

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2019-005 PA/PI-CIR

RE: GUARDIANSHIP

In order to adequately and effectively protect incapacitated persons placed in guardianships, and to assist the Court with timely review of guardianship accountings, plans, inventories, and background investigations of proposed and appointed guardians, and to clarify guardian education requirements; and

In accordance with Article V, Section 2, Florida Constitution, Rule of Judicial Administration 2.215, and § 43.26, Florida Statutes, it is hereby:

ORDERED:

A. BACKGROUND INVESTIGATIONS

1. Professional and nonprofessional guardians may be required to submit periodically to credit and criminal background checks. At any time, the Court may require a non-professional guardian to undergo additional credit or criminal history background checks.

2. All professional guardians shall comply with the background check requirements of chapter 744, Florida Statutes, and shall submit proof of registration with the Office of Public and Professional Guardians upon filing a Petition for Appointment of Guardian.

3. Along with his or her Petition for Appointment of Guardian, each proposed guardian shall submit for filing an Application for Appointment of Guardian and a Department of Children and Families Release. Professional and non-professional guardians shall pay all fees associated with the application as required by the Florida Statutes.

4. The Clerk of the Circuit Court for Pinellas County and the Clerk of the Circuit Court for Pasco County (“Clerks”) shall:

a. Notify the Probate and Guardianship Division when a Petition for Appointment of Guardian is filed.

b. Collect, from each proposed non-professional guardian, the investigation fee necessary to conduct the credit check pursuant to the Florida Statutes.

c. Make the results of any criminal history check conducted by the Federal Bureau of Investigation and the Florida Department of Law Enforcement available to the general magistrate or such other person as directed by the Court.

B. GUARDIANSHIP AND INCAPACITY PROCEDURES

1. Determination of Capacity

a. The court-approved form Application for Appointment of Guardian shall be utilized within the trial courts of the Sixth Judicial Circuit by any petitioner seeking the determination of capacity of an individual located within Pasco or Pinellas County and shall be filed contemporaneously with the Petition to Determine Capacity.

b. Clerks' Duties:

i. Accept the Petition to Determine Capacity, Petition for Appointment of Guardian, and Application for Appointment of Guardian.

ii. Immediately upon receipt of the Petition to Determine Capacity, prepare the Notice to Alleged Incapacitated Person, Order Appointing Examining Committee, and Order Appointing Counsel for the Alleged Incapacitated Person for presentation to the Court. The members of the Examining Committee and the Court Appointed Counsel for the Alleged Incapacitated Person shall be chosen on a rotational basis from the Court approved lists.

iii. Serve by regular or electronic mail a copy of the Petition to Determine Capacity and Petition for Appointment of Guardian and any exhibits upon appointed counsel, members of the examining committee, and all known next of kin of the alleged incapacitated person, and/or such other person as directed by the Court.

iv. Present a copy of the Petition to Determine Capacity, Verified Petition for Appointment of Guardian, Notice and Statement of Rights to the process server for service on the alleged incapacitated person.

v. In addition to monitoring the Return of Service, monitor the completion of the committee's report to ensure that appropriate statutory time frames are met.

vi. Provide a notice to the process server directing the process server to read the petitions and Notice and Statement of Rights to the alleged incapacitated person and to return to the Clerks' Office the Return of Service for filing in the Court file.

2. Indigent Status

The Clerk shall inform any petitioner filing for indigent status on behalf of an alleged indigent incapacitated person that he or she is required to complete an Application for Determination of Civil Indigent Status in accordance with section 57.082, Florida Statutes. The application shall be completed using the alleged indigent incapacitated person's information.

3. Adjudicatory Hearing

a. The petitioner, petitioner's counsel, the alleged incapacitated person, counsel for the alleged incapacitated person, the proposed guardian, and counsel for the proposed guardian

shall attend the adjudicatory hearing. The Court may waive attendance by the alleged incapacitated person, upon request of the alleged incapacitated person's counsel.

b. If requested by the Court, the Clerks may be required to attend adjudicatory hearings and keep court minutes.

4. Relocation of Ward

If, after a determination of incapacity, the ward relocates to a different location in the same county, the guardian must file with the court a Notice of Relocation within ten (10) days of the relocation.

C. IMPLEMENTATION OF GUARDIANSHIP ACCOUNTING, PLAN, AND INVENTORY FORMS

1. All accountings, plans, and inventories shall be filed on court-approved forms. Information on obtaining forms and instructions is available on the Court website, www.jud6.org.

2. The Clerks shall:

a. Upon the issuance of Letters of Guardianship, produce a computer-generated Guardianship filing schedule to be distributed with the Letters of Guardianship to the guardian and the counsel for the guardian.

b. Conduct the statutorily required audit of initial, annual, or final guardianship reports pursuant to chapter 744, Florida Statutes, in accordance with the following procedures:

i. Upon completion of the audit of the initial, annual, or final guardianship report, the Clerks shall submit their audit sheet listing any discrepancies to the general magistrate or other such person as directed by the Court.

ii. If discrepancies are identified, prepare and forward to the general magistrate's office, or to such other person as directed by the Court, an Order Disapproving the Initial, Annual, or Final Accounting, Plan, or Inventory ("Order Disapproving") that lists all discrepancies and provides the guardian thirty (30) days to respond.

iii. If a guardian fails to timely file the accounting, plan, or inventory, prepare and forward to the general magistrate's office, or to such other person as directed by the Court, an Order to File Required Documents ("Order to File") that provides the guardian twenty (20) days to comply.

iv. Monitor compliance with the Order Disapproving, the Order to File, and any orders extending the time for compliance with these orders.

v. If the guardian fails to comply with an order listed in subdivision iv., the general magistrate's office or other such person as directed by the Court may ask the Clerks to prepare and forward an Order to Show Cause.

vi. Review the documents filed in accordance with the Order Disapproving or Order to File, and forward the file with the audit sheet to the general magistrate or other such person as directed by the Court.

