The principal must understand the effect of a Power of Attorney, to whom he or she is giving the Power of Attorney, and what

(Continued on page 88)



(Continued from page 87)

property may be affected by the Power of Attorney.

Who may serve as an attorney-in-fact?

Any competent person 18 years of age or older may serve as an attorney-in-fact. Attorneys-in-fact should be chosen for reliability and trustworthiness. Certain financial institutions and not-for-profit corporations may also serve.

What activities are permitted by an attorney-in-fact?

An attorney-in-fact may perform only those acts specified in the Power of Attorney. If an attorney-in-fact is unsure whether he or she is authorized to do a particular act, the attorney-in-fact should consult the lawyer who prepared the document or other legal counsel.

May an attorney-in-fact sell the principal's home?

Yes. If the Power of Attorney authorizes the sale of the principal's homestead, the attorney-in-fact may sell it. If the principal is married, however, the attorney-in-fact must obtain the authorization of the spouse.

What may an attorney-in-fact not do on behalf of a principal?

There are a few actions that an attorney-in-fact is prohibited from doing even if the Power of Attorney states that the action is authorized. An attorney-in-fact, unless also a licensed member of The Florida Bar, may not practice law in Florida. An attorney-in-fact may not sign a document stating that the principal has knowledge of certain facts. An attorney-in-fact may not vote in a public election on behalf of the principal. An attorney-in-fact may not create or revoke a

Will or Codicil for the principal. If the principal was under contract to perform a personal service (i.e., to paint a portrait or provide care services), the attorney-in-fact is not authorized to do these things in the place of the principal. Likewise, if someone had appointed the principal to be Trustee of a Trust or if the Court appointed the principal to be a guardian or conservator, the attorney-in-fact may not take over these responsibilities based solely on the authority of a Power of Attorney.

What are the responsibilities of an attorney-in-fact?

While the Power of Attorney gives the attorney-in-fact authority to act on behalf of the principal, an attorney-in-fact is not obligated to serve. An attorney-in-fact may have a moral or other obligation to take on the responsibilities associated with the Power of Attorney, but the Power of Attorney does not create an obligation to assume the duties. However, once an attorney-in-fact takes on a responsibility, he or she has a duty to act prudently.

Is there a certain code of conduct for attorneys-in-fact?

Yes. Attorneys-in-fact must meet a certain standard of care when performing their duties. An attorney-in-fact is looked upon as a "fiduciary" under the law. A fiduciary relationship is one of trust. If the attorney-in-fact violates this trust, the law may punish the attorney-in-fact both civilly (by ordering the payment of restitution and punishment money) and criminally (probation or jail). The standard of care that applies to attorneys-in-fact is discussed under Financial Management and the Liability of an Attorney-in-fact.

(Continued on page 89)



(Continued from page 88)

When is a Durable Power of Attorney effective?

The Durable Power of Attorney is effective as soon as the principal signs it unless the document specifies that it is conditioned on the principal's lack of capacity to manage property in which case appropriate affidavits are required in accordance with Florida law.

Must the principal deliver the Power of Attorney to the attorney-in-fact right after signing or may the principal wait until such time as the services of the attorney-in-fact are needed?

No. The principal may hold the Power of Attorney document until such time as help is needed and then give it to the attorney-in-fact. Because third parties will not honor the attorney-in-fact's authority unless the attorney-in-fact provides the Power of Attorney document, the use of the Power of Attorney may effectively be delayed.

Often, the lawyer may fulfill this important role. For example, the principal may leave the Power of Attorney with the lawyer who prepared it, asking the lawyer to deliver it to the attorney-in-fact under certain specific conditions. Since the lawyer may not know if and when the principal is incapacitated, the principal should let the attorney-in-fact know that the lawyer has retained the signed document and will deliver it as directed.

How does the attorney-in-fact initiate decision-making authority under the Power of Attorney?

The attorney-in-fact should review the Power of Attorney document carefully to determine what authority the principal granted. After being certain that the Power of Attorney gives the attorney-in-fact the authority to act,

the Power of Attorney (or a copy) should be taken to the third party (the bank or other institution, or person with whom you need to deal). Some third parties may ask the attorney-in-fact to sign a document stating that the attorney-in-fact is acting properly. (The attorney-in-fact may wish to consult with a lawyer prior to signing such a document.) The third party should accept the Power of Attorney and allow the attorney-in-fact to act for the principal. An attorney-in-fact should always make it clear that the attorney-in-fact is signing documents on behalf of the principal.

How should the attorney-in-fact sign when acting as an attorney-in-fact?

The attorney-in-fact will always want to add after his or her signature that the document is being signed "as attorney-in-fact for" the Principal. If the attorney-in-fact only signs his or her own name, he or she may be held personally accountable for whatever was signed. As long as the signature clearly conveys that the document is being signed in a representative capacity and not personally, the attorney-in-fact is protected.

What if the third party will not accept the Power of Attorney?

If the Power of Attorney was lawfully executed and it has not been revoked, suspended or terminated, third parties may be forced to honor the document. Due to changes in the law, Durable Powers of Attorney executed on or after October 1, 1995, have more clout. An older document may be enforced as well. Under some circumstances, if the third party's refusal to honor the Durable Power of Attorney causes damage, the third party may be liable for those damages and even attorney's fees and

(Continued on page 90)



Important Legal Documents

(Continued from page 89)

court costs. Even mere delay may cause damage and this too may be actionable. It is reasonable, however, for the third party to have the time to consult with a lawyer about the Power of Attorney. Banks will often send the Power of Attorney to their legal department for approval. Delay for more than a short period may be unreasonable. Upon refusal or unreasonable delay, consult an attorney.

Why do third parties sometimes refuse Powers of Attorney?

Third parties are often concerned whether the document is valid. They do not know if it was executed properly or forged. They do not know if it has been revoked. They do not know if the principal was competent at the time the Power of Attorney was signed. They do not know whether the principal has died. Third parties do not want liability for the improper use of the document. Some third parties refuse to honor Powers of Attorney because they believe they are protecting the principal from possible unscrupulous conduct. Refusal is more common with older Powers of Attorney. If your Power of Attorney is refused, talk to your attorney.

What if a third party requires the attorney-in-fact to sign an affidavit prior to honoring the Power of Attorney?

A third party is authorized by Florida law to require the attorney-in-fact to sign an affidavit (a sworn or an affirmed written statement), stating that he or she is validly exercising the authority under the Power of Attorney. If the attorney-in-fact wants to use the Durable Power of Attorney, the attorney-in-fact may need to sign the affidavit if so requested by the third party. The purpose of

the affidavit is to relieve the third party of liability for accepting an invalid Durable Power of Attorney. As long as the statements in the affidavit are true at that time, the attorney-in-fact may sign it. The attorney-in-fact may wish to consult with a lawyer prior to signing it.

May the attorney-in-fact employ others to assist him or her?

