

Disbursement Petition for Minor Guardianships

* *Age of Ward.* Purpose: (1) To determine whether a disbursement is appropriate for this age child. (2) To determine whether notice is required: 14 and over, minor needs notice, 13 and under, minor does not need notice. (3) To determine whether minor is close to majority and therefore the guardianship will be ending soon and that the court may want to give deference to request if the soon-to-be-adult minor is the one making the request.

* *Relationship:* to determine whether it is a parent making the request, since a parent is obligated to provide support, or another person, who is not. Though if a parent is alive, the parent should still be responsible, regardless of whether there is a non-parent guardian, the court usually handles these cases differently

* *Purpose of disbursement.* This is the item or items or services the guardian wishes to purchase with the funds from the guardianship.

* *Amount Requested.* The dollar amount of the request. If it is recurring, then so indicate. (Look to see if there is an ending date on the order).

* *Reason for disbursement.* This is the need for the purchase. It should include the reasons given by the guardian as well as an assessment by the staff attorney of the perceived need.

* *Prior disbursements.* Looking for (1) prior patterns showing an expectation by the guardian (2) potential abuses, where the guardianship may be either supporting someone other than the ward or where a parent is avoiding their duty to support the ward, and (3) overall spending habits and how they affect the overall finances of the guardianship.

* *Notice.* The ward gets notice (this should be a consent) if the ward is 14 or older. Both parents also get notice, unless the parent was unknown or not found at the inception of the guardianship. So if one parent is the guardian, then notice needs to go to the non-guardian parent.

* *Statutory Authority.* The request should fit into one of the statutorily authorized actions that can be authorized by the court per 744.441 or 744.444. Most will fit under living expenses, which requires court order for minors per 744.444 (22). The statutory authority will not usually be contained in the petition, you will need to look for this. There are other statutes dealing with disbursements, which may also apply. So minor cases have petitions to determine a grandmother to be a dependent of the minor. See 744.387.

If the guardian is a parent, reason parent cannot make disbursements. This comes from Ash v. Coconut Grove case (see checklist), which finds that the availability of guardianship funds does not relieve the parents of their obligation to support their child and court must distinguish between ordinary support and extraordinary support needed due to a child's special needs as a result of the injury that created the guardianship funds.

Most petitions gloss over this issue - either ignoring it completely or simply alleging that the

parents cannot afford the requested item. In a few cases the court has requested a financial affidavit or at hearing inquired of the parents' income. In 99% of cases, though, this is not done.

Alternatively, guardianship argue that the requested item is not support, i.e., computer. Then the issue becomes whether the item is necessary. Usually the purpose given for a computer is educational. If parents are required to cover educational expenses, then it becomes a support item. If it is not necessary, then it should not be purchased by the guardianship. The same reasoning applies to cars - transportation - which is a parental responsibility.