

# Educating and Empowering Guardian Advocates



A coordinated effort of the Seventh Judicial Circuit and the Volusia County Bar Association

June 1, 2011

Funded in part by The Florida Bar Foundation

## GUARDIAN ADVOCATE INFORMATION

DeLand Probate - Phone: 386-736-5914

Fax - 386-740-5177

For Persons with a Developmental Disability

### What is a Guardian Advocate?

Often a Guardian Advocate needs to be appointed when a person with a developmental disability turns 18 years old. Upon becoming an adult, the parent no longer has the legal ability to make decisions for them. To qualify under Florida Statutes, the person with a developmental disability must have a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome, which manifests before the age of 18, and constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

Guardian Advocacy is a process for families, caregivers, and friends of individuals with a developmental disability to obtain a guardianship without declaring the individual incompetent. Guardian Advocate appointments are governed by Florida Statute Section 393.12. The appointment of a Guardian Advocate allows the guardian to make decisions for the person with a developmental disability. Not everyone with a developmental disability needs a legal guardian. One is necessary if the person lacks the decision-making ability to make necessary decisions relating to daily life. During any Guardian Advocate proceedings the Court will appoint an attorney for the person with a developmental disability to ensure his/her best interest is protected.

The Guardian Advocate is responsible for only those duties approved by the Judge and listed in the Court Order. The process of becoming a Guardian Advocate of the person does not require the hiring of an attorney. If there is property involved, other than social security benefits or other government payee programs, the person seeking to become a Guardian Advocate of the person and the property must hire an attorney. These property rights include, but are not limited to: a pending law suit, estate matter, or other income or property right coming to the person with a developmental disability. The Court can expand the description of property rights by Petition and Order.

### Background Check Requirements:

Florida Statute Section 744.3135 requires non-professional Guardian Advocates to submit, at their own expense, to an investigation of the Guardian Advocate's credit history and to a level 2 background screening. This requirement can be waived on a case-by-case basis by filing a Petition requesting an Order to be signed by Judge. **See Attached Forms L and M.** The

background screening requires the proposed Guardian Advocate to obtain a fingerprint card from the Office of the Clerk's and take this card to a law enforcement agency to be fingerprinted. Then the card shall be returned to the Office of the Clerk along with a check made payable to Florida Department of Law Enforcement totaling \$54.25. (Fees subject to change)

**The Step-by-Step Process of Becoming a Guardian Advocate:**

1. Complete Necessary Paperwork. (No civil cover sheet required)
  1. Application for Appointment as Guardian Advocate. **Attached Form A**
  2. Application for Appointment as Standby Guardian Advocate. **Attached Form B**
  3. Joinder signed by the proposed Standby Guardian Advocate. **Attached Form C**
  4. Petition for Appointment of Guardian Advocate of the person. **Attached Form D**
  5. Oath of Guardian Advocate, Designation & Acceptance. **Attached Form F**
  
2. File all Paperwork with Clerk's Office.

**DeLand Probate Clerk 386-736-5914, Fax 386-740-5177**

  - The person filing the paperwork is called the Petitioner.
  - The Petitioner should attach a copy of the medical records of the person with a developmental disability to the Petition for Appointment of Guardian Advocate.
  - Petitioner must pay the required filing fees.
  - Always submit the original and 3 copies and 2 stamped envelopes with sufficient postage to mail copies of all pleadings.
  
3. Give Notice of Filing Petition for Appointment of Guardian Advocate.
  - You must serve notice to parties that the petition was filed and the date and time of the hearing which is set by calling the Judicial Assistant for the Judge McFerrin Smith at 386-736-5945. **Attached Form G**
  
4. Hearing.
  - Attend with the person with a developmental disability if he or she is able to travel.
  - Bring your proposed Orders filled out and typed completely.

## **Detailed Process for Appointment of a Guardian Advocate(s):**

**First:** Complete all the necessary paperwork.

### **Application for Appointment as Guardian Advocate(s):**

This includes basic information about the person requesting to be appointed Guardian Advocate(s) of the person with developmental disabilities.

### **Application for Appointment as Standby Guardian Advocate:**

Application and appointment of Standby Guardian is optional. If a Standby Guardian Advocate is appointed they will not take any action for the benefit of the person with a developmental disability until the appointed Guardian Advocate is unable to perform their duties either because of death, removal, resignation, or adjudication of incompetency. The proposed Standby Guardian Advocate must sign a Joinder, see, **Attached Form C** and file it with the Petition for Appointment of Guardian Advocate and the Application of Standby Guardian Advocate. Order appointing Standby Guardian, **Attached Form N**

### **Petition for Appointment of Guardian Advocate(s):**

The Petition **must** state the following:

- Name, age, present address of individual filing petition and his or her relationship to the person with developmental disability
- Name, age, county of residence, and present address of the person with a developmental disability
- State why the person filing petition feels a Guardian Advocate is necessary
- Include specific factual information
- State specific areas where the person lacks decision-making ability
- Specify the legal disabilities as defined in Florida Statute 393.063(9)
- State name of proposed Guardian Advocate(s), relationship to the person with a development disability
- Also, state any relationship the proposed Guardian Advocate(s) has or had with provider of health services, residential services, or other services to the person with a developmental disability
- Pursuant to Probate Rule 5.649(a) (7) the petition must state whether the petitioner has knowledge, information, or belief that the person with a developmental disability has created an advanced directive, or a durable power of attorney.

**Second:** File all paperwork with the Clerk's office. Always submit the original and 3 copies and 2 stamped envelopes with sufficient postage to mail copies of all pleadings.

**Filing Fees:**

Guardian Advocate of Person only: \$235.00

Guardian Advocate of Person and Property: \$400.00

(Fees subject to change)

**Upon filing the Petition for Appointment of a Guardian Advocate(s)**

- The Court will appoint an attorney to represent the person with a developmental disability. Please bring to the clerk the original and 3 copies of **Attached Form E**
- The attorney appointed, by the Court, needs to be notified by copy of **Attached Form E** of the appointment and needs to meet with the person with a developmental disability and the petitioner(s) must cooperate with the Court appointed attorney. If no contact from attorney within 10 days of appointment, call their office or contact the Court.

**Third:** Give notice of filing of Petition for Appointment of Guardian Advocate. **Attached Form G**

Notice must be given to the following:

- The person with a developmental disability verbally and in writing
- Both in English and language of the person
- The next of kin of the person with a developmental disability
- The Health Care Surrogate designated by an advance directive if the person with a developmental disability has created one
- An agent under a Durable Power of Attorney, if the person with a developmental disability has one

***A copy of the Petition for Appointment of a Guardian Advocate must be served with the notice.***

The notice must state:

- Hearing will be held to inquire into capacity of person with a developmental disability to exercise rights listed in petition
- Date of hearing
- That person with a developmental disability has right to an attorney of his or her choice but the Court shall appoint one initially.