Yes. The attorney-in-fact may hire accountants, lawyers, brokers or other professionals to help with the attorney-in-fact's duties, but may never delegate his or her responsibility as attorney-in-fact. The Power of Attorney was given by the principal and the attorney-in-fact does not have the right to transfer that power to anyone else.

LIVING WILL

The Florida Legislature has recognized that every competent adult has the fundamental right of self-determination regarding decisions pertaining to his or her own health, including the right to choose or refuse medical treatment or procedures which would only prolong life when a terminal condition exists. This right however is subject to certain interests of society, such as the protection of human life and the preservation of ethical standards in the medical profession. To insure that this right is not lost or diminished by virtue of later physical or mental incapacity, the legislature has established a procedure within Florida Statutes Chapter 765 allowing a person to plan for incapacity, and if desired, to designate another person to act on their behalf and make necessary medical decisions upon such incapacity.

Every competent adult may make a written

(Continued on page 91)



Important Legal Documents

(Continued from page 90)

declaration commonly known as a "Living Will" directing the providing, the withholding or withdrawal of life prolonging procedures in the event one should have a terminal condition. The suggested form of this instrument has been provided by the legislature within Florida Statutes Section 765.303. In Florida, the definition of "life prolonging procedures" has been expanded by the legislature to include the provision of food and water to terminally ill patients.

Under Florida law, a Living Will must be signed by its maker in the presence of two witnesses, at least one of whom is neither the spouse nor a blood relative of the maker. If the maker is physically unable to sign the Living Will, one of the witnesses can sign in the presence and at the direction of the maker. Florida will recognize a Living Will which you have signed in another state if that Living Will was signed in compliance with the laws of that state or was signed in compliance with the laws of Florida.

Once a Living Will has been signed, it is the maker's responsibility to provide notification to the physician of its existence. It is a good idea to provide the maker's physician and hospital with a copy of the Living Will to be placed within the medical records.

HEALTH CARE POWER OF ATTORNEY

What is the relationship between a Declaration of Living Will and Power of Attorney?

A declaration of living will specifies a person's wishes as to the provision or termination of medical procedures when the person is diagnosed with a terminal condition, has an end-stage condition, or is in a persistent vegetative state. A living will and a

health care surrogate designation are termed "health care advance directives" because they are made in advance of incapacity and need. If a person is unable to understand or unable to communicate with a doctor, a living will is a legally enforceable method of making sure the person's wishes are honored. Whether or not a person has a living will, a person's attorney-in-fact may make health care decisions if the Durable Power of Attorney specifically gives this right.

What is a Health Care Surrogate Designation and how does it differ from a Power of Attorney?

A Health Care Surrogate Designation is a document in which the principal designates someone else to make health care decisions if the principal is unable to make those decisions. Unlike a Power of Attorney, a health care surrogate decision-maker has no authority to act until such time as the attending physician has determined the principal lacks the capacity to make informed health care decisions. (In instances where the attending physician has a question as to whether the principal lacks capacity, a second physician must agree with the attending physician's conclusion that the principal lacks the capacity to make medical decisions before a surrogate decision-maker's authority is commenced.) Many medical providers prefer a Health Care Surrogate Designation.

PROBATE

Probate is a court-supervised process for identifying and gathering the decedent's assets, paying taxes, claims and expenses and distributing assets to beneficiaries. The Florida Probate Code is found in Chapters 731 through 735 of the Florida Statutes.

(Continued on page 92)



Important Legal Documents

(Continued from page 91)

Florida law establishes two types of probate administration: Formal Administration and summary Administration. Florida law also establishes a non administration proceeding called "Disposition of Personal Property Without Administration."

What are probate assets?

Generally, probate assets are those assets in the decedent's sole name at death or otherwise owned solely by the decedent and which contain no provision for automatic succession of ownership at death. For example:

- a bank account in the sole name of a decedent is a probate asset, but a bank account held in-trust-for (ITF) another, or held jointly with rights of survivorship (JTWROS) with another, is not a probate asset;
- a life insurance policy, annuity or individual retirement account that is payable to a specific beneficiary is not a probate asset, but a policy payable to the decedent's estate is a probate asset;
- property owned by husband and wife as tenants by the entirety is not a probate asset on the death of the first spouse to die, but goes automatically to the surviving spouse.

How can I avoid probate?

You can also create a trust during your lifetime and act as Trustee yourself. If set up properly, this type of trust becomes a will substitute. Upon your death or disability, a successor Trustee would either continue managing the trust, or would simply distribute the trust assets according to your directions. The benefit of this kind of Trust is that assets in trust are not considered part of the probate estate. The advantage of avoiding probate is that the trustee can act without court approval to use the assets for the beneficiary. Also, avoiding probate often reduces expenses.

Are all assets subject to probate?

No, only assets owned by a decedent in his or her individual name require probate. Assets owned jointly as "tenants by the entirety" with a spouse, or "with rights of survivorship" with a spouse or any other person will pass to the surviving owner without probate. This is also true for assets with designated beneficiaries, such as life insurance, retirement accounts, annuities, and bank accounts and investments designated as "pay on death" or "in trust for" a named beneficiary. Assets held in trust will also avoid probate.

Sources

Information from this section provided by:

The Florida Bar
Consumer Pamphlets
Florida Powers of Attorney
Probate in Florida
Call A Law Scripts
Why Should I Have A Will?
What Is A Trust?

Living Wills
651 E. Jefferson Street
Tallahassee, FL 32399-2300
850/561-5600
Fax 850/561-5826
<http://www.flabar.org>



Florida Bar Consumer Pamphlets

A Consumer Guide To Clients' Rights
A Consumer Guide To Clients' Rights (Spanish)
Adoption In Florida
Applying For Credit
Attorney Consumer Assistance Program
Attorney Consumer Assistance Program (Spanish)
Attorney's Fees
Attorney's Fees (Spanish - out of stock)
Bankruptcy
Buying a Business Opportunity
Buying A Condominium
Buying A Franchise
Buying A Home
Clients' Security Fund
Complaint Against A Florida Lawyer
Complaint Against A Florida Lawyer (Spanish)
Consumer Guide To The Legal Fee Arbitration Program
Debtor's Rights In Florida
Divorce In Florida
Divorce In Florida (Spanish)
Do You Have A Will?
Do You Have A Will? (Spanish)
Family Mediation
Family Mediation (Spanish)
Filing An Unlicensed Practice Of Law Complaint
Filing An Unlicensed Practice Of Law Complaint (Spanish)
Florida Call-A-Law
Florida Powers of Attorney
Guide To Florida's Court System
Handbook For Jurors
How To Find A Lawyer In Florida
How To Find A Lawyer In Florida (Spanish - out of stock)
How To Resolve A Grievance With An HMO
If You Are Arrested In Florida
Juvenile Arrest
Lawyer Referral Service
Lawyer Referral Service (Spanish)
Legal Aid In Florida
Legal Guide For New Adults
Legal Guide for New Citizens
Legal Rights Of Senior Citizens
Legal Services Plans/Legal Expense Insurance
Limited Representation - A Guide for the Attorney
Limited Representation - A Guide for the Client
Marriage
Mass Disaster (English/Creole - out of stock)
Notaries, Immigration And The Law (English/Creole)
Notaries, Immigration And The Law (English/Spanish)
Probate In Florida
Probate In Florida (Spanish)
Protecting Yourself Against The Unlicensed Practice Of Law
Protecting Yourself Against The Unlicensed Practice Of Law (Spanish)
Protecting Yourself Against The Unlicensed Practice Of Law (Creole)
Sections Of The Florida Bar
Sexual Harassment In The Workplace
Shared Parenting After Divorce
So You're Going To Be A Witness
So You Want To Be A Lawyer
The Florida Bar
The Revocable Trust In Florida
U.S. Lawful Permanent Residents
What Is Guardianship?
What To Do In Case Of An Automobile Accident?
What To Do In Case Of An Automobile Accident? (Spanish)

