

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO
THE FLORIDA PROBATE RULES**

CASE NO.: SC16-

**FAST-TRACK REPORT OF THE
FLORIDA PROBATE RULES COMMITTEE**

Michael Travis Hayes and Jon Scuderi, Co-Chairs of the Florida Probate Rules Committee (“Committee”), and John F. Harkness, Jr., Executive Director of The Florida Bar, file this fast-track report, under Florida Rule of Judicial Administration 2.140(e).

All rule amendments have been approved by the full Committee and, as required by Florida Rule of Judicial Administration 2.140, reviewed by The Florida Bar Board of Governors. The voting records of the Committee and the Board of Governors are attached as Appendix A. Pursuant to Florida Rule of Judicial Administration 2.140(e), the amendments have not been published for comment prior to the filing of this report.

The Committee proposes amendments within the substance or the notes of the following Florida Probate Rules: Rule 5.050 (Transfer of Proceedings); Rule 5.560 (Petition for Appointment of Guardian of Incapacitated Person); Rule 5.646 (Standby Guardians); Rule 5.648 (Emergency Temporary Guardian); Rule 5.670 (Termination of Guardianship on Change of Domicile of Resident Ward); and, Rule 5.710 (Reports of Public Guardian).

PROPOSED RULE AMENDMENTS

RULE 5.050. TRANSFER OF PROCEEDINGS

The Committee does not propose any amendments to Florida Probate Rule 5.050 (Transfer of Proceedings) itself. However, the Committee proposes amending the statutory references, within the committee notes, to reflect the renumbering of sections 744.201, 744.202, and 744.2025 to sections 744.1096, 744.1097, and 744.1098, Florida Statutes, respectively, as amended in sections 5–7, Chapter 2016-40, Laws of Florida. The committee notes are updated accordingly.

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RULE 5.560. PETITION FOR APPOINTMENT OF GUARDIAN OF AN INCAPACITATED PERSON

The Committee proposes amending Florida Probate Rule 5.560 (Petition for Appointment of Guardian of an Incapacitated Person) to address statutory changes. The Committee proposes amending subdivision (a)(10) to reflect the renumbering of section 744.1083 to section 744.2002, Florida Statutes, as amended in section 9, Chapter 2016-40, Laws of Florida. Specifically, the Committee proposes replacing “744.1083” with “744.2002” at the end of subdivision (a)(10). The Committee also proposes updating the statutory references within the committee notes by replacing “744.1083” with “744.2002” in the first reference to reflect the renumbering of section 744.1083 to section 744.2002, Florida Statutes, as amended in section 9, Chapter 2016-40, Laws of Florida. The statutory reference to “744.344” is replaced with “744.2005” to reflect the amendments in section 13, Chapter 2016-40, Laws of Florida. The statutory reference to “744.703” is replaced with “744.2006” to reflect the amendments in section 14, Chapter 2016-40, Laws of Florida. Committee notes are updated accordingly.

Additional amendments to Rule 5.560 (Petition for Appointment of Guardian of an Incapacitated Person) are pending with the Court in *In re: Amendments to Florida Probate Rules*, SC16-168. These amendments are indicated in Appendix B and Appendix C with double underline and double strikethrough.

RULE 5.646. STANDBY GUARDIANS

The Committee proposes amending Florida Probate Rule 5.646 (Standby Guardians) to address statutory changes. The Committee proposes amending subdivision (c)(1)(H) to reflect the renumbering of section 744.1083 to section 744.2002, Florida Statutes, as amended in section 9, Laws of Florida. Specifically, replacing “744.1083” with “744.2002” at the end of subdivision (c)(1)(H). Committee notes are updated accordingly.

RULE 5.648. EMERGENCY TEMPORARY GUARDIAN

The Committee does not propose any amendments to Florida Probate Rule 5.648 (Emergency Temporary Guardian) itself. However, the Committee proposes amending the committee notes to address statutory changes. The Committee’s proposal amends the statutory reference, within the committee notes, to reflect the renumbering of section 744.344 to section 744.2005, Florida Statutes, as amended

in section 13, Chapter 2016-40, Laws of Florida. Committee notes are updated accordingly.

RULE 5.670. TERMINATION OF GUARDIANSHIP ON CHANGE OF DOMICILE OF RESIDENT WARD

The Committee does not propose any amendments to Florida Probate Rule 5.670 (Termination of Guardianship on Change of Domicile of Resident Ward) itself. However, the Committee proposes amending the statutory references, within the committee notes, to reflect the renumbering of sections 744.201, 744.202, and 744.2025 to sections 744.1096, 744.1097, and 744.1098, Florida Statutes, respectively, as amended in sections 5–7, Chapter 2016-40, Laws of Florida. The committee notes are updated accordingly.

RULE 5.710. REPORTS OF PUBLIC GUARDIAN

The Committee proposes amending Florida Probate Rule 5.710 (Reports of Public Guardian) to address statutory changes. The Committee proposes amending subdivisions (c), (d), and (e) to reflect the renaming of the Statewide Public Guardianship Office as the Office of Public and Professional Guardians to conform to statutory changes to section 744.2001, Florida Statutes, as amended by section 8, Chapter 2016-40, Laws of Florida. Specifically, in subdivision (c), the Committee proposes deleting “Statewide Public Guardian” before “Office” and adding “of Public and Professional Guardians” after “Office.” The Committee proposes the same amendment for subdivisions (d) and (e) to correctly reflect the new name of the agency as the “Office of Public and Professional Guardians.” Committee notes are updated accordingly.

WHEREFORE, the Florida Probate Rules Committee respectfully requests that the Court amend Florida Probate Rules 5.050, 5.560, 5.646, 5.648, 5.670, and 5.710 as detailed above.

Respectfully submitted on August 11, 2016.

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CERTIFICATE OF COMPLIANCE

I certify that these rules were read against *West's Florida Rules of Court—State* (2016 Edition). I certify that this report was prepared in compliance with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

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