Supreme Court of Florida

No. SC2026-1351

IN RE: AMENDMENTS TO FLORIDA PROBATE RULES - 2026 LEGISLATION.

October 15, 2026

PER CURIAM.

In response to recent legislation, The Florida Bar's Probate Rules Committee has filed a "fast-track" report proposing amendments to Florida Probate Rules 5.122 (Curators) and 5.905 (Form for Petition; Notice; and Order for Appointment of Guardian Advocate of the Person).[1] The amendments are based on statutory changes in chapters 2026-85 and 2026-129, Laws of Florida, which went into effect on July 1, 2026.

The Committee voted to approve the amendments by a vote of 25-0-0. After considering the Committee's proposals and the relevant legislation, we amend rules 5.122 and 5.905 as proposed

1. We have jurisdiction. *See* art. V, § 2(a), Fla. Const.; *see also* Fla. R. Gen. Prac. & Jud. Admin. 2.140(e).

by the Committee. The more significant amendments are discussed below.

Rule 5.122 is amended to clarify that the amount of bond to be posted by curators, if any, must be determined by the court. The amendment further clarifies that in addition to the formal notice given to the person entitled to letters of administration, notice of the appointment of a curator must also be given to other interested persons, except when giving notice to other interested persons would delay the appointment of the curator and there is a significant danger that the delay would result in the decedent's property being wasted, destroyed, or removed beyond the court's jurisdiction. This is consistent with section 733.501, Florida Statutes, as amended by chapter 2026-85, section 1, Laws of Florida.

Next, we amend rule 5.905(a) to add "Tatton-Brown-Rahman syndrome" to the list of disorders and syndromes that constitute a developmental disability. This change is consistent with section 393.063(11), Florida Statutes, as amended by chapter 2026-129, section 1, Laws of Florida.

Accordingly, the Florida Probate Rules are amended as

reflected in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. The amendments shall take effect immediately upon the release of this opinion. Because the amendments were not published for comment prior to their adoption, interested persons have 75 days from the date of this opinion to file comments with the Court.[2]

It is so ordered.

COURIEL, C.J., and LABARGA, MUÑIZ, GROSSHANS, FRANCIS, BARRIOS, and TANENBAUM, JJ., concur.

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2. All comments must be filed with the Court on or before December 29, 2026, with a certificate of service verifying that a copy has been served on the Committee Co-Chairs, Marve Ann M. Alaimo, Porter Wright Morris & Arthur LLP, 9132 Strada Place, Suite 301, Naples, Florida, 34108, malaimo@porterwright.com, and J. Allison Archbold, Archbold Law Firm, P.A., 1217 South Tamiami Trail, Sarasota, Florida 34239, jaa@archbold.law, and on the Bar Staff Liaison to the Committee, Heather Telfer, 651 East Jefferson Street, Tallahassee, Florida 32399, rules@floridabar.org, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Committee Chair has until January 19, 2027, to file a response to any comments filed with the Court. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment may be, but is not required to be, filed via the Portal. Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceeding – Florida Probate Rules

Marve Ann M. Alaimo, Co-Chair, Probate Rules Committee, Naples, Florida, J. Allison Archbold, Co-Chair, Probate Rules Committee, Sarasota, Florida, Joshua E. Doyle, Executive Director, The Florida Bar, Tallahassee, Florida, and Heather Savage Telfer, Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

APPENDIX

RULE 5.122. CURATORS

(a) Petition for Appointment. The petition for appointment of a curator must be verified and must contain:

(1) - (7) [No Change]

The court may appoint a curator sua sponte to protect the interests of the estate or a decedent's heirs.

(b) Appointment. Before letters of curatorship are issued, the curator must file a designation of resident agent and acceptance, and an oath, as is required for personal representatives under these rules, and the court must determine the amount of bond, if any, required. The court must issue letters of curatorship that state the entitlement of the curator to possess or control all or part of the decedent's property, which the court may enforce through contempt proceedings.

(c) Notice.

(1) Formal notice must be given to the person apparently entitled to letters, if any.

(2) Notice must be given to other interested persons.

(3) ~~If it is likely~~If there is significant danger that the decedent's property will be wasted, destroyed, or removed beyond the jurisdiction of the court and if the appointment of a curator would be delayed by giving notice, the court may appoint a curator with formal notice to the person apparently entitled to letters, but without notice to other interested persons.

(d) - (g) [No Change]

Committee Notes

[No Change]

Rule History

1988 Revision - 2003 Revision: [No Change]

2026 Revision: Subdivisions (a), (b), and (c) amended to address 2026 legislative changes to section 733.501, Florida Statutes. Subdivision (d) amended to require that the order state whether a curator is granted the authority by the court to address any demand filed under rules 5.240 and 5.241. Committee notes revised.

Statutory References

[No Change]

Rule References

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.040 Notice.

Fla. Prob. R. 5.041 Service of pleadings and documents.

Fla. Prob. R. 5.235 Issuance of letters, Bond.

Fla. Prob. R. 5.240 Notice of administration.