The Florida Bar provides numerous consumer information resources on their website, www.flabar.org.

Numerous informational pamphlets, like those listed here are available free for download. Much or the information in this handbook was reprinted from these pamphlets.



Common Legal Definitions

Provided by WomensLaw.org, a nationwide online resource for women and girls living with or escaping domestic violence. To visit the website, go to www.womenslaw.org.

abuse (domestic abuse, domestic violence, family abuse, family violence) – Florida Statute 741.28 defines domestic violence. Under that law, domestic violence means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. This means that if you are being physically or sexually abused, threatened, or stalked by a family or household member, you may file for an Injunction for Protection against Domestic Violence.



acquit -- To find not guilty.

adjudication -- The entry of a decree or an order by a court. The legal process of resolving a dispute.

alimony -- Money or other financial support awarded to a spouse in a divorce action for his or her separate support. It is usually awarded only where one spouse has been dependent on the other or has less earning power than the other and for a temporary period of time. Also called spousal support.

annulment -- A court declaration that a marriage is invalid or nonexistent. Courts annul marriages where fraud, bigamy, impotence, or other serious problem has occurred. It means that the marriage never occurred legally. Church annulments are not the same as legal annulments.

appeal -- Process of going to a higher court to review the decision of a lower court.

arraignment -- The initial court proceeding, in which the state formally charges the defendant with a crime, and in which the defendant usually pleads guilty or not guilty.

arrest -- The initial step in the criminal justice process, in which the state deprives a suspect of her freedom due to alleged violations of criminal law.

assess -- To figure out a sum of money and charge it to another.

assignment -- To award a debt or benefits to another person. For example, a husband who does not pay child support can be forced to assign his wages to the court for his children.

asylum -- The granting of protection against return to a refugee; can lead to lawful permanent resident status and eventually to citizenship.

attorney -- Legal advocate who is licensed to practice law in the state you are going to court in. Attorneys and lawyers are the same; these terms are used interchangeably.

attorney general -- (AG) Head of the state agency responsible for prosecuting violations of state laws. The AG's office is the State's law firm for civil matters. The AG's represent the State, either defending the State, or bringing lawsuits on behalf of the State.

bail -- Money or other security provided by the defendant, or by others on her behalf, to assure that she will appear at the required stages of the trial process.

book -- To enter into police records a suspect's name and the crime for which he was arrested.

(Continued on page 95)



(Continued from page 94)

brief -- A written summary of a client's case, usually summarizing relevant laws and facts.

clerk -- The court official who keeps court records and files.

compensate -- To give one party money or other benefits to make up for a loss or problem.

competent -- Able to make decisions. The court may decide if a person is competent or incompetent. If someone is incompetent, the court may appoint a legal guardian.

consent -- Free and willing agreement. (e.g., A "consent order" is made when both parties agree to the terms of the order and then the judge signs off on it.)

consortium -- The services of a spouse. Services include household tasks one spouse performs for another and/or in addition to sexual services. (Term is used in law suits for "loss of consortium" where one spouse loses the services of the other and can sue for damages. Available only in some states.)

convey -- To give, sell, or transfer to another person.

court -- Place where civil and criminal trials are held.

court officer -- An officer of the court who protects the judge; is in charge of the accused person while he is in the courtroom; and looks after the jurors.

court reporter -- A legal stenographer who records what happens during official court proceedings.

criminal case -- A legal proceeding brought by the state, county, or city against someone, charging the person with a crime.

damages -- An award of money to the winning party in a lawsuit. *Actual damages* are out-of-pocket expenses such as lost wages or hospital bills. Actual damages in some cases may include an award for psychological harm. *Punitive damages* are an award to punish the wrongful party for willful improper action.

defraud -- To cheat or steal by false representation.

defendant -- person with charges or a lawsuit against him or her. This term is used in both criminal and civil cases. (The defendant is also sometimes called the "respondent.")

defense attorney -- The lawyer who represents the defendant.

delinquent -- person under 16 years old who commits a crime.

district attorney -- The attorney(s) employed by the state to prosecute people for state criminal offenses. Also known as prosecutors, they represent the state. A city government may also have attorneys assigned to prosecute city charges. These people function like district attorneys on a local level.

domestic violence -- In Florida, if you are being physically or sexually abused, threatened, or stalked by a family or household member, you may file for an Injunction for Protection against Domestic Violence.

domicile -- The place where you live.

emancipation -- The process by which a minor child is declared to be an "adult" by a court of law. The child must petition the court for this right. The age at which you can file for emancipation is set by law in each state.



Florida Domestic Violence Hotline:
1-800-500-1119

Florida DV Hotline TTY
1-800-621-4202

(Continued on page 96)



(Continued from page 95)

evidence -- proof; witnesses' testimony; written statements or physical objects that someone presents at trial to make his or her case.

testimonial evidence -- Statements that witnesses make under oath at a trial.

demonstrative evidence -- Physical items that the parties introduce at trial, such as records, documents, exhibits, and objects such as guns or other weapons.

ex parte -- On one side only. (EX: A judicial proceeding or order is said to be "ex parte" when it is taken or granted for the benefit of one party only, and without notice to any other person adversely affected. For example, you might have an "ex parte" hearing on your request for a restraining order during which a judge listens ONLY to your side and then can grant you the order without the defendant (your abuser) present. The order will be temporary until the judge can hold a full court hearing with the defendant present to tell his side of the story.)

examination -- The questioning of a witness by a lawyer at a trial or deposition. When the lawyer calls a witness for their case and questions the witness, the questioning is called direct examination. When the opposing lawyer questions the same witness, the questioning is called cross-examination.

felony -- A serious criminal offense such as murder, for which the sentence can include imprisonment for more than a year.

