

Legal protections for your family in the face of COVID-19



In light of COVID-19, LGBTQ families are understandably worried about protecting themselves and their loved ones. Hopefully, you are following the latest CDC guidelines to the best of your ability. Unfortunately, no matter how many precautions you take, the risks are real.

LGBTQ families can face unique obstacles in these scenarios. For example, you may not be permitted to make medical decisions for your partner without their signed authorization – which can be a problem if they're too ill to designate you as their health care surrogate when medical help arrives. If your partner or spouse dies, and you're co-parenting a child with them, you could risk losing custody of your child if you haven't secured legal parental rights.

Whether or not you are married, you should consider implementing the following, so you and your family can have greater peace of mind:

- A designation of health care surrogate grants your designate access and decision-making authority in the health care context.
- A will is essential - it clarifies how your property is to be distributed, and determines who cares for any children and who will administer your estate. Please also consider leaving a charitable legacy when making your estate planning decisions. Now more than ever, our non-profits need our support.
- In the case of gay couples who are parenting children created via assisted reproduction, it's strongly suggested not to rely solely on having both parents' names on the child's birth certificate. To button up the parental rights of both parties, we recommend a simple confirmatory adoption process through which you obtain a court order that is universally recognized.
- A durable power of attorney authorizes your designee to do just about everything on your behalf. Beware: it's powerful - and effective immediately.
- A living will is an advance directive which states that you would not want "heroic measures" to be used if you were in an end-stage condition.
- A declaration naming pre-need guardian designates a legal guardian who would supervise your care if a court determines you are legally incapacitated.
- Designating a guardian for your minor child names someone to care for the child at your death or if a court determines you are legally incapacitated.
- As ever, trans folks need to have identity documents in order, with accurate name and gender marker, for a number of reasons including not being mis-gendered at a time of hospitalization or death.
- Titling deeds and accounts jointly means those assets pass directly to your partner or other designated beneficiary on your death, avoiding the time and expense of probate.
- Your beneficiary designations usually control in the event of a conflict with your will. Make sure the names listed are your current intended recipients.

Although the State of Florida is currently under a stay-at-home order, it is still possible to put many of these protections in place from the comfort of your home. This even includes adoptions, because the Florida Supreme Court has permitted remote video or telephonic hearings statewide during the pandemic. This information is a general overview, and is not a substitute for personalized legal advice. It's important to have your legal affairs handled by an attorney with true LGBTQ competence. There are many throughout the State of Florida.



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While our physical office is currently closed, our team is set up to work remotely, and we can work with families anywhere within the State of Florida. If you let us know you came through EqualityFlorida, a portion of all proceeds earned from the services provided to you will be donated back to EqualityFlorida to help their critical work assisting LGBTQ Floridians during this challenging time.