

Florida Guardian Advocate Procedures

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by Michael W. Porter, Esquire



A person is qualified under Florida Law to serve as a guardian if he or she is over the age of 18, and a Florida resident who has never been convicted of a felony.

A non resident of Florida may be appointed if related to the "Ward", under certain circumstances.

The procedure is initiated by the filing with the Court of a Petition for Appointment of Guardian Advocate pursuant to Florida Statutes §393.12, for a Developmentally Disabled person, signed by either the Developmentally Disabled person, or by a person who has personal knowledge as to the disabilities of said person.

Under Florida law [Florida Statutes §393.063(11)], "Developmental Disability"

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is defined as: "a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely."

An Application is required to be filed with the Court along with the Petition for Appointment of Guardian Advocate, and an affidavit of indigency, if appropriate.

The Probate Court for Pinellas County, Florida, also requires a \$27.50 as an Investigation Fee, and a completed checklist for Guardianship Applications. Once the Petition has been filed with the court, all Guardians must submit their fingerprints electronically to the Florida Department of Law Enforcement for a criminal background check which the cost approximately \$60.00 must be paid at the time the fingerprints are taken. Once the petition has

been filed with the court, the Court will appoint an attorney to represent the Developmentally Disabled person. The Developmentally Disabled person may substitute their own attorney to represent them throughout the proceeding.

The Court will also schedule a hearing approximately three to four weeks from the date on which the Petition for Appointment of Guardian Advocate is filed, at which testimony and evidence is presented on the issue of the disabilities of the Developmentally Disabled person.

At said hearing, if the Court finds that the person lacks the capacity to do some of the tasks necessary to care for their person or property, or if the person has voluntarily petitioned the court for the appointment of a guardian advocate, and that there are no less restrictive alternatives, then a guardian advocate may be appointed.

Copies of reports relevant to the person's disabilities, including any recent individ-

ual family or individual support plan, the individual education plan, medical reports, etc., should either be attached to the Petition for Appointment of Guardian Advocate prior to filing said petition with the court or presented as evidence at the hearing on said petition.

If a family member is appointed by the Court to serve as guardian, said family member will be required to attend an eight (8) hour educational course for guardians.

The approximate cost to obtain the appointment of a guardian advocate, which includes the court appointed attorney's fees, and your attorney's fees, range from approximately \$2,500.00 to \$3,500.00 or more. Thereafter, the guardianship fees and costs can range from \$200.00 to over \$1,000.00 per year. Our attorney's hourly rate for guardianship matters is \$400.00 per hour.

Law Firm of Michael W. Porter
Wills - Trusts - Probate - Estate Planning - Guardianship

MICHAEL W. PORTER
Attorney at Law

535 49th Street North
St. Petersburg, Florida 33710

Telephone: (727) 327-7600
Fax: (727) 328-1937
Email: Mike@mwplawfirm.com
Website: <https://mwplawfirm.com>



Michael W. Porter, Esquire, has been engaged in the practice of law primarily in the areas of Guardianship, Probate & Estate Administration, Trusts, Estate Planning, and Real Estate Law since his admission to the Florida Bar in 1986. He maintains strong community ties, and is committed to the pursuit of excellence.

You will find that all members of our staff will communicate effectively and demonstrate the strictest personal and professional ethics as well as the utmost concern for our clients.