grand jury -- A group of 23 citizens who decide whether there is "reasonable cause" to believe the defendant has committed a crime and whether an indictment should be issued.

guardian ad litem -- The person assigned by

the court to represent the interests of a minor child or incompetent person in legal proceedings

Indian tribe -- The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community which administers justice or plans to administer justice under its inherent authority or the authority of the United States and which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

indictment -- A written accusation by a grand jury charging an individual with a crime, generally a felony.

injunction -- A court order prohibiting someone from doing some specified act or commanding someone to undo some wrong or injury.

liable -- Legally responsible.

judge -- The person who is appointed to decide cases and to make sure that legal procedures are followed in the courtroom.

jurisdiction -- Authority of a court to listen to and decide cases. Each court has the authority to hear certain cases. State and federal laws determine which subjects courts may decide and whether the court's decision will be binding on someone who lives in another state.

jury -- A group of people who determine the guilt or non-guilt of the defendant. The lawyers screen the jury to make sure the people on it are neutral (impartial).

malpractice -- Any professional misconduct or unreasonable lack of skill in a professional duty.

(Continued on page 97)



(Continued from page 96)

misdemeanor -- Less serious type of crime that can lead to imprisonment for up to one year.

negligence -- Carelessness or lack of care. A person is negligent if she or he fails to act reasonably or take reasonable precautions.

offender -- The alleged perpetrator or criminal.

paternity -- Fatherhood.

persecution -- (In asylum proceedings) The infliction of serious suffering or harm, caused by government action or inaction, upon people who differ in a way regarded as offensive (race, religion, nationality, membership in a particular social group, or political opinion) in a manner condemned by civilized governments.

petition -- A request to a court. (Also sometimes called and "application.")

plea -- The defendant's response to a criminal charge, generally guilty or not guilty.

plea-bargaining -- The process through which the prosecutor and the defense attorney try to reach an agreement where the defendant pleads guilty in exchange for a lesser sentence.

prosecute -- To try to get a court to declare someone guilty of a crime. A district attorney prosecutes cases against persons thought to have committed violations of state criminal law.

prosecutor -- The attorney who represents the state and the victim. He or she tries to present evidence to prove beyond a reasonable doubt that the defendant committed the crime as charged. A prosecutor will be assigned for

criminal cases but not civil ones.

protection order, order of protection -- A court demand for someone to behave in a certain way and to stop violations of laws or court orders. A court can issue a protection order preventing someone from visiting someone else. Also called restraining order.

public defender -- An attorney or staff of attorneys having responsibility for the legal defense of those charged with a criminal offense who are unable to afford or obtain legal assistance.

punitive damages -- See "damages."

refugee -- A person outside his or her own country who is unable or unwilling to avail himself or herself of the protection of that country because of persecution, or a well founded fear of persecution, on account of race, religion, nationality, membership in a particular social group, or political opinion.

restraining order -- A court demand for someone to behave in a certain way and to stop violations of laws or court orders. A court can issue a restraining order preventing someone from visiting someone else. Also called protection order, order of protection, etc.

sentence -- The punishment or penalty that the judge gives to a person who has plead guilty or whom a jury has found guilty.

settlement -- A written compromise reached in a civil case and approved by a judge.

stalking -- A course of conduct directed at a specific person that places a reasonable person in fear for her safety. The Stalking Resource Center of the National Center for Victims of Crime provides stalking-related state and federal statutes and other stalking-related info at www.ncvc.org/src.

If you or someone you know is being stalked, call the National Center for Victims of Crime at 1-800-FYI-CALL for assistance.

(Continued on page 98)



(Continued from page 97)

state -- Government; society; a group of people living under a single government; the United States or one of the 50 states.

statutes -- Laws passed by state or federal legislators. You can research them in law libraries or on the internet. The constitution is supreme over all statutes, and statutes have more authority than regulations.

suspend -- To stop temporarily or to postpone on certain conditions.

testify -- To give evidence under oath in a legal proceeding.

trial -- The process through which a prosecuting attorney and a defense attorney both have the opportunity to prove their sides of the case.

Tribal justice system -- The term "tribal court", "tribal court system", or "tribal justice system" means the entire judicial branch, and employees thereof, of an Indian tribe, including, but not limited to, traditional methods and for a for dispute resolution, trial courts, appellate courts, including inter-tribal appellate courts, alternative dispute resolution systems, and circuit rider systems, established by inherent tribunal authority whether or not they constitute a court of record.

verdict -- The decision made by the jury in a trial as to the guilt or non-guilt of the defendant.

violation -- An act that is against the law for which the state can imprison an individual for up to 15 days, but not more.

voir dire -- The process through which the prosecution and defense attorneys question and select jurors for a trial.

witness -- A person who testifies as to his or her knowledge of the facts related to a particular case.

waive -- To give up certain rights or responsibilities. (Examples: To "waive" your right to an attorney means you are giving up that right. You can also ask the court to "waive" any fees if you can't pay them. The court then gives up its right to collect fees from you.)

**A SPECIAL THANKS TO:
WOMENSLAW.ORG
150 COURT ST., 2ND FLOOR
BROOKLYN, NY 11201**



WomensLaw.org was founded in February 2000 by a group of lawyers, teachers, activists, and web designers interested in seeing the power of the Internet work for more disadvantaged people and specifically for survivors of domestic violence. The Mission of WomensLaw.org is to provide easy-to-understand legal information and resources to women living with or escaping domestic violence. By reaching out through the Internet, they empower women and girls to lead independent and productive lives, free from abuse.



Florida Domestic Violence Resources

Florida Coalition Against Domestic Violence

425 Office Plaza Dr.
Tallahassee, FL 32301
Office: (850) 425-2749
Hotline: (800) 500-1119
www.fcadv.org

Florida Statewide 24-Hour Domestic Violence Hotline

1-800-500-1119
1-800-621-4202 (TTY)

Florida Abuse Hotline

1-800-962-2873

FloridaLawHelp.org

FloridaLawHelp.org is a guide to free legal information and legal services in Florida.
www.floridalawhelp.org

State Attorney Office Domestic Violence

(863) 534-4989

Local Domestic Violence Resources

(by city or town)

BOCA RATON

Aid to Victims of Domestic Abuse

PO Box 667
Delray Beach, FL 33447
Office: (561) 265-3797
Hotline: (561) 265-2900 or (800) 355-8547

BRADENTON

Hope Family Services, Inc.

PO Box 1624
Bradenton, FL 34206
Office: (941) 747-8499
Hotline: (941) 755-6805
hopefamilyservic@aol.com
www.hopefamilyservice.org

BROOKSVILLE

Dawn Center of Hernando County

PO Box 6179
Springhill, FL 34611
Office: (352) 592-1787
Hotline: (352) 799-0657
dawncenter@yahoo.com
www.dawncenter.com

BUNNELL

Family Life Center

PO Box 2058
Bunnell, FL 32110
Office: (386) 437-7610
Hotline: (386) 437-3505
familylifedvctr@aol.com
www.flc-safehouse.org

CHEIFLAND

Another Way, Inc.