**Fourth: Hearing.**

Once all the necessary documents are filed with the Court a case number is assigned. The Petitioner must call Judge McFerrin Smith's Judicial Assistant at 386-736-5945 to set the hearing date and time. The facts of the petition will be presented to the Judge. The Judge will make a decision whether or not to appoint a Guardian Advocate. The person with a developmental disability has the right to be present at the hearing.

At the hearing the Judge may issue an Order Appointing Guardian Advocate of the Person, see **Attached Form H**. Also, the Judge may issue Letters of Guardian Advocate; see **Attached Form I**. You need to bring these forms, to the hearing, filled in with the information you put in your Petition for Appointment of Guardian Advocate of the person. **Attached Form D**. Please have all blank spaces in the body of the document filed out, including the name of the person with a developmental disability, the case name and number. Do the same for the Order appointing and the Letters. Use your computer and type all Orders for the Court.

**Upon Appointment of a Guardian Advocate:**

If the Judge decides the person with a developmental disability is in need of a Guardian Advocate the Judge will enter an Order Appointing a Guardian Advocate and issue Letters of Guardian Advocate of the Person. The Order will contain the powers, duties, and responsibilities of the Guardian Advocate.

The person with a developmental disability retains all legal rights except those which the Court gives to the Guardian Advocate.

**Requirements for Guardian Advocates after Court Appointment:**

**Education Requirement -(Rarely Waived)**

Florida Statutes 393.12(10) and 744.3134 require every person appointed as a Guardian Advocate to complete educational training. Once a person is appointed by the Court to be the Guardian Advocate, he or she must complete the required training within four months of his or her appointment. The Court may, in its discretion, waive the educational requirement based on experience and education of guardian, duties assigned to guardian, and the needs of the person with a developmental disability. **Attached Form K**

- Each person appointed a Guardian Advocate must complete a minimum of 8 hours of instruction and training.

An approved course on guardianship education is available through Daytona State College. To register for the class call Daytona State College 386-506-3522.

Daytona State College address: 1200 W. international Speedway Blvd., Daytona Beach, FL 32114

### **Required Filings with Court after Appointment**

Guardians are required to file certain periodic reports with the Court. Failure to comply with any of the reporting requirements may require appearance before the Court and fines, removal, or other actions may be taken against the Guardian Advocate.

#### **Required Plans**

Initial Plan: **Attached Form J-1&2**

Must be filed within 60 days of appointment as Guardian Advocate

Must include the following:

- Statement of medical, mental, or personal care services for the welfare of the ward
- Statement of social and personal services for the welfare of the ward
- The place and kind of residential setting best suited for the needs of the ward
- The application of health and accident insurance and any other private or governmental benefits to which the ward may be entitled to meet any part of the costs of medical, mental health, or related services provided to the ward; and
- Any physical and mental examinations necessary to determine the ward's medical and mental health treatment needs.

Annual Plan: **Attached Form S**

Must be filed within 90 days from the anniversary date of appointment as Guardian

Advocate Report must include:

Information concerning the residence of the ward, including:

- The ward's address at the time of filing the plan.
- The name and address of each place where the ward was maintained during the preceding year.
- The length of stay of the ward at each place.
- A statement of whether the current residential setting is best suited for the

- current needs of the ward.
- Plans for ensuring during the coming year that the ward is in the best residential setting to meet his or her needs.

Information concerning the medical and mental health conditions and treatment and rehabilitation needs of the ward, including:

- A resume of any professional medical treatment given to the ward during the preceding year.
- A report of a physician who has examined the ward within the last 90 days before the reporting period. The report must contain an evaluation of the ward's condition and a statement of the current level of capacity of the ward.
- The plan for providing medical, mental health, and rehabilitative services in the coming year.

Information concerning the social condition of the ward, including:

- The social and personal services currently used by the ward.
- The social skills of the ward, including a statement of how well the ward communicates and maintains interpersonal relationships.
- The social needs of the ward.

Each plan must address the issue of restoration of rights to the ward and include:

- A summary of activities during the preceding year that were designed to enhance the capacity of the ward.
- A statement of whether the ward can have any rights restored.
- A statement of whether restoration of any rights will be sought.

### **Restoration of Rights:**

Any interested person, including the person with a developmental disability, may file a suggestion of restoration of rights with the Court. This must state the person with a developmental disability is currently capable of exercising some or all of the rights given to the Guardian Advocate. Meaning the person is no longer in need of a Guardian Advocate. Some evidentiary support must be included in the filing of the suggestion. Such evidentiary support includes: a signed statement from a medical, psychological, or psychiatric doctor whom has evaluated the person with a developmental disability. If no evidentiary support can be accessed then the petitioner may state a good faith basis for suggestion. The Court shall immediately set a hearing.



## **FORMS ATTACHED TO GUARDIAN ADVOCATE INFORMATION**

- A. Application For Appointment As Guardian Advocate
- B. Application For Appointment As Standby Guardian Advocate
- C. Standby Guardian's Joinder In Petition
- D. Petition for Appointment of Guardian Advocate Of The Person Only
- E. Order Appointing Attorney For The Person With A Developmental Disability
- F. Oath of Guardian Advocate, Designation Of Resident Agent & Acceptance
- G. Notice of Hearing
- H. Order Appointing Guardian Advocate Of The Person Only
- I. Letters Of Guardian Advocate Of The Person Only
- J-1 Initial Plan of Guardian Advocate of the Person
- J-2 Proof of Service of Guardian Advocate of the Person
- K. Order Exempting Guardian Advocate from Educational Requirements
- L. Petition for Exemption of Guardian Advocates from Background Investigation Requirements
- M. Order Exempting Guardian Advocates From Background Investigation Requirements
- N. Order Appointing Standby Guardian Advocate Of The Person Only
- O. Joint Stipulation for Appointment of Guardian Advocate and Standby Guardian Advocate
- P. Order Appointing Guardian Advocate of The Person Only
- Q. Order Appointing Guardian Advocate of The Person and Property
- R. Letters of Guardian Advocate of The Person and Property
- S. Annual Plan

## **HELPFUL CONTACT INFORMATION FOR GUARDIAN ADVOCATES**

We hope this handbook will help you complete the process of becoming a Guardian Advocate. If you have questions or find you need help in completing the forms, there are 2 ways to call for help.

1. **Contact Community Legal Services of Mid-Florida, Inc.** to see if you qualify under the guidelines to obtain a Pro Bono attorney. Call toll free 866-428-0105 extension 2913 and reference that you are calling about the Volusia County Bar Association's Guardian Advocate handbook.
2. **Contact the Volusia County Bar Association** office by phone 386-253-9471 or email [volusiabar@bellsouth.net](mailto:volusiabar@bellsouth.net) to be referred to an available private practice attorney.

