

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Order Number 2009-89-PRC

ADMINISTRATIVE ORDER REQUIRING
CREDIT AND CRIMINAL BACKGROUND INVESTIGATION

(a) Florida Rule of Judicial Administration 2.215(b)(3) states the chief judge shall “develop an administrative plan for the efficient and proper administration of all courts within that circuit.”

(b) In accordance with the authority vested in the chief judge by Florida Rule of Judicial Administration 2.215, it is ordered:

(1) In an effort to assure the appointment of qualified guardians and guardian advocates all prospective guardians and guardian advocates must submit to an investigation of his/her credit history and criminal background check.

(2) Guardianship personnel will be authorized to obtain the required investigatory information.

(3) All nonprofessional guardians and guardian advocates shall undergo periodic and recurring credit and criminal investigation at least once every calendar year, at the time of the filing of the annual accounting and/or plan. If no accounting or plan is required, on the anniversary date of the letters of guardianship or letters of guardian advocate.

(4) All professional guardians shall be required to submit to an annual background investigation on or before every January 15th. All professional guardians shall register with the Statewide Public Guardianship Office pursuant to the Administrative Rules of the Department of Elder Affairs.

(5) All guardians shall have a continuing affirmative duty to disclose adverse information relating to their credit and criminal backgrounds.

(6) The cost for the criminal and credit investigation, for nonprofessional guardians, professional guardians, professional guardians’ staff with a fiduciary responsibility to a ward, and prospective guardians, shall be \$50.00. The check for the criminal and credit investigation cost shall be made payable to the Clerk of Court. The Clerk of Court shall forward all such payments he receives to the Board of County Commissioners.

(7) The cost for the criminal and credit investigation for proposed guardian advocates and appointed guardian advocates is waived both initially and annually thereafter.

(8) The statutorily authorized fee for the fingerprint card processing shall be paid by the nonprofessional guardians, professional guardians, professional guardians' staff with a fiduciary responsibility to a ward, and prospective guardians. The check for the fingerprint card processing shall be made payable to the Florida Department of Law Enforcement. The proposed guardian and proposed guardian advocate who are nonprofessionals shall be required to submit to an initial fingerprint card processing only unless otherwise ordered by the Court. All professional guardians and employees of a professional guardian with a fiduciary obligation to a ward shall annually submit to a fingerprint card processing unless waived by the Court.

(9) Professional guardians may elect to have their fingerprints submitted to the Court electronically. Electronic fingerprints must be taken by a vendor approved by the Statewide Public Guardianship Office.

(10) Any individual who is fingerprinted and whose prints are not discernible, as informed by the Clerk of Court, may have his or her fingerprints waived, upon the following conditions:

- (a) If the fingerprints are taken at the Broward County Courthouse by the designated Court Deputy after two (2) attempts.
- (b) If the fingerprints are not taken at the Broward County Courthouse by the designated Court Deputy for the first two (2) attempts then the third (3) attempt at fingerprinting must be done at the Broward County Courthouse by the designated Court Deputy.

(11) If the proposed guardian, guardian, or employee of a professional guardian with a fiduciary obligation to a ward, is advised that his or her fingerprints are not discernible after two (2) cards were printed by a designated Court Deputy at the Broward County Courthouse or after three (3) attempts with the final attempt by a designated Court Deputy at the Broward County Courthouse, then the attorney for the proposed guardian or professional guardian shall file a motion with the Court seeking waiver of the fingerprint requirement. The Court will review the request and enter an order either granting or denying the waiver of fingerprinting of the proposed guardian, guardian, or employee of a professional guardian with a fiduciary obligation to a ward. The order granting the waiver will be for all future fingerprinting requirements for the individual.

(12) If the Guardianship Investigation Office when performing the credit and criminal investigation determines that the proposed guardian or guardian fails to meet the requirements to be appointed or remain as guardian, or has failed to complete the

guardianship education requirements, or has failed to pay the criminal/credit investigation cost the matter is hereby referred to a general magistrates pursuant to the provisions of Florida Probate Rule 5.095. The general magistrate upon receipt of the information from the Guardianship Investigation Office that the proposed guardian or guardian fails to meet the requirements to be appointed or remain as guardian or has failed to complete the guardianship education requirements or has failed to pay the criminal/credit investigation cost shall set same for hearing and provide notice to the proposed guardian or guardian and proposed guardian's attorney or guardian's attorney. Any interested person may object to the general magistrate hearing the matter by serving and filing an objection to the general magistrate hearing the matter. The notice of hearing as served by the general magistrate shall contain notice that an interested person can object to the general magistrate hearing the matter.

DONE AND ORDERED in chambers at Fort Lauderdale, Broward County, Florida on July 27, 2009.

s/Victor Tobin
Victor Tobin, Chief Judge