PO Box 2240
Chiefland, FL 32644
Office: (352) 493-6781
Hotline: (352) 493-6743
anotherwayinc@msn.com
Serving Columbia, Dixie, Gilchrist, Hamilton,
Lafayette, Levy
and Suwannee Counties

CLEARWATER

The Haven of RCS

PO Box 10594
Clearwater, FL 33757
Office: (727) 442-4128
Hotline: (727) 442-4128

COCOA

The Salvation Army Brevard County Domestic Violence Program

PO Box 1540
Cocoa, FL 32923-1540
Office: (321) 631-2766
Hotline: (321) 631-2764

DADE CITY

Sunrise of Pasco County, Inc.

PO Box 928
Dade City, FL 33526
Office: (352) 521-3358
Hotline: (352) 521-3120
www.sunrisepasco.org

(Continued on page 100)



(Continued from page 99)

DAYTONA BEACH

Domestic Abuse Council, Inc.
PO Box 142
Daytona Beach, FL 32115
Office: (386) 257-2297
Hotline: (386) 255-2102
dacvinc@bellsouth.net

DELAND

Domestic Abuse Council, Inc.
PO Box 142
Daytona Beach, FL 32115
Office: (386) 257-2297
Hotline: (386) 738-4080
dacvinc@bellsouth.net

DELRAY BEACH

Aid to Victims of Domestic Abuse
PO Box 667
Delray Beach, FL 33447
Office: (561) 265-3797
Hotline: (561) 265-2900 or (800) 355-8547

ESPANOLA

Family Life Center
PO Box 2058
Bunnell, FL 32110
Office: (386) 437-7610
Hotline: (386) 437-3505
familylifedvctr@aol.com
www.flc-safehouse.org

FLAGLER BEACH

Family Life Center
PO Box 2058
Bunnell, FL 32110
Office: (386) 437-7610
Hotline: (386) 437-3505
familylifedvctr@aol.com
www.flc-safehouse.org

FORT LAUDERDALE

Women in Distress of Broward County
PO Box 676
Ft. Lauderdale, FL 33302
Office: (954) 760-9800
Hotline: (954) 761-1133
www.womenindistress.org

FORT MYERS

Abuse Counseling & Treatment, Inc.
PO Box 60401
Ft. Myers, FL 33906
Office: (239) 939-2553
Hotline: (239) 939-3112
ACT@actabuse.com
www.actabuse.com
Serving Lee, Hendry and Glades Counties

FORT PIERCE

SafeSpace Domestic Violence Services
PO Box 4075
Fort Pierce, FL 34948
Office: (561) 288-7023
Hotline: (561) 464-4555

FORT WALTON BEACH

Shelter House, Inc.
PO Box 220
Ft. Walton Beach, FL 32549-0220
Office: (850) 243-1201
Hotline: (850) 863-4777 or (800) 442-2873
www.shelterhousenwfl.org
Serving Okaloosa and Walton Counties

GAINESVILLE

Peaceful Paths
PO Box 5099
Gainesville, FL 32627-5099
Office: (352) 377-5690
Hotline: (352) 377-8255 or (800) 393-7233
outreach@peacefulpaths.org
www.peacefulpaths.org
Serving Alachua, Bradford, Putnam and Union Counties

HOMESTEAD

Metro-Dade Advocates for Victims
SafeSpace (North)
7831 NE Miami Court
Miami, FL 33138
Office: (305) 758-2804
Hotline: (305) 758-2546 or (305) 247-4249

HUDSON

The Salvation Army Domestic Violence Program of West Pasco
PO Box 5517
Hudson, FL 34674-5517
Office: (727) 856-6498
Hotline: (727) 856-5797

(Continued on page 101)



(Continued from page 100)

INVERNESS

CASA/Citrus Abuse Shelter Association, Inc.

PO Box 205
Inverness, FL 34451
Office: (352) 344-8111
Hotline: (352) 344-8111
Spanish, ASL
casa2@mindspring.com

JACKSONVILLE

Hubbard House

PO Box 4909
Jacksonville, FL 32201
Office: (904) 354-0076
Hotline: (904) 354-3114
www.hubbardhouse.org
serving Baker, Duval and Nassau Counties

City of Jacksonville

Florida Victims Services Center

Office: (904) 630-6300
Hotline: (904) 355-RAPE or (800) 886-3015

KISSIMMEE

Help Now of Osceola, Inc. WIN (Women In Need)

PO Box 420370
Kissimmee, FL 34742
Office: (407) 847-3260
Hotline: (407) 847-8562
helpnowhsd@earthlink.net
serving Osceola, Orange, Polk and Seminole Counties

LAKELAND

Peace River Center-Domestic Violence Shelter

PO Box 1559
Bartow, FL 33831
Office: (863) 413-2708
Hotline: (863) 413-2700 or (863) 386-1167
Spanish
Serving Hardee, Highlands and Polk Counties

LEESBURG

Haven of Lake & Sumter Counties

PO Box 492335
Leesburg, FL 34749
Office: (352) 787-5889
Hotline: (352) 753-5800
havenlscnty@aol.com
Spanish

MARATHON SHORES

Domestic Abuse Shelter, Inc.

PO Box 2696
Marathon Shores, FL 33052
Office: (305) 743-5452
Hotline: (305) 743-4440 Mid Keys, (305) 294-0824 Low Keys, (305) 852-6222 Upper Keys
Spanish

MARINELAND

Family Life Center

PO Box 2058
Bunnell, FL 32110
Office: (386) 437-7610
Hotline: (386) 437-3505
familylifedvctr@aol.com
www.flc-safehouse.org

MIAMI

Metro-Dade Advocates for Victims

SafeSpace (North)
7831 NE Miami Court
Miami, FL 33138
Office: (305) 758-2804
Hotline: (305) 758-2546 or (305) 247-4249

NAPLES

Shelter for Abused Women

PO Box 10102
Naples, FL 34101
Office: (239) 775-3862
Hotline: (239) 775-1101
info@naplesshelter.org
www.naplesshelter.org
Spanish

OCALA

Ocala Rape Crisis/Domestic Violence Center

PO Box 2193
Ocala, FL 34478
Office: (352) 622-5919
Hotline: (352) 622-5919
ASL, Spanish, Polish
csi.inc@att.net

OKEECHOBEE

Martha's House

PO Box 727
Okeechobee, FL 34973
Office: (863) 763-2893
Hotline:(863) 763-0202
Spanish
mhouse@ictransnet.com

(Continued on page 102)



(Continued from page 101)

ONECO

Hope Family Services, Inc.