## **TIPS TO COMPLETE & PRINT FORMS**

**Once the handbook is downloaded, click SAVE A COPY**

**Open the file in Adobe PDF**

**Click TOOLS**

**Click TYPEWRITER**

**Choose TYPEWRITER from the pull down menu**

**Position the cursor to type on the form**

**Make sure to SAVE the file**

**Click PRINT**

**To print one page: choose CURRENT PAGE option**

**To print multiple pages: enter specific page numbers**

**To print all pages: choose ALL**

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**APPLICATION FOR APPOINTMENT AS GUARDIAN ADVOCATE**

Pursuant to Section 393.12 of the Florida Guardian Advocate Law, the undersigned submits this Application for Appointment as Guardian Advocate of \_\_\_\_\_, (the person with a developmental disability) and submits the following information (whenever the space provided is insufficient, attach additional pages):

1. Name: \_\_\_\_\_
2. Age: \_\_\_\_\_
3. Residence Address: \_\_\_\_\_  
\_\_\_\_\_
4. Mailing Address: \_\_\_\_\_  
\_\_\_\_\_
5. U.S. Citizen? Yes \_\_\_ No \_\_\_
6. Employer's Name and Address: \_\_\_\_\_  
\_\_\_\_\_

Applicant's Position: \_\_\_\_\_

7. Home Telephone Number: \_\_\_\_\_  
Work Telephone Number: \_\_\_\_\_

8. If applicant is currently serving as guardian/guardian advocate for any other ward, list name(s) of ward, court file number(s), circuit court(s) in which case(s) is/are pending and whether applicant is acting as the limited or plenary guardian or guardian advocate of the person or property or both:  
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\_\_\_\_\_

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9. Does applicant have any physical disabilities? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please describe and state whether such disability may affect applicant's ability, in any degree, to serve as guardian advocate:

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10. Has applicant ever been treated for the following:

- a. Mental Condition Yes \_\_\_\_\_ No \_\_\_\_\_
- b. Alcohol Yes \_\_\_\_\_ No \_\_\_\_\_
- c. Drugs Yes \_\_\_\_\_ No \_\_\_\_\_
- d. Other Yes \_\_\_\_\_ No \_\_\_\_\_

Nature of condition and summary of treatment:

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11. Has applicant ever been judicially determined to have committed abuse or neglect against a child as defined by the Florida Statutes? Yes \_\_\_\_\_ No \_\_\_\_\_

12. Has applicant ever been the subject of a confirmed report of abuse, neglect, or exploitation which has been uncontested or upheld pursuant to the provisions of Sections 415.104 and 415.1075, Florida Statutes? Yes \_\_\_\_\_ No \_\_\_\_\_

13. Has applicant ever been charged with fraud, misrepresentation or perjury in a judicial or administrative proceeding? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please give date and complete details:

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14. Has applicant ever been charged with, arrested for or convicted of a felony?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please furnish details including date, type of offense, location, and final disposition:

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15. Has applicant ever been charged with, arrested for or convicted of any other crimes? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please furnish details including date, type of offense, location, and final disposition:

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16. Has applicant ever held a position which required bonding? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe position, date, amount of bond, and name of surety:

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17. Has applicant, in the past, ever served as guardian/guardian advocate of a person or of a person's property? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe below, including reason for termination of fiduciary position:

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18. Has applicant ever been held in contempt of court or removed as a guardian/guardian advocate? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe below:

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19. Has applicant ever filed for bankruptcy? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please state date and location of court:

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20. What is applicant’s relationship with the person with a developmental disability?

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21. Is applicant, or applicant’s business, corporation, or other business entity a creditor of, or providing professional, personal or business services to the person with a developmental disability? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please furnish details below:

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22. Is applicant employed by a business, corporation, or other business entity which is providing professional, personal or business service to the person with a developmental disability? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please furnish details below:

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23. Is applicant a health care provider for the person with a developmental disability? Yes \_\_\_\_\_ No \_\_\_\_\_

24. Educational history of applicant:

<u>Name and Address</u>	<u>Degree</u>	<u>Date</u>
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High school:

College:

Other:

25. List applicant's employment experience for the past ten (10) years beginning with the most recent date:

<u>Name and address</u>	<u>Date</u>	<u>Reason for leaving</u>
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26. Has applicant ever been discharged from employment by any employer listed above? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain:

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27. Does applicant possess any special educational qualifications (financial, business or otherwise) that uniquely qualifies applicant to be appointed as guardian advocate? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe below:

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28. Has applicant received instruction and training which covered the legal duties and responsibilities of guardian/guardian advocate, the rights of an incapacitated person or Ward, the availability of local resources to aid a Ward, and the preparation of habitual plans and annual guardian advocate reports, including financial accounting for the ward's property? Yes \_\_\_\_\_ No \_\_\_\_\_

If so, indicate when and where training was received:

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Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Signed on \_\_\_\_\_, 20\_\_.

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Applicant



IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF \_\_\_\_\_,

CASE NO.: \_\_\_\_\_

**APPLICATION FOR APPOINTMENT AS STANDBY GUARDIAN ADVOCATE**

Pursuant to Section 393.12 of the Florida Guardian Advocate Law, the undersigned submits this Application for Appointment as Standby Guardian Advocate of \_\_\_\_\_, (the person with a developmental disability) and submits the following information (whenever the space provided is insufficient, attach additional pages):

1. Name: \_\_\_\_\_
2. Age: \_\_\_\_\_
3. Residence Address: \_\_\_\_\_  
\_\_\_\_\_
4. Mailing Address: \_\_\_\_\_  
\_\_\_\_\_
5. U.S. Citizen? Yes \_\_\_\_\_, No \_\_\_\_\_
6. Employer's Name and Address: \_\_\_\_\_  
\_\_\_\_\_

Applicant's Position: \_\_\_\_\_

7. Home Telephone Number: \_\_\_\_\_  
Work Telephone Number: \_\_\_\_\_

8. If applicant is currently serving as guardian/guardian advocate for any other ward, list names of each ward, court file number(s), circuit court(s) in which case(s) is/are pending and whether applicant is acting as the limited or plenary guardian or guardian advocate of the person or property or both:  
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9. Does applicant have any physical disabilities? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please describe and state whether such disability may affect applicant's ability, in any degree, to serve as guardian advocate:

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b. Alcohol Yes \_\_\_\_\_ No \_\_\_\_\_  
c. Drugs Yes \_\_\_\_\_ No \_\_\_\_\_  
d. Other Yes \_\_\_\_\_ No \_\_\_\_\_

Nature of condition and summary of treatment:

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11. Has applicant ever been judicially determined to have committed abuse or neglect against a child as defined by the Florida Statutes? Yes \_\_\_\_\_ No \_\_\_\_\_
12. Has applicant ever been the subject of a confirmed report of abuse, neglect, or exploitation which has been uncontested or upheld pursuant to the provisions of Sections 415.104 and 415.1075, Florida Statutes? Yes \_\_\_\_\_ No \_\_\_\_\_
13. Has applicant ever been charged with fraud, misrepresentation or perjury in a judicial or administrative proceeding? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please give date and complete details:

