

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

*Administrative Order 2020-92-Temp*

**TEMPORARY PROCEDURES FOR  
PROCEEDINGS TO DETERMINE INCAPACITY**

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- (a) Pursuant to Article V, section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice.
- (b) The Centers for Disease Control and the Florida Department of Health have advised people to take precautions in light of the Coronavirus Disease 2019 (COVID-19) outbreak, and specifically noting that the best way to prevent illness is to avoid exposure to the virus.
- (d) Since March 17, 2020, the Florida Supreme Court has issued various emergency administrative orders addressing the judicial branch's response to the COVID-19 pandemic. These administrative orders may be found by visiting the following web page: <https://www.floridasupremecourt.org/Emergency>.
- (e) As identified by Chief Justice Canady, the overarching intent of the Supreme Court emergency orders, which this Court has echoed in its corresponding emergency orders as to courthouse operations, has been and continues to be to mitigate the impact of COVID-19 while keeping the courts operating to the fullest extent consistent with public safety.
- (f) Proceedings to determine incapacity follow expedited statutory guidelines requiring the prompt appointment of a three person examining committee tasked with conducting a comprehensive examination of the alleged incapacitated person, which includes a physical examination, a mental health examination, and a functional assessment, and each member of the examining committee must thereafter submit his or her report to the court within fifteen days of their appointment.

(g) Since the onset of the pandemic in the State of Florida, conducting evaluations of alleged incapacitated persons and proceedings to determine incapacity has proven difficult because of COVID-19 and the limitations imposed on those who may gain access to nursing homes, assisted living facilities, hospitals, and other locations, including personal residences, where alleged incapacitated persons reside, thus requiring the court to consider alternative methods to performing incapacity evaluations.

(f) The implementation of temporary procedures authorizing the examining committee to perform evaluations of alleged incapacitated persons using remote technological means is necessary for the Court to proceed under the Florida Supreme Court mandate that all trial court proceedings be conducted using remote technological means.

(g) Consistent with the Florida Supreme Court's emergency administrative orders authorizing the chief judge to establish procedures for the use, to the maximum extent feasible, of communication equipment for the remote conduct of proceedings, and in accordance with the authority vested in the chief judge by Article V, section 2(d) of the Florida Constitution, 43.26, Florida Statutes, Florida Rule of Judicial Administration 2.215, and to promote public safety amidst the current public health emergency, it is hereby **ORDERED**:

(1) Evaluations of alleged incapacitated persons for incapacity may be performed using remote technological means.

(2) Petitions to determine incapacity filed prior to the effective date of this Administrative Order and which remain pending with no examining committee evaluations having been performed as of the date of this Administrative Order will be evaluated and examining committees convened according to the filing date of the petition (i.e. oldest cases first).

(3) All petitions to determine incapacity filed after the effective date of this Administrative Order shall include specific information as to whether or not the petitioner approves of the examining committee performing remote evaluations of the alleged incapacitated person.

(4) Any party objecting to remote evaluations of an alleged incapacitated person shall schedule a hearing before the assigned judge for a determination whether the remote evaluation may proceed or the petition for incapacity will remain in pending status.

**DONE AND ORDERED** in Chambers, Fort Lauderdale, Florida, this 20th day November, 2020.

/s/Jack Tuter

Jack Tuter, Chief Judge