PO Box 1624
Bradenton, FL 34206
Office: (941) 747-8499
Hotline: (941) 755-6805
hopefamilyservic@aol.com
www.hopefamilyservice.org

ORANGE PARK

Quigley House, Inc.

PO Box 142
Orange Park, FL 32067-0142
Office: (904) 284-0340
Hotline: (904) 284-0061
TDD: (904) 284-0424
administration@quigleyhouse.org
www.quigleyhouse.org
Spanish, ASL

ORLANDO

Harbor House

PO Box 608748
Orlando, FL 32868-0748
Office: (407) 886-2244
Hotline: (407) 886-2856
www.harborhouseoccadv.com
English, Spanish, ASL

PANAMA CITY

Salvation Army Domestic Violence Program

651 W. 14th Street, Unit C
Panama City, FL 32401
Office: (850) 769-7989
Hotline: (850) 763-0706 or (800) 252-2597
baycosadvp@comcast.net

PALM BAY

Serene Harbor, Inc.

PO Box 10039
Palm Bay, FL 32910-0039
Office: (321) 726-8588
Hotline: (321) 726-8282

PALM COAST

Family Life Center

PO Box 2058
Bunnell, FL 32110
Office: (386) 437-7610
Hotline: (386) 437-3505
familylifedvctr@aol.com
www.flc-safehouse.org

PALMETTO

Hope Family Services, Inc.

PO Box 1624
Bradenton, FL 34206
Office: (941) 747-8499
Hotline: (941) 755-6805
hopefamilyservic@aol.com
www.hopefamilyservice.org

PENSACOLA

Favor House of Northwest Florida, Inc.

2001 W. Blount St.
Pensacola, FL 32501
Office: (850) 434-1177
Hotline: (850) 994-3560
favorhou@bellsouth.net
Serving Escambia and Santa Rosa Counties

PORT RICHEY

The Salvation Army Domestic Violence Program

of West Pasco
PO Box 5517
Hudson, FL 34674-5517
Office: (727) 856-6498
Hotline: (727) 856-5797

PUNTA GORDA

Center for Abuse and Rape Emergencies, Inc. (CARE)

PO Box 510234
Punta Gorda, FL 33951
Office: (941) 639-5499
Hotline: (941) 627-6000
ASL, Spanish, German

RIDGE MANOR

Dawn Center of Hernando County

PO Box 6179
Springhill, FL 34611
Office: (352) 592-1787
Hotline: (352) 799-0657
dawncenter@yahoo.com
www.dawncenter.com

RUBONIA

Hope Family Services, Inc.

PO Box 1624
Bradenton, FL 34206
Office: (941) 747-8499
Hotline: (941) 755-6805
hopefamilyservic@aol.com
www.hopefamilyservice.org



(Continued from page 102)

SANFORD

SafeHouse of Seminole

PO Box 2921
Sanford, FL 32772
Office: (407) 302-1700
Hotline: (407) 330-3933
safehouseofseminole@yahoo.com

SARASOTA

Safe Place and Rape Crisis Center (SPARCC)

2139 Main Street
Sarasota, FL 34234
Office: (941) 365-0208
Hotline: (941) 365-1976
sparcc@gte.net
Serving Sarasota and DeSoto Counties

SPRINGHILL

Dawn Center of Hernando County

PO Box 6179
Springhill, FL 34611
Office: (352) 592-1787
Hotline: (352) 799-0657
dawncenter@yahoo.com
www.dawncenter.com

ST. AUGUSTINE

Betty Griffin House

PO Box 3319
St. Augustine, FL 32085
Office: (904) 808-8544
Hotline: (904) 824-1555
www.bettygriffinhouse.org

ST. PETERSBURG

Center Against Spouse Abuse, Inc. (CASA)

PO Box 414
St. Petersburg, FL 33731
Office: (727) 895-4912
Hotline: (727) 895-4912
www.casa-stpete.org
Spanish, Thai, interpreters available

STUART

SafeSpace Domestic Violence Services

PO Box 4075
Fort Pierce, FL 34948
Office: (561) 288-7023
Hotline: (561) 288-7023

TALLAHASSEE

Refuge House

PO Box 20910
Tallahassee, FL 32316
Office: (850) 922-6062
Hotline: (850) 681-2111 or (850) 584-8808
Serving Franklin, Gadsden, Jefferson, Leon, Liberty,
Madison,
Taylor and Wakulla Counties
refuge.house@talstar.com

TALLAVAST

Hope Family Services, Inc.

PO Box 1624
Bradenton, FL 34206
Office: (941) 747-8499
Hotline: (941) 755-6805
hopefamilyservic@aol.com
www.hopefamilyservice.org

TAMPA

The Spring of Tampa Bay

PO Box 4772
Tampa, FL 33677
Office: (813) 247-5433
Hotline: (813) 247-7233
info@thespring.org
www.thespring.org
Spanish, ASL

VERO BEACH

SafeSpace Domestic Violence Services

PO Box 4075
Fort Pierce, FL 34948
Office: (561) 288-7023
Hotline: (561) 569-7233

WEST PALM BEACH

YWCA Harmony House

2200 N. Florida Mango Rd., Suite 102
West Palm Beach, FL 33409
Office: (561) 640-0050
Hotline: (561) 640-9844 or (800) 973-9844



Legal Aid

(for free or low cost legal services)

- **FloridaLawHelp.org**
FloridaLawHelp.org is a guide to free legal information and legal services in Florida.
www.floridalawhelp.org

Listings by County

- **Alachua**
Three Rivers Legal Services, Inc.
www.trls.org
Gainesville: 352/372-0519
Florida Institutional Legal Services, Inc.
Gainesville: 352/955-2260
- **Baker (see Duval County)**
- **Bay**
Legal Services of North Florida, Inc.
Panama City: 850/769-3581
- **Bradford (see Alachua County)**
- **Brevard**
Brevard County Legal Aid, Inc.
Rockledge: 407/631-2500
Central Florida Legal Services
Cocoa: 407/636-3515
- **Broward**
Legal Aid Service of Broward County, Inc.
Ft. Lauderdale: 954/765-8950
Pompano Beach: 954/970-0155
Florida Immigrant Advocacy Center, Inc.
Miami: 305/573-1106
- **Calhoun (see Gadsden County)**
- **Charlotte (see Lee County)**
- **Citrus**
Withlacoochee Area Legal Services, Inc.
Inverness: 352/726-8512
- **Clay**
Jacksonville Area Legal Aid, Inc.
Green Cove Springs: 904/284-8410