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14. Has applicant ever been charged with, arrested for or convicted of a felony?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please furnish details including date, type of offense, location and final disposition:

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If yes, please furnish details including date, type of offense, location and final disposition:

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16. Has applicant ever held a position which required bonding? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe position, date, amount of bond and name of surety:

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17. Has applicant, in the past, ever served as guardian/guardian advocate of a person or of a person's property? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe below, including reason for termination of fiduciary position:

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18. Has applicant ever been held in contempt of court or removed as a guardian/guardian advocate? Yes \_\_\_\_\_ No \_\_\_\_\_

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If yes, please state date and location of court:

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If yes, please furnish details below:

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23. Is applicant a health care provider for the person with a developmental disability? Yes \_\_\_\_\_ No \_\_\_\_\_

24. Educational history of applicant:

Name and Address

Degree

Date

High school:

College:

Other:

25. List applicant's employment experience for the past ten (10) years beginning with the most recent date:

Name and address

Date

Reason for leaving

26. Has applicant ever been discharged from employment by any employer listed above? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain:

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27. Does applicant possess any special educational qualifications (financial, business or otherwise) that uniquely qualifies applicant to be appointed as guardian advocate? Yes \_\_\_\_\_ No \_\_\_\_\_

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If so, indicate when and where training was received:

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Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Signed on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Applicant

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**STANDBY GUARDIAN'S JOINDER IN PETITION**

The undersigned joins in the Petition for Appointment of Guardian Advocate of the Person and Appointment of Standby Guardian Advocate; the undersigned is sui juris (over 18 years of age) and is otherwise qualified under the laws of the State of Florida to act in such capacity and waives the requirement of a Notice of Hearing with respect to entry of an Order Appointing Standby Guardian Advocate; and the undersigned is willing to serve as Standby Guardian Advocate.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Proposed Standby Guardian Advocate

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**PETITION FOR APPOINTMENT OF GUARDIAN ADVOCATE  
OF THE PERSON ONLY**

Petitioner, \_\_\_\_\_, alleges the following:

1. Petitioner's residence is \_\_\_\_\_  
\_\_\_\_\_, County of \_\_\_\_\_. Petitioner's  
mailing address, if different, is: \_\_\_\_\_.

2. Petitioner's date of birth is \_\_\_\_\_.

3. The name of the person in need of a Guardian Advocate due to a developmental  
disability is: \_\_\_\_\_.

The nature of this person's developmental disability is: \_\_\_\_\_  
\_\_\_\_\_.

This person's age, residence address and date of birth is: \_\_\_\_\_.

The Petitioner's relationship to the person with a developmental disability is:  
\_\_\_\_\_.

The Petitioner believes a Guardian Advocate is necessary because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The specific and exact areas in which the person with a developmental disability  
lacks the decision-making ability to make informed decisions about his or her care and treatment  
services or to met the essential requirements for his or her physical health or safety are:

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And the specific legal disabilities are: \_\_\_\_\_

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5. The name and address and relationship to the person with a developmental disability of the proposed guardian advocate is: \_\_\_\_\_

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\_\_\_\_\_, and the relationship the proposed guardian advocate had or has with a provider of health care services, residential services or other services to the person with a developmental disability is:

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6. By initialing the Petitioner requests waiver of the following:

\_\_\_\_ Educational Requirement

\_\_\_\_ Background Investigation Requirement

WHEREFORE, Petitioner requests \_\_\_\_\_ be appointed as Guardian Advocate of the Person. Petitioner also requests that (circle if applicable) EDUCATIONAL REQUIREMENTS and/or BACKGROUND INVESTIGATION REQUIREMENTS be waived. Petitioner states that he/she is a resident of Volusia County and is *sui juris* and otherwise qualified under the laws of the State of Florida to act in such capacity.

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Petitioner

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**ORDER APPOINTING ATTORNEY FOR THE PERSON  
WITH A DEVELOPMENTAL DISABILITY**

These proceedings are of a kind where appointment of an attorney is either required by law or is desirable. It is therefore **ORDERED and ADJUDGED** that:

1. Attorney \_\_\_\_\_, whose address is \_\_\_\_\_, is hereby appointed as Attorney for \_\_\_\_\_, a person with a developmental disability, on a \_\_\_\_\_ pro bono basis or \_\_\_\_\_ as provided by the Indigent Services Committee (ISC). Furthermore, said attorney is also appointed eligible to serve on the person with developmental disability the notice required in Section 393.12(4)(a) Florida Statutes (2010) as it may be amended from time to time.

2. A copy of this Order shall serve as authorization for the Attorney to inspect and abstract any of the records relating to the person with a developmental disability maintained by the Clerk of this Court, DHRS, any school, hospital, doctor, or other social or human services agency without the necessity of written consent by the parents. Any information received from such source shall be kept confidential. The Attorney shall not disclose the same except in written or oral reports to the Court or as otherwise authorized by the Court.

3. The Petitioner shall provide the attorney named herein with copies of all pleadings, notices, and other documents filed in this action.

**COURT COSTS:** In all proceedings under this section, no court costs shall be charged against the Agency for Persons with Disabilities.

**DONE AND ORDERED** in Chambers at \_\_\_\_\_, Volusia County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Circuit Judge

Copies furnished to:

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**OATH OF GUARDIAN ADVOCATE, DESIGNATION OF  
RESIDENT AGENT & ACCEPTANCE**

STATE OF FLORIDA  
COUNTY OF VOLUSIA

I, \_\_\_\_\_ (Affiant), state under oath that:

1. I will faithfully perform the duties of Guardian Advocate(s) of the Person of \_\_\_\_\_ (the Ward), according to law and accept the Designation as Resident Agent.

2. My place of residence is \_\_\_\_\_  
\_\_\_\_\_ and my mailing address, if different, is \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
Signature of Affiant – Resident Agent.

Sworn to and subscribed before me on \_\_\_\_\_, 20\_\_ by Affiant(s), who are personally known to me \_\_\_ or who produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_,

**NOTICE OF HEARING**

To: \_\_\_\_\_  
Name

\_\_\_\_\_  
Address

PLEASE TAKE NOTICE that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ a.m./p.m., or as soon thereafter as counsel can be heard, the undersigned will bring on to be heard the **Petition for Appointment of Guardian Advocate of the Person** before the Honorable Circuit Court Judge \_\_\_\_\_, in Chambers, Room \_\_\_\_\_, Volusia County Courthouse, 101 N. Alabama Avenue, DeLand, Florida.

