

# INCAPACITY CHECKLIST

(Filer will complete; Clerk will place in file)

INCAPACITY OF: \_\_\_\_\_

CASE #: \_\_\_\_\_

ADULT PROTECTIVE SERVICES \_\_\_\_\_ GUARDIANSHIP \_\_\_\_\_

## 1. PETITION FOR INCAPACITY

- \_\_\_\_ Petitioner's name, age and address – FS 744.3201(2)(a)
- \_\_\_\_ Petitioner's relationship to alleged incapacitated person – FS 744.3201(2)(a)
- \_\_\_\_ Alleged incapacitated person's name, age, county of residence and address – FS 744.3201 (2)(a)(b)
- \_\_\_\_ Specify primary language spoken by alleged incapacitated person, if known – FS 744.3201(2)(c)
- \_\_\_\_ Allegation that the petitioner believes the alleged incapacitated person to be incapacitated and factual information on which such belief is based – FS 744.3201(2)(d)
- \_\_\_\_ Names and addresses of all persons known to petitioner who have knowledge of such facts through personal observation – FS 744.3201(2)(d)
- \_\_\_\_ Name and address of alleged incapacitated person's attending physician – FS 744.3201(2)(e)
- \_\_\_\_ State which rights (FS 744.3215) alleged incapacitated person is incapable of exercising. If petitioner has insufficient experience to make such judgments, petition must so state – FS 744.3201(2)(f)
- \_\_\_\_ State whether plenary or limited guardianship is sought – Rule 5.550(a)(6)
- \_\_\_\_ Names, addresses, relationships, dates of birth of any minors, of next of kin of alleged incapacitated person – FS 744.3201(2)(g)
- \_\_\_\_ If an incapacitated person is resident of this state & is found in a county other than county of residence, the venue for declaration of incapacity and for appointment of guardian may be county where incapacitated person is found. Upon transfer of incapacitated person to county of residence, guardian may have venue of guardianship changed to county of residence and a successor guardian may be appointed – FS 744.202(4)

## 2. EXECUTION OF PETITION

- ( ) Signed by Petitioner – Rule 5.020(a)    ( ) Signed by attorney – Rules 5.020(a) & 2.060(c)
- ( ) Verified – FS 744.3201(2)

## 3. GENERAL

- \_\_\_\_ Order appointing attorney for alleged incapacitated person – FS 744.331(2)(b)
- \_\_\_\_ Does the Attorney meet the requirements of FS 744.331(2)(d)
- \_\_\_\_ Order appointing three member examining committee – FS 744.331 (3)(a) [*attending physician may not be appointed to committee*] \_\_\_\_ Are the committee members on the CJ's qualified list – FS 744.331(3)(c)
- \_\_\_\_ Notice – FS 744.331(5) [*hearing must be set no more than 14 days after the filing of the reports of the examining committee; a copy of petition and notice shall be served on counsel for alleged incapacitated person and all next of kin – Rule 5.550(b)(3)*]
- \_\_\_\_ Time and place of hearing – Rule 5.550 (b)(1)(A)
- \_\_\_\_ Attorney has been appointed – Rule 5.550 (b)(1)(B)
- \_\_\_\_ Guardian may be appointed if determined incapacitated – Rule 5.550(b)(1)(C)
- \_\_\_\_ Order determining incapacity – FS 744.331(6) [*An order appointing a guardian must be issued contemporaneously with the order adjudicating – FS 744.344(3)*]
- The Court shall make the following findings – FS 744.331(6)(a)
  1. Exact nature and scope of incapacities
  2. Exact areas lacks capacity
  3. Specific legal disabilities to which person is subject
  4. Specific rights person is incapable of exercising
  5. No alternative will sufficiently address the problems & needs of the ward