- **Collier**
Florida Rural Legal Services, Inc.
www.frls.org
Immokalee: 941/657-3681
Florida Immigrant Advocacy Center
Immokalee: 941/657-7442
Legal Aid Society of Collier County
Naples: 941/775-4555
- **Columbia**
Three Rivers Legal Services
http://www.trls.org
Lake City: 904/752-5960
- **Dade**
Cuban-American Bar Association
Miami: 305/573-1106
Florida Immigrant Advocacy Center
Miami: 305/573-1106
Put Something Back of the Dade County Bar Assoc.
Miami: 305/579-5733
Legal Aid Society of the Dade County Bar Assoc.
Miami: 305/579-5733
Legal Services of Greater Miami, Inc.
Hialeah: 305/884-1376
South Dade: 305/232-9680
Opa Locka: 305/620-6609
Overtown: 305/573-0354
Miami Beach: 305/672-2004
ACCION Outreach: 305/545-9747
Liberty City: 305/635-3130
Joseph Caleb Center: 305/635-3130
Legal Hotline for Older Floridians: 305/576-5997
- **DeSoto (see Lee County)**
- **Dixie (see Alachua County)**
- **Duval**
Jacksonville Area Legal Aid, Inc.
Jacksonville: 904/356-8371
- **Escambia**
Northwest Florida Legal Services, Inc.
Pensacola: 850/432-2336
- **Flagler (see Putnam County)**

(Continued on page 105)



(Continued from page 104)

➤ **Franklin (see Leon County)**

➤ **Gadsden**
Legal Services of North Florida, Inc.
 Quincy: 850/875-9881

➤ **Gilchrist (see Alachua County)**

➤ **Glades (see Collier County)**

➤ **Gulf (see Bay County)**

➤ **Hamilton (see Columbia County)**

➤ **Hardee (see Polk County)**

➤ **Hendry (see Lee County)**

➤ **Hernando**
Withlacoochee Area Legal Services, Inc.
 Brooksville: 352/796-7238
 Highlands (see Polk County)

➤ **Hillsborough**
Bay Area Legal Services, Inc.
 Tampa: 813/232-1343
 Plant City: 813/752-1335
 Wimauma: 813/634-6044

➤ **Holmes (see Okaloosa County)**

➤ **Indian River (see St. Lucie County)**

➤ **Jackson (see Gadsden County)**

➤ **Jefferson (see Leon County)**

➤ **Lafayette (see Columbia County)**

➤ **Lake**
Greater Orlando Area Legal Services, Inc.
 Tavares: 352/343-0815

➤ **Lee**
Lee County Legal Aid Society
 Ft. Myers: 941/334-6118
Florida Rural Legal Services, Inc.
 Ft. Myers: 941/334-4554
 www.frls.org

➤ **Leon**
Legal Aid Foundation, Inc.
 Tallahassee: 850/222-3004
Legal Services of North Florida, Inc.
 Tallahassee: 850/385-9007
Florida Legal Services, Inc.
 Tallahassee: 850/385-7900

➤ **Levy (see Alachua County)**

➤ **Liberty (see Gadsden County)**

➤ **Madison (see Columbia County)**

➤ **Manatee**
Gulfcoast Legal Services, Inc.
 Bradenton: 941/746-6151
Legal Aid of Manasota, Inc.
 Sarasota: 941/366-0038

➤ **Marion**
Withlacoochee Area Legal Services, Inc.
 Ocala: 352/629-0105

➤ **Martin (See St. Lucie County)**

➤ **Monroe**
Legal Services of the Florida Keys
 Key West: 305/292-3566

➤ **Nassau (see Duval County)**

➤ **Okaloosa**
Okaloosa County Legal Aid
 Shalimar: 850/651-7254
Legal Services of North Florida
 Ft. Walton Beach: 850/862-3279

➤ **Okeechobee (see St. Lucie County)**

➤ **Orange**
Legal Aid Society of OCBA
 Orlando: 407/841-8310
Greater Orlando Area Legal Services, Inc.
 Orlando: 407/841-7777

➤ **Osceola**
Greater Orlando Area Legal Services, Inc.
 Kissimmee: 407/847-0053

(Continued on page 106)



(Continued from page 105)

- **Palm Beach**
Legal Aid Society of Palm Beach County, Inc.
West Palm Beach: 561/655-8944
- **Florida Rural Legal Services, Inc.**
West Palm Beach: 561/820-8902
Belle Glade: 561/993-0003
- **Pasco**
Bay Area Legal Services
Dade City: 352/567-9044
New Port Richey: 727/847-5494
- **Pinellas**
Gulfcoast Legal Services, Inc.
Clearwater 727/443-0657
St. Petersburg 727/821-0726
www.gulfcoastlegal.org
Clearwater Bar Foundation
Clearwater: 727/461-5450
Community Law Program, Inc.
St. Petersburg: 727/323-7712
- **Polk**
Florida Rural Legal Services, Inc.
863-519-5663
Heart of Florida Legal Aid Society
Lakeland: 941/686-8215
- **Putnam**
Central Florida Legal Services, Inc.
Palatka: 904/328-8361
- **Santa Rosa (see Escambia County)**
- **Sarasota**
Gulfcoast Legal Services, Inc.
Sarasota: 941/366-1746
Legal Aid of Manasota, Inc.
Sarasota: 941/366-0038
St. Johns (see Putnam County)
- **St. Lucie**
Florida Rural Legal Services
Ft. Pierce: 561/466-4766
Fla. Immigrant Advocacy Center
Ft. Pierce: 561/489-4660
- **Seminole**
Seminole County Bar Association Legal Aid Society
Altamonte Springs: 407/834-1660
Central Florida Legal Services, Inc.
Sanford: 407/322-8983
- **Sumter**
Withlacoochee Area Legal Services, Inc.
(see also Citrus County)
352/726-8512
- **Suwannee (see Columbia County)**
- **Taylor (see Columbia County)**
- **Union (see Alachua County)**
- **Volusia**
Central Florida Legal Services, Inc.
Daytona Beach: 904/255-6573
- **Wakulla (see Leon County)**
- **Walton (see Okaloosa County)**
- **Washington (see Bay County)**