The hearing will be held to inquire into the capacity of the person with a developmental disability to exercise the rights enumerated in the enclosed Petition. The person with a developmental disability has the right to be represented by counsel of his or her own choice. The court will initially appoint counsel for the person with a developmental disability. If you fail to appear, judgment may be entered upon the Petition for Appointment of a Guardian Advocate of the Person. You are required to file written defense objections to the Petition on or before the date of the hearing, and you or your attorney may appear at the hearing on the Petition.

**Please govern yourself accordingly.**

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

I HEREBY CERTIFY that a copy of the forgoing Notice of Hearing was \_\_\_\_ mailed, or hand delivered, to the above-named addresses on the aforementioned date.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**ORDER APPOINTING GUARDIAN ADVOCATE OF THE PERSON ONLY**

Upon consideration of the Petition for the Appointment of Guardian Advocate(s) of the Person, the Court finds that \_\_\_\_\_, the person with a developmental disability, has a developmental disability of a nature which requires the appointment of a Guardian Advocate of the person based upon the following findings of fact and conclusions of law, as required by section 393.12(2) (a), Florida Statutes:

1. The nature and scope of the person's lack of decision-making ability are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The exact areas in which the person lacks decision-making ability to make informed decisions about care and treatment services or to meet the essential requirements for his or her physical health and safety are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The specific legal disabilities to which the person with a developmental disability is subject to are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The powers and duties of the Guardian Advocate are as indicated below:
- (\_\_\_\_) to determine residence;
  - (\_\_\_\_) to consent to medical, dental, and surgical care and treatment;
  - (\_\_\_\_) to make decisions about the social environment or other social aspects of the person with a developmental disability's life; and
  - (\_\_\_\_) to act as representative payee of government benefits or to seek such benefits.

**Without first obtaining specific authority from the Court, as stated in section 744.3725, Florida Statutes, the Guardian Advocate may not:**

- (a) commit the person with a developmental disability to a facility, institution, or licensed service provider without formal placement proceedings, pursuant to Chapter 393, Florida Statutes;
- (b) consent to the participation of the person with a developmental disability in any experimental biomedical or behavior procedure, exam, study, or research;
- (c) consent to the performance of a sterilization or abortion procedure on the disabled person;
- (d) consent to termination of life support systems provided for the person with a developmental disability;
- (e) initiate a petition for dissolution of marriage for the ward; or
- (f) exercise any authority over any health care surrogate appointed by any valid advance directive executed by the disabled person, pursuant to Chapter 765, Florida Statutes, except upon further order of this Court.

\_\_\_\_\_ (the person with a developmental disability)  
shall retain all legal rights except those which are specifically granted to the Guardian Advocate pursuant to court order.

It is therefore ORDERED & ADJUDGED:

1. \_\_\_\_\_ is/are qualified to serve as guardian advocate(s) of the person and is hereby appointed as Guardian Advocate of the Person of \_\_\_\_\_.

2. The Guardian Advocate shall exercise only the rights that the Court has found the disabled person incapable of exercising on his or her own behalf, as outlined herein above. Said rights are hereby removed from the person with a developmental disability and specifically delegated to the Guardian Advocate.



3. Upon taking and filing the prescribed oath conditioned on the faithful performance of all duties by the guardian, letters of guardianship shall be issued.

**DONE AND ORDERED** in Chambers at \_\_\_\_\_, Volusia County, Florida,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Circuit Judge

Copies furnished to:

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: THE GUARDIAN ADVOCATE OF

Case No.: \_\_\_\_\_

---

**LETTERS OF GUARDIAN ADVOCATE OF THE PERSON ONLY**

TO ALL WHOM IT MAY CONCERN:

WHEREAS, \_\_\_\_\_ has been appointed Guardian Advocate(s) of the Person, \_\_\_\_\_, a person with a developmental disability who lacks the decision-making capacity to do some, but not all, of the tasks necessary to take care of his/her person; and

WHEREAS, the Guardian Advocate has taken and filed the prescribed oath and performed all other acts prerequisite to the issuance of Letters of Guardian Advocate of the Person;

NOW, THEREFORE, I, the undersigned circuit judge, declare that \_\_\_\_\_ is duly qualified under the laws of the State of Florida to act as Guardian Advocate of the Person of \_\_\_\_\_ with full power to exercise the following powers and duties on behalf of the person with a developmental disability:

- ( ) to determine residence;
- ( ) to consent to medical, dental, and surgical care and treatment;
- ( ) to make decisions about the social environment or other social aspects of the person with a developmental disability life;
- ( ) to act as representative payee of government benefits or to seek such benefits.

\_\_\_\_\_ (the person with developmental disability) shall retain all legal rights except those which are specifically granted to the Guardian Advocate pursuant to court order.

**DONE AND ORDERED** in chambers at \_\_\_\_\_, Volusia County, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

---

Circuit Judge

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_,

**INITIAL PLAN OF GUARDIAN ADVOCATE OF THE PERSON**

\_\_\_\_\_, the Guardian Advocate of the  
person of \_\_\_\_\_ (the person with a developmental  
disability), who presently resides at \_\_\_\_\_,  
submits the following plan as the Initial Guardian Advocate Report of this Guardian:

1. During the period beginning \_\_\_\_\_, and ending  
\_\_\_\_\_, the Guardian Advocate proposes the following plan for the  
benefit of the person with a developmental disability, which is based upon the Order Appointing  
a Guardian Advocate:

a. Medical, mental or personal care services to be provided for the welfare of  
the Ward:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Social and personal services to be provided for the welfare of the Ward:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Place and kind of residential setting best suited for the needs of the Ward:

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d. Description of health and accident insurance and any other private or governmental benefits to which the Ward may be entitled to meet any part of the costs of medical, mental health or related services provided to the Ward:

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e. Physical and mental examinations necessary to determine the Ward's medical and mental health treatment needs, including names of those who will provide examinations and approximate dates for examinations:

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2. The Guardian Advocate attests that he/she has consulted with the Ward and, to the extent reasonable, honored the Ward's wishes consistent with the rights retained by the Ward under the plan.

3. To the maximum extent reasonable, the plan is in accordance with the wishes of the Ward.

4. This Initial Plan does not restrict the physical liberty of the Ward more than is reasonably necessary to protect the Ward or others from serious physical injury, illness or

disease and provides the Ward with medical care and mental health treatment for the Ward's physical and mental health.

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

---

Guardian Advocate

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**PROOF OF SERVICE OF INITIAL PLAN  
OF GUARDIAN ADVOCATE OF THE PERSON**

I certify that the Initial Plan of the Guardian Advocate of the Person, consisting of the Initial Guardianship Plan, was filed with the Court on \_\_\_\_\_, and copies thereof were served on the Ward and attorney for the Ward, if any, at the following addresses: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

by \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Signed on \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Guardian Advocate

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**ORDER EXEMPTING GUARDIAN ADVOCATE  
FROM EDUCATION REQUIREMENTS**

THIS CAUSE having come before the Court on the petition of \_\_\_\_\_ for exemption from the guardian education requirements imposed by Section 744.3145 of the Florida Guardianship Law, the Court having considered the experience and education of the guardian advocate(s), the duties assigned to the guardian advocate(s) and the needs of the person with a developmental disability, it is

ORDERED AND AJUDGED: \_\_\_\_\_ shall be exempt from such education requirements, with such exemption limited solely to this guardian advocates proceeding.