Fla. Prob. R. 5.241 Notice to creditors.

Fla. R. Gen. Prac. & Jud. Admin. 2.516 Service.

RULE 5.905. FORM FOR PETITION; NOTICE; AND ORDER FOR APPOINTMENT OF GUARDIAN ADVOCATE OF THE PERSON

(a) Petition.

FORM FOR USE IN PETITION FOR APPOINTMENT OF GUARDIAN ADVOCATE OF THE PERSON UNDER FLORIDA PROBATE RULE 5.649

In the Circuit Court of the _____ Judicial Circuit,
in and for _____ County, Florida

Probate Division
Case No. _____

In Re: Guardianship Advocacy of

_____
Respondent's Name
Person with Developmental Disability

_____

PETITION FOR APPOINTMENT OF GUARDIAN ADVOCATE OF THE PERSON

Petitioner, _____, files this petition under section 393.12, Florida Statutes, and Florida Probate Rule 5.649 and alleges that:

1. The petitioner, proposed guardian advocate .....(name)....., is _____ years of age, whose residential address is _____ and post office address is _____ _____. The relationship of the petitioner to the respondent is _____.

2. .....(Respondent's name)..... is a person with a developmental disability who was born on _____ and who is _____ years of age, who resides in _____ County,

Florida. The residential address of the respondent is _____ _____ and the post office address is _____ _____.

3. The petitioner believes that respondent needs a guardian advocate:

a. due to the following developmental disability:

( ) i. intellectual disability;

( ) ii cerebral palsy;

( ) iii. autism;

( ) iv. spina bifida;

( ) v. Down syndrome;

( ) vi. Phelan-McDermid syndrome;~~ or~~

( ) vii. Prader-Willi syndrome~~,~~<u>; or</u>

<u>( ) viii. Tatton-Brown-Rahman syndrome,</u>

which manifested before the age of 18.

b. The developmental disability has resulted in the following substantial handicaps: _____ _____ _____

4. The exact areas in which the person with the developmental disability lacks the ability to make informed decisions about the person's care and treatment services or to meet the essential requirements for the person's physical health or safety are as follows:

( ) a. to apply for government benefits;

( ) b. to determine residency;

( ) c. to consent to medical and mental health

treatment;

( ) d. to make decisions about social environment/social aspects of life;

( ) e. to make decisions regarding education; and

( ) f. to bring an independent action for support.

5. There are no alternatives to guardian advocacy, such as trust agreements, powers of attorney, designation of health care surrogate, or other advanced directive, known to petitioner that would sufficiently address the problems of the respondent in whole or in part. Thus, it is necessary that a guardian advocate be appointed to exercise some but not all of the rights of respondent.

6. The names and addresses of the next of kin of the respondent are:

Name	Address	Relationship

7. The proposed guardian advocate .....(name)....., whose residence address is _____, and whose post office address is _____, is over the age of 18 and otherwise qualified under the laws of the State of Florida to act as guardian advocate of the person of respondent. The proposed guardian advocate is not a professional guardian. The relationship of the proposed guardian advocate with the providers of health care services, residential services, or other services to the respondent is (if none, indicate: NONE):_____

_____

_____

_____

8. a. The petitioner(s) allege(s) that to their knowledge, information, and belief, the respondent _____ has or _____ has NOT executed an advance directive under chapter 765, Florida Statutes, (designated health case surrogate or other advance

directive) or a durable power of attorney under chapter 709, Florida Statutes.

b. The petitioner(s) also allege(s) to the petitioner's knowledge, information, and belief, the respondent, _____ has or ___ _____ has NOT executed a supported decisionmaking agreement under section 709.2209, Florida Statutes.

c. The petitioner(s) allege(s) that the respondent has the documents referenced in subdivisions 8.a. or 8.b., but the documents are insufficient to meet the needs of the respondent because: (Do not complete if the respondent does not have the documents referenced in subdivisions 8.a. and 8.b.) _____
_____
_____
_____

9. *(If a Co-Guardian Advocate sought, complete this paragraph.)* Petitioner requests that _____ be appointed co-guardian advocate of the person of respondent. The proposed co-guardian advocate .....(name)....., who is _____ years of age, whose residence is _____, whose post office address is _____, is over the age of 18 and otherwise qualified under the laws of the State of Florida to act as guardian advocate of the person of respondent. The proposed co-guardian advocate is not a professional guardian. The relationship of the proposed co-guardian advocate with the providers of health care services, residential services, or other services to the respondent is (if none, indicate: NONE): _____
_____
_____
_____

The relationship and previous association of the proposed co-guardian advocate to the respondent is _____. The proposed co-guardian advocate should be appointed because: _____
_____
_____
_____

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

Signed .....(date).....

Signature: _____

Proposed Guardian Advocate
Name: _____
Address: _____

_____
Phone Number: _____

E-mail Address: _____

Signature: _____

Proposed Co-Guardian Advocate
Name: _____
Address: _____

_____
Phone Number: _____

E-mail Address: _____

(b) - (c) [No Change]