

Below is a catalog of additional statutes relating to guardianship, estates & miscellaneous actions. Due to time constraints, the Probate Data Elements workgroup did not collect and standardize the data elements in the below actions.

### **Additional Statutes Related to Guardianship & Miscellaneous Actions**

- Standby Guardians
  - [F.S. 744.304](#)
  - Rule 5.646 – page 99 attachment
  
- Surrogate Guardian
  - Rule 5.647 – page 101
  
- Involuntary admission to residential services
  - [F.S. 393.11](#) (Note: This Petition is rare since in most cases a Guardian Advocate is petitioned for if needed)
  - [F.S. 393.115](#) Discharge
  
- Guardian Advocate
  - [F.S. 393.12](#)
  - Rule 5.649 – page 102
  
- Credit and criminal investigation
  - [F.S. 744.3135](#)
  - Initially, a professional guardian must undergo a level 2 background screening and then once every 5 years after the date the guardian is registered.
  - A level 1 background screening must be completed every 2 years, or upon request of the court.
  - Each employee of a professional guardian who has a fiduciary responsibility must complete a level 1 background screening.
  - The Clerk receives all the information and must make it available to the Court when needed/requested.
    - Note: How the information is maintained in the Clerk's Office varies from each county and circuit. The Clerk is required to maintain a file on each guardian appointed by the court and retain in the file documentation of the result of any criminal history background check from the FDLE and FBI of professional and non-professional guardians. The Clerk may also maintain the credit check. The reports from the FDLE, FBI and credit are considered confidential.
    - Note: Some of the background information is captured in various Broward schemas though the actual reports from the FDLE and FBI are still received in the traditional manner.

- [F.S. 744.1085](#)
    - Each professional guardian must post a blanket fiduciary bond with the clerk in the county where the guardian's primary place of business is located.
    - The bond must be maintained by the guardian in an amount not less than \$50,000, but must cover all wards from whom the guardian has been appointed.
    - Subsection (3) each professional and public guardian must receive a minimum of 40 hours of instruction and training.
    - Each professional guardian must receive a minimum of 16 hours of continuing education every 2 calendar years (Certificates are filed showing completion of the required education).
    - Note: All of the above information has been maintained by the Clerk's Offices. Statewide Public Guardianship Office (SPGO) has implemented laws that the information must be filed with them, and the guardians must be registered and pass a certification test. After July 1, 2004, the court shall not appoint any professional guardian who has not met the requirements of this section. Although the Clerk maintains this information, there has not been a procedure set for the Court to be notified when a professional guardian is registered. Currently the Court searches with SPGO to verify that the guardian is registered.
  
- Guardian education requirements
  - [F.S. 744.3145](#)
  - Note: The professional guardians are required to complete education requirements under this section. They are also required to have continuing education requirements. The certificates are filed into their professional guardian files in the Clerk's office.
  - The non-professionals must complete the education requirements and the certificate is filed with the court.
  
- VA Guardianships
  - [F.S. 744.616](#)
  - Other petitions/notice associated with Veteran's Guardianship that affect the Court/Clerk: (Note: Some circuits believe they have limited jurisdiction over VA Guardianships and may not rule on some of the items listed below)
    - Notice by court of petition filed for appointment of guardian [F.S. 744.617](#)
    - Bond of guardian – [F.S. 744.619](#)
    - Inventory of ward's property; guardian's failure to file inventory; discharge; forfeiture of commissions – [F.S. 744.621](#)
    - Petition for support, or support and education, of ward's dependents; payments of apportioned benefits prohibit contempt action against veteran – [F.S. 744.625](#)
    - Guardians' petition for authority to sell ward's real estate; notice by publication; penalties – [F.S. 744.631](#)

- Guardian's accounts, filing with court and certification to United States Department of Veterans Affairs; notice and hearing on accounts; failure to account – [F.S. 744.634](#)
  - Clerk of the circuit court; fees; duties – [F.S. 744.638](#) (Note: this may not need elements established, but it would be part of a case management)
  - Attorney's fee – [F.S. 744.639](#)
  - Discharge of guardian of minor or incompetent ward – [F.S. 744.643](#)
  - Final settlement of guardianship; notice required; guardian ad Litem fee; papers required by United States Department of Veterans Affairs – [F.S. 744.646](#)
  - Notice of appointment of general guardian; closing of veteran's guardianship; transfer of responsibilities and penalties to general guardian – [F.S. 744.649](#)
  - NOTE: [F.S. 744.653](#) Annual guardianship report is not required under the Veterans' Guardianship Law
  
- Court Monitor
  - [744.107](#)
  - Rule 5.720 – page 115
  
- Emergency Court Monitor
  - [F.S. 744.1075](#)
  - Rule 5.725 – page 115
  
- Expedited Judicial Intervention concerning Medical Treatment Procedures
  - Rule 5.900 – page 117
  
- Conservatorship
  - Note: This type of action is very similar to guardianships and follows the same guidelines)
  - [F.S. 747.03](#)
    - Notice; hearing – [F.S. 747.031](#)
    - Order of appointment - [F.S. 747.032](#)
    - Oath – [F.S. 747.033](#)
    - Bond – [F.S. 747.034](#)
    - Termination of conservatorship – [F.S. 747.04](#)
  
- Summary procedure
  - [F.S. 747.051](#) (Note: This petition can stand alone and does not need to be filed in a Conservatorship)
  
- Procedure for order authorizing action by spouse or next of kin
  - [F.S. 747.052](#) (Note: this petition can stand alone and it would be up to the Court to determine if a Conservatorship should be opened.)

- Persons who may make an anatomical gift (Note: These types of actions are rare.)
  - [F.S. 765.512\(3\)\(i\)](#)
  - [F.S. 765.517\(3\)\(b\)](#) rights and duties at deathNote: This section refers back to the above [F.S. 765.512\(3\)\(i\)](#)

### **Additional Statutes Related to Estates & Miscellaneous Actions**

- Determination of Beneficiaries share
  - [F.S. 733.105](#)
  - Rule 5.385 – page 70
  
- Proceedings for Removal of PR
  - [F.S. 733.504](#)
  - Rule 5.440 – page 79
  
- Subsequent Administration
  - [F.S. 733.903](#)
  - Rule 5.460 – page 80
  
- Ancillary Administration (Regular)
  - [F.S. 734.102](#)
  - Rule 5.470 – page 81
  
- Ancillary Administration Short Form
  - [F.S. 734.1025](#)
  - Rule 5.475 – page 80
  
- Establishment of Lost or stolen will
  - [F.S. 733.207](#)
  - Rule 5.510 – page 85

- Unclaimed Property
  - [F.S. 717.123](#)
  
- Separate Writing
  - [732.515](#)
  - Note: The Production of Will was covered during the committee's sessions, but not the statute for separate wills.
  
- Nonresident decedent's testate estate with property not exceeding \$50,000 in this state; determination of claims
  - [F.S. 734.1025](#)
  - Note: This is a shorten version of [F.S. 734.104](#) Foreign wills; admission to record; effect on title. There is a FLSSI form for 734.104: P-2.0810. One of the differences between these two statutes is:
    - F.S. 734.1025 is filed prior to the expiration of the 2 years after the decedent's death.
    - F.S. 734.104 is filed any time after 2 years from the death of the decedent.
  
- Florida Uniform Disclaimer of Property Interests Act
  - [F.S. 739.104](#) The Power to disclaim; general requirements; when irrevocable
  - [F.S. 739.301\(2\)\(b\)\(4\)\(b\)](#) Delivery of filing