DONE AND ORDERED, in Chambers, \_\_\_\_\_, Volusia County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Circuit Judge

Copies furnished to:

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**PETITION FOR EXEMPTION OF GUARDIAN ADVOCATES FROM BACKGROUND  
INVESTIGATION REQUIREMENTS**

Petitioner, \_\_\_\_\_, files this Petition for Exemption of  
Guardian Advocate from Background Investigation Requirements and in support hereof, alleges:

1. Section 744.3135, Florida Statutes, provides the Court may require a non-professional guardian to undergo an investigation of the guardian's credit history and to undergo a level 2 background screening as required under section 435.04, Florida Statutes.

2. Petitioner has filed a Petition for Appointment as Guardian Advocate of the person of \_\_\_\_\_ (the person with a developmental disability) with this Court.

3. The Ward is a person with developmental disabilities and due to the nature of the Guardian Advocate's duties or the Ward's needs the background investigation requirements under section 744.3135, Florida Statutes, are not necessary for the following reasons (check all that are applicable):

\_\_\_ a. Petitioner(s) are the Ward's parents and have cared for and raised the Ward since birth;

\_\_\_ b. The Ward has resided and will continue to reside with Petitioner(s).



\_\_\_\_ c. The Petitioner(s) have committed to become, and by filing agree to continue to, be the Ward's Guardian Advocate(s), and to ensure the safety, security, and well being of the Ward.

\_\_\_\_ d. The Ward has no assets making it unnecessary for a Credit History to be completed.

For these reasons Petitioner(s) requests that the Court enter an order exempting Petitioner from the guardian background investigation requirements pursuant to section 744.3135, Florida Statutes.

Dated \_\_\_\_\_

\_\_\_\_\_  
Petitioner

Copies furnished to:

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**ORDER EXEMPTING GUARDIAN ADVOCATE  
FROM BACKGROUND INVESTIGATION REQUIREMENTS**

THIS CAUSE having come before the Court on the petition of \_\_\_\_\_ for exemption from the guardian background requirements imposed by Section 744.3135, Florida Statutes, and to undergo an investigation of the guardian's credit history and to undergo a level 2 background screening as required under section 435.04, Florida Statutes, and the Court having considered the experience and history of the guardian advocate(s), the duties assigned to the guardian advocate(s) and the needs of the person with a developmental disability, it is

ORDERED AND AJUDGED: \_\_\_\_\_ shall be exempt from such back ground requirements and credit history or to undergo a level 2 background screening, such exemption is limited solely to this guardian advocate proceeding.

DONE AND ORDERED, in Chambers, \_\_\_\_\_, Volusia County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Circuit Judge

COPIES TO:

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: THE GUARDIAN ADVOCATE OF

Case No.: \_\_\_\_\_

**ORDER APPOINTING STANDBY GUARDIAN ADVOCATE OF THE PERSON ONLY**

THIS CAUSE having come before the Court on the Petition for the Appointment of Guardian Advocate(s) of the Person, the Court finds that \_\_\_\_\_ is appointed as the Guardian Advocate(s) of \_\_\_\_\_, the person with a developmental disability, and on the Guardian Advocate(s) request a Standby Guardian Advocate be appointed. It is therefore ORDERED and ADJUDGED:

1. It is necessary for a Standby Guardian Advocate to be appointed to assume the duties of the Guardian Advocates upon their death, adjudication of incapacity or resignation of the Guardian Advocate(s).

2. \_\_\_\_\_ is qualified to serve as standby guardian advocate of the person and is hereby appointed as Standby Guardian Advocate of the Person of \_\_\_\_\_.

3. The Standby Guardian Advocates shall have no authority to execute any of the powers and duties as Guardian Advocate until he/she has taken and filed the prescribed oath and Letters of the Guardian Advocate have been issued by the Court.

4. The Standby Guardian Advocate shall exercise only the rights the Court has found the Ward is incapacitated to exercise as previously filed with this Court.

**DONE AND ORDERED** in chambers at \_\_\_\_\_, Volusia County, Florida, this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Circuit Court Judge

Copies furnished to:

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: THE GUARDIAN ADVOCATE OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**JOINT STIPULATION FOR APPOINTMENT OF GUARDIAN ADVOCATE  
AND STANDBY GUARDIAN ADVOCATE**

COME NOW the Petitioner(s) \_\_\_\_\_ with the concurrence of Attorney \_\_\_\_\_, Counsel for the person with a developmental disability, \_\_\_\_\_, and stipulate and move the Court for an order appointing \_\_\_\_\_ as Guardian Advocate of the person of \_\_\_\_\_, (the Ward) and as grounds would state:

1. That counsel for the Ward having reviewed the Petition, documents to support the medical, residential, and social needs of the Ward and finding that it will be in the best interest of the Ward that such are protected.
2. That the allegations of the Petition filed herein are true.
3. That the undersigned stipulation and consent to the entry of an appropriate Order and Letters appointing \_\_\_\_\_ as Guardian Advocate(s) without Notice of Hearing.
4. The undersigned further stipulate and consent to the appointment of \_\_\_\_\_ as Standby Guardian Advocate.

WHEREFORE, it is agreed by the between parties that an Order appointing \_\_\_\_\_ as Guardian Advocate of the person of \_\_\_\_\_, a person with a developmental disability be Granted and service on the Ward and the educational requirements be waived.

\_\_\_\_\_  
Attorney for \_\_\_\_\_  
Person with a developmental disability

\_\_\_\_\_  
Petitioner

Copies furnished to:

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: THE GUARDIAN ADVOCATE OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**ORDER APPOINTING GUARDIAN ADVOCATE OF THE PERSON ONLY**

Upon consideration of the Petition for the Appointment of Guardian Advocate(s) of the Person, the Court finds that \_\_\_\_\_, the person with a developmental disability, has a developmental disability of a nature which requires the appointment of a Guardian Advocate of the person based upon the following findings of fact and conclusions of law, as required by section 393.12(2)(a), Florida Statutes:

1. The nature and scope of the person's lack of decision-making ability are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The exact areas in which the person lacks decision-making ability to make informed decisions about care and treatment services or to meet the essential requirements for his or her physical health and safety are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The specific legal disabilities to which the person with a developmental disability is subject to are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The powers and duties of the Guardian Advocate are:

- ( ) to determine residence;
- ( ) to consent to medical, dental, and surgical care and treatment;
- ( ) to make decisions about the social environment or other social aspects of the person with a developmental disability's life;
- ( ) to act as representative payee of government benefits or to seek such benefits

**Without first obtaining specific authority from the Court, as stated in section 744.3725, Florida Statutes, the Guardian Advocate may not:**

- (a) commit the person with a developmental disability to a facility, institution, or licensed service provider without formal placement proceedings, pursuant to Chapter 393, Florida Statutes;
- (b) consent to the participation of the person with a developmental disability in any experimental biomedical or behavior procedure, exam, study, or research;
- (c) consent to the performance of a sterilization or abortion procedure on the disabled person;
- (d) consent to termination of life support systems provided for the person with a developmental disability;
- (e) initiate a petition for dissolution of marriage for the ward;
- (f) exercise any authority over any health care surrogate appointed by any valid advance directive executed by the disabled person, pursuant to Chapter 765, Florida Statutes, except upon further order of this Court.

