

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

Administrative Order 2019-100-PRC

**ADMINISTRATIVE ORDER ESTABLISHING
EMERGENCY TEMPORARY GUARDIANSHIP PROCEDURES**

(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) Florida Rule of Judicial Administration 2.215(b)(2) states the chief judge is the “administrative officer of the courts within the circuit and shall, consistent with branch-wide policies, direct the formation and implementation of policies and priorities for the operation of all courts and officers within the circuit.”

(c) Florida Rule of Judicial Administration 2.215(b)(3) states the chief judge shall, considering available resources, ensure the efficient and proper administration of all courts within [this] circuit.”

(d) In accordance with the authority vested in the chief judge pursuant to Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, and Florida Rule of Judicial Administration 2.215, it is hereby **ORDERED**:

(1) Petitions for the Appointment of an Emergency Temporary Guardian filed pursuant to section 744.3031, Florida Statutes, are hereby referred to the general magistrates for the Probate Division pursuant to Florida Probate Rule 5.095. All Petitions for the Appointment of an Emergency Temporary Guardian and all other required documents shall be filed with the Clerk of the Court at least 24 hours before the hearing on the petition. Notice of the Petition for Appointment of an Emergency Temporary Guardian and Notice of Hearing on the Petition must be served on the alleged incapacitated person and on his or her attorney at least 24 hours before the hearing, unless the petitioner demonstrates that substantial harm to the alleged incapacitated person would occur if the 24-hour notice were given.

(2) Any interested person may object to the referral of the Petition for Appointment of an Emergency Temporary Guardian before or at the time of the

hearing before the general magistrate. If an objection is made, the general magistrate shall notify the assigned judge's office of the objection and secure a time from the assigned judge to hear the matter the same day. If the assigned judge is absent from the courthouse, the general magistrate shall contact the Administrative Judge of the Probate Division to secure a hearing time for the same day. If the Administrative Judge of the Probate Division is also absent from the courthouse, the general magistrate shall contact the Civil Duty Judge who shall hear the matter the same day. If all of the above judges are absent from the courthouse, the parties shall proceed, accompanied by the Clerk, to the Trial Court Administrator's Office, 201 S.E. 6th Street, Suite WW20170, Fort Lauderdale, for assistance in locating a judge.

(3) Each general magistrate for the Probate Division shall set aside a minimum of one (1) hour per week to hear Petitions for the Appointment of an Emergency Temporary Guardian. Each general magistrate shall post the day and time of their hearings for the appointment of an emergency temporary guardian and shall provide a copy to the Probate Division of the Clerk of the Court.

(4) If the need arises for the appointment of an emergency temporary guardian, other than at the times previously designated by the general magistrates, the attorney for the petitioner should contact the general magistrates to secure a date and time for the hearing. If neither general magistrate is able to hold a hearing within forty-eight (48) hours of the request, then the petitioner's attorney should contact the assigned judge to secure a date and time for the hearing.

(5) The general magistrates **will not** entertain any Petitions for the Appointment of an Emergency Temporary Guardian without the court file, a Petition to Determine Incapacity as to the Respondent filed at least 24 hours in advance of the hearing, and the statutory 24-hour notice of hearing. The Clerk of the Court shall deliver the court file to the appropriate courtroom prior to the designated hearing time.

(6) Upon entry, and where the parties have not agreed to waive the ten-day exceptions period, the general magistrate shall transmit his or her report and recommendation to the Clerk of the Court and all interested parties. If exceptions are timely filed, the assigned division judge shall schedule a hearing with reasonable notice to all interested parties. If exceptions are not filed, the attorney for the petitioner shall submit proposed orders consistent with the findings of the general magistrate to the Clerk of the Court who shall deliver such proposed orders

to the assigned division judge along with an Order Upon Report and Recommendation of General Magistrate.

(7) If, during the hearing, the general magistrate determines that an emergency exists wherein any delay would place the alleged incapacitated person's health or assets in imminent danger, and all interested persons agree to waive the ten-day exceptions period to the general magistrate's report and recommendation, the general magistrate shall contact the assigned division judge who shall take appropriate action. If the general magistrate is unable to contact the assigned division judge, he or she shall attempt to contact another judge assigned to the Probate Division. In the event all Probate Division judges are unavailable, the general magistrate shall contact the Civil Duty Judge who shall take appropriate action. In the event all of the above judges are absent from the courthouse, the parties shall proceed, accompanied by the Clerk, to the Trial Court Administrator's Office, 201 S.E. 6th Street, Suite WW20170, Fort Lauderdale, Florida 33301, for assistance in locating a judge. The Clerk shall accompany the parties to the judge's courtroom or chambers, as appropriate.

(8) This Administrative Order vacates and supersedes Administrative Order 2016-24-PRC.

DONE AND ORDERED in Chambers, Fort Lauderdale, Broward County, Florida on this 13th day of December, 2019.

/s/ Jack Tuter
Jack Tuter, Chief Judge