Florida Department of Financial Services Contacts

Consumer Services

200 East Gaines Street
Tallahassee, FL 32399-0322
(850) 413-3130
FAX (850) 488-2349

Insurance Consumer Advocate

200 East Gaines Street
Tallahassee, FL 32399-0308
(850) 413-3111

Communications & Public Affairs

200 East Gaines Street
Tallahassee, FL 32399-0302
(850) 413-2842
FAX (850) 413-4993

Cabinet Affairs

200 East Gaines Street
Tallahassee, FL 32399-0309
(850) 413-3106
FAX (850) 488-7265

Legislative Affairs

200 East Gaines Street
Tallahassee, FL 32399-0301
(850) 413-3107
FAX (850) 922-3035

Division of Agent & Agency Services

200 East Gaines Street
Tallahassee, FL 32399-0318
(850) 413-3135

Bureau of Agent Licensing

200 East Gaines Street
Tallahassee, FL 32399-0319
(850) 413-3137

Division of Insurance Fraud

200 East Gaines Street
Tallahassee, FL 32399-0324
(850) 413-3115

Office of Insurance Regulation

200 East Gaines Street
Tallahassee, FL 32399-0326
(850) 413-3140

Division of Legal Services

200 East Gaines Street
Tallahassee, FL 32399-0333
(850) 413-3110

Division of State Fire Marshal

200 East Gaines Street
Tallahassee, FL 32399-0340
(850) 413-3170

Division of Treasury

200 East Gaines Street
Tallahassee, FL 32399-0343
(850) 413-3165

Division of Banking

200 East Gaines Street
Tallahassee, FL 32399-0300
(850) 410-9111

Division of Finance

200 East Gaines Street
Tallahassee, FL 32399-0300
(850) 410-9805

Division of Securities

200 East Gaines Street
Tallahassee, FL 32399-0300
(850) 413-9805

Division of Workers' Compensation

200 East Gaines Street
Tallahassee, FL 32399-0300
(850) 413-1600 FAX (850) 488-2305

Division of Rehabilitation & Liquidation

2020 Capital Circle SE
Alexander Building, Suite 340
P.O. Box 110
Tallahassee, Florida 32302-0110
(850) 413-3179
(800) 882-3054
FAX (850) 922-9739

Division of Risk Management

200 East Gaines Street
Tallahassee, FL 32399-0336
(850) 413-3120



Florida Department of Financial Services Service Offices

Consumer assistance and answers to general insurance and financial questions are available through the DFS toll-free helpline, 1-800-342-2762, which is available 8 a.m. to 7 p.m.

Daytona Beach Service Office

955 Orange Avenue, Suite E.
Daytona Beach, FL 32114
(386) 323-0900
Counties in service area: Flagler, Marion,
Putnam, Volusia

Ft. Lauderdale Service Office

499 Northwest 70 Ave., Suite 301-B
Plantation, FL 32114-4674
(954) 321-2900
Counties in service area: Broward

Ft. Myers Service Office

2295 Victoria Ave., Suite 163
Ft Myers, FL 33901
(239) 461-4000
Counties in service area: Charlotte, Collier,
DeSoto, Glades, Hendry, Highlands, Lee

Jacksonville Service Office

9000 Regency Square Blvd., Suite 201
Jacksonville, FL 32211
(904) 798-5800
Counties in service area: Alachua, Baker,
Bradford, Clay, Columbia, Dixie, Duval,
Gilchrist, Hamilton, Lafayette, Levy, Nassau,
St. Johns, Suwannee, Union

Miami Service Office

401 Northwest 2nd Ave., Suite N-307
Miami, FL 33128
(305) 536-0300
Counties in service area: Dade, Monroe

Orlando Service Office

400 West Robinson St., Suite N-401
Orlando, FL 32801
(407) 935-4400
Counties in service area: Brevard, Citrus,
Lake, Orange, Osceola,
Seminole, Sumter

Pensacola Service Office

160 Governmental Center, Suite 502
Pensacola, FL 32502
(850) 595-8040
Counties in service area: Bay, Calhoun,
Escambia, Gulf, Holmes, Jackson, Okaloosa,
Santa Rosa, Walton, Washington

St. Petersburg-Largo Service Office

11351 Ulmerton Road, Suite 240
Largo, FL 33778
(727) 587-7260
Counties in service area: Manatee, West
Pasco, Pinellas, Sarasota

Tallahassee Service Office

200 East Gaines St., Suite 531
Tallahassee, FL 32399-0322
(850) 413-3132
1-800-342-2762 - Insurance Consumer
Helpline (Florida only)
Counties in service area: Leon, Wakulla,
Jefferson, Gadsden, Franklin, Liberty,
Madison, Taylor

Tampa Service Office

5309 E. Fowler Avenue
Tampa, FL 33617
(813) 899-6160
Counties in service area: Hardee, Hernando,
Hillsborough, East Pasco, Polk

West Palm Beach Service Office

400 North Congress Ave., Suite 210
West Palm Beach, FL 33401
(561) 640-6700
Counties in service area: Indian River, Martin,
Okeechobee, Palm Beach, St. Lucie



Florida Department of Financial Services Hotlines

Get Lean Hotline

1-800-GET LEAN (438-5326) answers calls from 8:30 a.m. to 4:30 p.m., about waste, fraud and abuse in state government, and accepts suggestions on how the state can save money. You can leave a message during non-working hours. Callers can remain anonymous. Names are kept confidential, when given. Banking: (850) 410-9111

Office of Financial Institutions and Regulation Consumer Hotline

1-800-848-3792 (Florida only) takes questions and complaints from 8:30 a.m. to 4:30 p.m., Monday thru Friday on businesses regulated by the Divisions of Banking, Finance, and Securities, and on matters of investigatory interest to the Office of Financial Investigations.

Funeral and Cemetery Hotline

1-800-323-2627 Takes questions and complaints about regulation of cemeteries in the State or "pre-need" requirements.

Unclaimed Property (The Great Florida Treasure Hunt)

1-888-258-2253 Call toll-free to see if the state is holding money in your name Out-of-State call (850) 410-9253 Note: Hearing impaired citizens can call the department's TDD line at (850) 410-9700.

Injured Worker Hotline

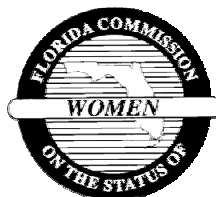
1-800-342-1741 If you have been injured on the job an Employee Assistance Specialist will assist you in obtaining the benefits to which you are entitled.

Worker's Compensation Coverage

1-800-742-2214 Takes questions about coverage requirements and fraud tips.



2004 Florida Commission on the Status of Women



Members of the Florida Commission on the Status of Women (June 2004.)

Nancy C Acevedo, Winter Springs

Claudia Kirk Barto, West Palm Beach

Blanca C. Bichara, Miami

Cathy M. Boyer, Orlando

Carolyn Cramer, Panama City

Anastasia Garcia, Coral Gables

Susanne Hebert, Clearwater

Allison Doliner Hockman, Coral Gables

Cheryl Holley, Tampa

Mohinder Jain, M.D., Ph.D., Bradenton

Marie Flore Lindor- Latortue, MHCA, Miami

Carrie Estevez Lee, Gainesville

Janet Mabry, Gulf Breeze

Laura McLeod, Tallahassee,

Anita Mitchell, West Palm Beach

J. Kayty Pappas, Gulf Breeze

Kathleen C. Passidomo, Naples

Debbie Sembler, St. Petersburg

Juanita M. Scott, Pensacola

Norma White, H.H.D., Jacksonville

Dee Williams, Sun City Center



Visit the Commission's website at www.fcsw.net.



**Any corrections or suggestions to the handbook
should be sent to:
The Florida Commission on the Status of Women
Office of the Attorney General
The Capitol, PL-01
Tallahassee, FL 32399-1050
Phone 850-414-3300
Fax: 850-921-4131
www.fcsww.net**