\_\_\_\_\_ (the person with a developmental disability) shall retain all legal rights except those which are specifically granted to the Guardian Advocate pursuant to court order.

It is therefore ORDERED and ADJUGED:

1. \_\_\_\_\_ is/are qualified to serve as guardian advocate(s) of the person and is hereby appointed as Guardian Advocate of the Person of \_\_\_\_\_ the Guardian Advocate(s) shall have no authority to execute any of the powers and duties as Guardian Advocate until he/she has taken and filed the prescribed oath and Letters of the Guardian Advocate have been issued by the Court.

2. The Guardian Advocate shall exercise only the rights that the Court has found the disabled person incapable of exercising on his or her own behalf, as outlined herein above. Said

rights are hereby removed from the person with a developmental disability and specifically delegated to the Guardian Advocate.

3. \_\_\_\_\_ as Guardian Advocate(s) shall (not) complete the required educational training within four months after appointment as Guardian Advocate.

4. \_\_\_\_\_ as Guardian Advocate(s) shall (not) complete the background investigation requirements.

5. Upon taking and filing the prescribed oath and filing the designation of resident agent and acceptance, Letters of Guardian Advocate shall be issued.

**DONE AND ORDERED** in chambers at \_\_\_\_\_, Volusia County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Circuit Judge

Copies furnished to:

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: THE GUARDIAN ADVOCATE OF

\_\_\_\_\_

Case No.: \_\_\_\_\_

**ORDER APPOINTING GUARDIAN ADVOCATE OF THE PERSON AND PROPERTY**

Upon consideration of the Petition for the Appointment of Guardian Advocate(s) of the Person, the Court finds that \_\_\_\_\_, the person with a developmental disability, has a developmental disability of a nature which requires the appointment of a Guardian Advocate of the person based upon the following findings of fact and conclusions of law, as required by section 393.12(8), Florida Statutes:

1. The nature and scope of the person's lack of decision-making ability are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The exact areas in which the person lacks decision-making ability to make informed decisions about care and treatment services or to meet the essential requirements for his or her physical health and safety are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The specific legal disabilities to which the person with a developmental disability is subject to are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The powers and duties of the Guardian Advocate are:



- (\_\_\_\_) to determine residence;
- (\_\_\_\_) to consent to medical, dental, and surgical care and treatment;
- (\_\_\_\_) to make decisions about the social environment or other social aspects of the person with a developmental disability's life;
- (\_\_\_\_) to contract;
- (\_\_\_\_) to sue and defend lawsuits;
- (\_\_\_\_) to apply for government benefits;
- (\_\_\_\_) to manage the property of the person with a developmental disability

\_\_\_\_\_ (the person with a developmental disability) shall retain all legal rights except those which are specifically granted to the Guardian Advocate pursuant to court order.

**CONSIDERED, ORDERED & ADJUDGED AS FOLLOWS:**

1. \_\_\_\_\_ is/are qualified to serve as guardian advocate(s) of the person and is hereby appointed as Guardian Advocate of the Person and

Property of \_\_\_\_\_ (the person with a developmental disability)

2. The Guardian Advocate shall exercise only the rights that the Court has found the disabled person incapable of exercising on his or her own behalf, as outlined herein above. Said rights are hereby removed from the person with a developmental disability and specifically delegated to the Guardian Advocate.

3. Upon taking and filing the prescribed oath and filing the designation of resident agent and acceptance, and entering into a bond in the amount of \_\_\_\_\_ payable to the Governor of the State of Florida and to all successors in office, conditioned on the faithful performance of all duties by the guardian, letters of guardianship shall be issued.

4. The Guardian Advocate must place the property in a **restricted account** in a financial institution designated pursuant to Section 69.031, Florida Statutes, including the following property of the Ward:

**DONE AND ORDERED** in chambers at Daytona Beach, Volusia County, Florida, this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

---

Circuit Court Judge

Copies furnished to:

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**LETTERS OF GUARDIAN ADVOCATE OF THE PERSON AND PROPERTY**

TO ALL WHOM IT MAY CONCERN:

WHEREAS, \_\_\_\_\_ has been appointed Guardian Advocate(s) of the Person and Property, of \_\_\_\_\_, a person with a developmental disability who lacks the decision-making capacity to do some, but not all, of the tasks necessary to take care of his/her person; and

WHEREAS, the Guardian Advocate has taken and filed the prescribed oath and performed all other acts prerequisite to the issuance of Letters of Guardian Advocate of the Person and Property;

NOW, THEREFORE, I, the undersigned circuit judge, declare that \_\_\_\_\_ is duly qualified under the laws of the State of Florida to act as Guardian Advocate of the Person and Property of \_\_\_\_\_ with full power to exercise the following powers and duties on behalf of the person with a developmental disability:

- ( ) to determine residence;
- ( ) to consent to medical, dental, and surgical care and treatment;
- ( ) to make decisions about the social environment or other social aspects of the person with a developmental disability's life;
- ( ) to exercise all delegable legal rights and powers of the person with a developmental disability according to law;

(\_\_\_\_) to take possession of and to hold, for the benefit of the person with a developmental disability, all the property, and all rents, income and profits from it.

**Without first obtaining specific authority from the Court, as stated in section 744.3725, Florida Statutes, the Guardian Advocate may not:**

- (a) commit the person with a developmental disability to a facility, institution, or licensed service provider without formal placement proceedings, pursuant to Chapter 393, Florida Statutes;
- (b) consent to the participation of the person with a developmental disability in any experimental biomedical or behavior procedure, exam, study, or research;
- (c) consent to the performance of a sterilization or abortion procedure on the disabled person;
- (d) consent to termination of life support systems provided for the person with a developmental disability;
- (e) initiate a petition for dissolution of marriage for the ward;
- (f) exercise any authority over any health care surrogate appointed by any valid advance directive executed by the disabled person, pursuant to Chapter 765, Florida Statutes, except upon further order of this Court.