3. All other audits, including random field audits, shall only be conducted pursuant to Court order.

4. If the documents filed are insufficient, an Order to File or To Show Cause will be issued and a hearing scheduled before the judge. The hearing may only be cancelled or continued by written order of the Court.

5. Motions for extensions of time for filing any required document shall be made in writing prior to the time the document is due. The motion shall disclose whether or not an extension of time has previously been granted for the same or similar filing. The parties shall allege good cause on which the extension is sought and that the time requested is sufficient. No motion for extension of time shall be heard orally. Counsel shall ensure that all interested parties receive adequate notice of all such motions.

D. DISASTER PLAN

Each initial guardianship plan shall include a Disaster Plan, which sets forth the procedures and plans in place for the ward in the event an evacuation order or other emergency order is issued by federal, state, or local officials. The Disaster Plan shall take into account and reflect how each ward's special needs will be met under the plan in the event the guardian or ward relocates temporarily due to an evacuation order, emergency order, or other emergency situation. The Disaster Plan must be updated if the ward permanently changes residence or if a new guardian is appointed. Information on obtaining forms and instructions related to the disaster plan is available on the Sixth Judicial Circuit Court website, www.jud6.org. If the ward is a minor child residing with his or her parent or other relative who is serving as guardian, that guardian shall be exempt from the requirement of filing a disaster plan.

E. GUARDIAN AND GUARDIAN ADVOCATE TRAINING FOR INCAPACITY AND GUARDIAN ADVOCATE PROCEEDINGS

1. Non-Professional Guardian of Incapacitated Adults Education Requirements

a. A non-professional person appointed as guardian who is required to comply with the education requirement of section 744.3145, Florida Statutes, shall be considered to have satisfied the education requirements by completing a minimum of eight (8) hours of instruction and training in an approved family member guardian education course.

b. A non-professional guardian education course shall include topics required by section 744.3145(2), Florida Statutes. Any person or organization seeking court approval to act as a provider of a family member guardian education course may submit the curriculum to the Administrative Office of the Courts, Probate Division (Program).

c. Approved courses for basic guardian education:

- i. St. Petersburg College, credit course entitled "Legal Guardian Family Training Online", available at the St. Petersburg College website, www.spcollege.edu, or <https://spcollege.augusoft.net>.
 - ii. Additional guardianship courses may be approved. Information on additionally approved programs may be received from the Program.
 - d. Upon completion of a non-professional guardian education course, the guardian shall file a certificate of completion from the course instructor in the guardianship court file.
2. Professional Guardian Education Requirements

Each professional guardian shall complete training in accordance with chapter 744, Florida Statutes.

3. Parent Guardian of a Minor Child Education Requirements

- a. A person who is appointed as guardian of the property of his or her minor child, who is required to comply with the education requirement of section 744.3145(3), Florida Statutes, shall be considered to have satisfied the education requirements by completing a minimum of four (4) hours of instruction and training in an approved guardian of minor child education course. This requirement may be satisfied by completing a St. Petersburg College course entitled "Legal Guardian Family Training Online," available at the St. Petersburg College website, www.spcollege.edu, or <https://spcollege.augusoft.net>.
- b. A guardian of minor child education course shall include topics required in section 744.3145(3), Florida Statutes. Any person or organization seeking court approval to act as a provider of a guardian of minor child education course may submit the curriculum to the Administrative Office of the Courts, Probate Division (Program).
- c. Upon completion of a guardian of minor child education course, the guardian shall file a certificate of completion from the course instructor in the guardianship court file.

Administrative Orders No. PA/PI-CIR-97-85, 2004-029 PA/PI-CIR, and 2009-036 PA/PI-CIR, are hereby rescinded.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida this _____ day of January 2019.

ORIGINAL SIGNED ON JANUARY 23, 2019
BY ANTHONY RONDOLINO, CHIEF JUDGE

cc: All Judges
The Honorable Bernie McCabe, State Attorney
The Honorable Bob Dillinger, Public Defender
The Honorable Paula S. O'Neil, Clerk of the Circuit Court, Pasco County
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County
Gay L. Inskip, Trial Courts Administrator
Ita M. Neymotin, Regional Counsel, Second District
Ngozi Acholonu, Assistant Regional Counsel
Nichole Alvarez-Sowles, Chief Operations Officer, Pasco County Clerk's Office
Lillian Simon, Director of Administrative Services, Pasco County
Law Libraries, Pasco and Pinellas Counties
Bar Associations, Pasco and Pinellas Counties