

Appointment of GUARDIAN ADVOCATE CHECKLIST

Guardian Advocacy of: _____
Case No.: _____
Attorney for Petitioner: _____
Attorney Ad Litem: _____
Hearing Required/Date: _____

Legal Authority: FS 393.12, Ch. 744 as needed (744.3085)

APPOINTMENT: A circuit court may appoint a guardian advocate for a person with developmental disabilities (DD), if the person lacks the decisionmaking ability to do some, but not all, of the decisionmaking tasks necessary to care for his or her person or property [393.12(2)(a)].

Yes **No** Is attorney for guardian advocate required? [393.12(2)(b)](attorney for guardian advocate is required if guardian advocate is delegated rights regarding property other than the right to be representative payee for government benefits or if required by court.)

PETITION:

____ Petition Verified [393.12(3); 744.104]
____ Petitioner: Age/Relationship/Residence [393.12(3)(a)]: _____
____ Person w/DD [393.12(3)(b); 744.202(2)]:
 Age: _____
 County/Residence: _____
____ Allegation of need for Guardian Advocate AND
 ____ Factual info on which need is based [393.12(3)(c)] OR
 ____ Statutory DD [393.063(9)] (retardation, cerebral palsy, autism, spina bifida, or Prader Willi)
____ Exact areas where person lacks the decisionmaking ability regarding care and treatment services or to meet essential requirements for his or her physical health or safety [393.12(3)(d)].
____ Legal Disabilities Specified [393.12(3)(e); 744.3215(2)-(3)].
____ Guardian Advocate: Relationship/Reason [393.12(3)(f)]: _____

NOTICE:

____ Notice to Person w/DD [393.12(4)(a)] (verbally & in writing) copy of petition must be served w/notice
____ Notice to Next of Kin, and any Health Care Surrogate or Attorney in Fact [393.12(4)(a)].

OTHER REQUIREMENTS:

____ Application for Appointment [744.3125; 5.590]
____ Oath and designation of resident agent [744.347; 5.600; 5.110]
____ Report of Attorney Ad Litem.
____ At or before the hearing, all reports filed relevant to person’s disabilities (family or support plan, education plan, and other professional reports documenting the condition and needs) [393.12(6)(d)].

PROPOSED ORDERS

____ Appointing Attorney Ad Litem [393.12(5)] Appointed w/in 3 days after petition filed. Attorney **initially appointed must be on attorney registry** compiled pursuant to §27.40, Fla. Stat. Person w/DD may substitute his/her own attorney for court appointed attorney. **If person w/DD is indigent, appoint Regional Counsel.** §27.511(6)(a), Fla. Stat. (Need Clerk of Court’s determination of indigent status)
____ Order Appointing Guardian Advocate [393.12(8)]. Order Contains:
 ____ Nature and scope of the person's lack of decisionmaking ability;
 ____ Exact areas in which the individual lacks decisionmaking ability to make informed decisions about care and treatment services or to meet requirements for health and safety;
 ____ Specific legal disabilities to which the person with developmental disability is subject;
 ____ Name of person selected as guardian advocate and reasons for the court’s selection; and
 ____ Powers, duties, and responsibilities of the guardian advocate, including bond [744.351].
 ____ FDLE findings pursuant to Admin Order 6.962 (Aliases, Date of Birth, Sex of person w/DD).
____ Letters of Guardian Advocacy [744.345]

COMMENTS and RECOMMENDATION: _____