\_\_\_\_\_ (the person with developmental disability)

shall retain all legal rights except those which are specifically granted to the Guardian Advocate pursuant to court order.

**DONE AND ORDERED** in chambers at \_\_\_\_\_, Volusia County, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Circuit Court Judge

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_

**ANNUAL GUARDIAN ADVOCATE REPORT**  
**ANNUAL GUARDIAN ADVOCATE PLAN OF GUARDIAN OF PERSON**

I, \_\_\_\_\_, the Guardian Advocate of the person  
of \_\_\_\_\_ submits the following plan as the Annual  
Guardianship Report of this guardian:

The Annual Guardianship Plan for the period beginning \_\_\_\_\_ and  
ending \_\_\_\_\_ shall be as follows:

1. The Ward's address at the time of filing this plan is \_\_\_\_\_

\_\_\_\_\_

2. During the preceding year, the Ward resided at (include dates, names, addresses  
and length of stay at each place):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. The current residential setting (circle one) IS or IS NOT best suited for the current  
needs of the Ward.

4. Plans for ensuring that the Ward is in the best residential setting to meet the Ward's needs during the coming year are as follows:

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5. Description of professional medical treatment given to the Ward during the preceding year:

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**PHYSICIAN TREATMENT DATE**

6. Attach the report of a physician who examined the Ward no more than 90 days before the beginning of the report period. The report **MUST** contain an evaluation of the Ward's condition and a statement of the current level of capacity of the Ward.

7. Plan for provision of medical, mental health and rehabilitative services in the coming year is as follows:

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8. Information concerning the social condition of the Ward is submitted as follows:

A. The social and personal services currently utilized by the Ward are:

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B. State the social skills of the Ward, including how well the Ward maintains interpersonal relationships with others:

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C. Describe the Ward's activities at communication and visitation:

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D. Describe the social needs of the Ward:

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9. Summary of activities during the preceding year designed to increase the capacity of the Ward:

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10. The Ward (circle one) IS or IS NOT capable of having some or all of his/her rights restored. If capable, identify rights that should be restored

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11. I/We (circle one) DO or DO NOT plan to seek the restoration of any rights to the Ward.

12. This plan (circle one) HAS or HAS NOT been reviewed with the Ward to the extent possible.

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Signed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

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Attorney for Guardian (If applicable)

Florida Bar No. \_\_\_\_\_

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Signature of Guardian

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Signature of Co-Guardian

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Address

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Signature of Ward (If applicable)



IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: GUARDIAN ADVOCACY OF

CASE NO.: \_\_\_\_\_

\_\_\_\_\_ ,

**PHYSICIAN'S REPORT**  
(to be completed by the Physician)

1. Name and Address of Physician: \_\_\_\_\_

\_\_\_\_\_

2. Name of ward: \_\_\_\_\_

3. Date of examination: \_\_\_\_\_

4. Purpose of examination:

a. Regular checkup \_\_\_\_\_

b. Treatment for \_\_\_\_\_

5. Evaluation of ward's condition: (Specify mental and physical condition at time of exam)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. Description of ward's capacity to live independently:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. The ward (circle one) DOES or DOES NOT continue to need assistance of a guardian.

8. Is the ward capable of being restored to capacity at this time? (circle one) YES or NO

9. Date of this report: \_\_\_\_\_

10. Signature of physician completing this report: \_\_\_\_\_

IN THE CIRCUIT COURT OF  
THE SEVENTH JUDICIAL CIRCUIT  
VOLUSIA COUNTY, FLORIDA

PROBATE DIVISION

IN RE: THE GUARDIAN ADVOCATE OF

Case No.: \_\_\_\_\_

\_\_\_\_\_

**ORDER APPOINTING GUARDIAN ADVOCATE OF THE PERSON AND PROPERTY**

Upon consideration of the Petition for the Appointment of Guardian Advocate(s) of the Person, the Court finds that \_\_\_\_\_, the person with a developmental disability, has a developmental disability of a nature which requires the appointment of a Guardian Advocate of the person based upon the following findings of fact and conclusions of law, as required by section 393.12(8), Florida Statutes:

1. The nature and scope of the person's lack of decision-making ability are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The exact areas in which the person lacks decision-making ability to make informed decisions about care and treatment services or to meet the essential requirements for his or her physical health and safety are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The specific legal disabilities to which the person with a developmental disability is subject to are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The powers and duties of the Guardian Advocate are:

(\_\_\_\_) to determine residence;

(\_\_\_\_) to consent to medical, dental, and surgical care and treatment;

- (\_\_\_\_) to make decisions about the social environment or other social aspects of the person with a developmental disability's life;
- (\_\_\_\_) to contract;
- (\_\_\_\_) to sue and defend lawsuits;
- (\_\_\_\_) to apply for government benefits;
- (\_\_\_\_) to manage the property of the person with a developmental disability

**Without first obtaining specific authority from the Court, as stated in section 744.3725, Florida Statutes, the Guardian Advocate may not:**

- (a) commit the person with a developmental disability to a facility, institution, or licensed service provider without formal placement proceedings, pursuant to Chapter 393, Florida Statutes;
- (b) consent to the participation of the person with a developmental disability in any experimental biomedical or behavior procedure, exam, study, or research;
- (c) consent to the performance of a sterilization or abortion procedure on the disabled person;
- (d) consent to termination of life support systems provided for the person with a developmental disability
- (e) initiate a petition for dissolution of marriage for the ward
- (f) exercise any authority over any health care surrogate appointed by any valid advance directive executed by the disabled person, pursuant to Chapter 765, Florida Statutes, except upon further order of this Court.

\_\_\_\_\_ (the person with a developmental disability) shall retain all legal rights except those which are specifically granted to the Guardian Advocate pursuant to court order.

It is therefore ORDERED & ADJUDGED:

1. \_\_\_\_\_ is/are qualified to serve as guardian advocate(s) of the person and is hereby appointed as Guardian Advocate of the Person and Property of \_\_\_\_\_ (the person with a developmental disability).

2. The Guardian Advocate shall exercise only the rights that the Court has found the disabled person incapable of exercising on his or her own behalf, as outlined herein above. Said rights are hereby removed from the person with a developmental disability and specifically delegated to the Guardian Advocate.

3. Upon taking and filing the prescribed oath and filing the designation of resident agent and acceptance, and entering into a bond in the amount of \_\_\_\_\_ payable to the Governor of the State of Florida and to all successors in office, conditioned on the faithful performance of all duties by the guardian, letters of guardianship shall be issued.

4. The Guardian Advocate must place the property in a **restricted account** in a financial institution designated pursuant to Section 69.031, Florida Statutes, including the following property of the Ward:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Circuit Judge

Copies furnished to:

Volusia County Bar Association  
PO Drawer 15050  
Daytona Beach, FL 32115  
386-253-9471  
volusiabar@bellsouth.net