

Guardianship

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A guardian is a surrogate decision-maker appointed by the court to make either personal and/or financial decisions for a minor or for an adult with mental or physical disabilities. After adjudication, the subject of the guardianship is termed a "ward."

Florida law requires the court to appoint a guardian for minors in circumstances where the parents die or become incapacitated, or if a child receives an inheritance or proceeds of a lawsuit or insurance policy exceeding the amount allowed by statute.

Adult guardianship is the process by which the court finds an individual's ability to make decisions so impaired that the court gives the right to make decisions to another person. Guardianship is only warranted when no less restrictive alternative—such as durable power of attorney, trust, health care surrogate or proxy, or other form of pre-need directive—is found by the court to be appropriate and available.

Florida law allows both voluntary and involuntary guardianships. A voluntary guardianship may be established for an adult who, though mentally competent, is incapable of managing his or her own estate and who voluntarily petitions for the appointment.

Legislative intent establishes that the least restrictive form of guardianship is desirable.














Accordingly, Florida law provides for limited as well as plenary adult guardianship. A limited guardianship is appropriate if the court finds the ward lacks the capacity to do some, but not all, of the tasks necessary to care for his or her person or property; and if the individual does not have pre-planned, written instructions for all aspects of his or her life. A plenary guardian is a person appointed by the court to exercise all delegable legal rights and powers of the adult ward after the court makes a finding of incapacity. Wards in plenary guardianships are, by definition, unable to care for themselves.




Whether one is dealing with a minor whose assets must be managed by another or an adult with a disability who is not capable of making decisions for him/herself, when the court removes an individual's rights to order his or her own affairs there is an accompanying duty to protect the individual. One of the court's duties is to appoint a guardian. All adult and minor guardianships are subject to court oversight.

The legal authority for guardianship in Florida is found in [Chapter 744, Florida Statutes](#). The court rules that control the relationships among the court, the ward, the guardian, and the attorney are found in [Probate Rules, Florida Rules of Court](#). Together, these statutes and rules describe the duties and obligations of guardians and attorneys, as well as the court, to ensure that they act in the best interests of the ward, minor, or person who is alleged incapacitated.

Forms

Note: The following forms are sufficient for the matters that are covered by them. So long as the substance is expressed without prolixity, the forms may be varied to meet the facts of a particular case. The forms are not intended to be part of the rules and are provided for convenience only.

<p>Petition to Determine Incapacity 5.901</p> <ul style="list-style-type: none"> Form for Petition to Determine Incapacity <p>RTF / PDF </p>	<p>Guardianship Plan 5.904 Forms A-E</p> <ul style="list-style-type: none"> (a) Forms for Initial and Annual Guardianship Plans <p>RTF / PDF </p> <ul style="list-style-type: none"> (b) Annual Guardianship Plan for Minor <p>RTF / PDF </p> <ul style="list-style-type: none"> (c) Initial Guardianship Plan for Adult <p>RTF / PDF </p> <ul style="list-style-type: none"> (d) Annual Guardianship Plan for Adult <p>RTF / PDF </p> <ul style="list-style-type: none"> (e) Physician's Report <p>RTF / PDF </p>
<p>Petition and Order of Guardian 5.902 Form</p> <ul style="list-style-type: none"> (a) Form for Petition and Order of Guardian <p>RTF / PDF </p> <ul style="list-style-type: none"> (b) Order <p>RTF / PDF </p>	<p>Petition, Notice, and Order for Appointment 5.905 Forms A - C</p> <ul style="list-style-type: none"> (a) Form for Petition, Notice, and Order for Appointment of Guardian Advocate of the Person <p>RTF / PDF </p> <ul style="list-style-type: none"> (b) Notice <p>RTF / PDF </p> <ul style="list-style-type: none"> (c) Order <p>RTF / PDF </p>
<p>Letters of Guardianship 5.903 Forms A-B</p> <ul style="list-style-type: none"> (a) Letters of Guardianship of the Person <p>RTF / PDF </p> <ul style="list-style-type: none"> (b) Letters of Guardianship of the Property <p>RTF / PDF </p>	

<p>Guardian Advocacy 5.906 Form</p> <ul style="list-style-type: none"> Letters of Guardian Advocacy <p>RTF / PDF </p>	<p>Against Exploitation of a Vulnerable Adult 5.920 Form</p> <ul style="list-style-type: none"> Forms Related to Injunction for Protection Against Exploitation of a Vulnerable Adult <p>RTF / PDF </p>
<p>Inventory 5.910 Form</p> <ul style="list-style-type: none"> Inventory <p>RTF / PDF </p> <p>Injunction for Protection</p>	

Resources

Guardianship resources may be found on [Florida's Working Interdisciplinary Network of Guardianship Stakeholders \(WINGS\) website](#).

Family Court in Florida

- [Family Law Self-Help Information](#)
- [Guardianship](#)
- [Legal Authorities](#)
- [Family Court Tool Kits](#)
- [One Family One Judge](#)
- [Trauma and Child Development](#)
- [Delinquency](#)
- [Dependency](#)
- [Domestic Violence](#)
- [Criminal Domestic Violence](#)
- [Child Support](#)
- [Family Law Forms](#)
- [E-Learning Training Modules](#)

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