



AMENDED ADMINISTRATIVE MEMORANDUM

TO: Probate Division Judges and Staff; Juan Fernandez-Barquin, Clerk of Courts, Eugenio Carral, COC Family Courts Division Director; Robert Garvine, Probate Division Director;

FROM: Yvonne Colodny, Administrative Judge, Probate Division

DATE: May 31, 2024

SUBJECT: Referral of Determination of Incapacity, Appointment of Emergency Temporary Guardian, and Restoration Proceedings to Probate General Magistrate

WHEREAS, pursuant to Florida Rule of General Practice and Judicial Administration 2.215, the Chief Judge of the Eleventh Judicial Circuit of Florida has the authority to implement policies necessary to ensure the efficient and proper administration of all courts within the Eleventh Judicial Circuit; and

WHEREAS, in order to expedite the administration of justice in the Eleventh Judicial Circuit of Florida, under rule 2.215, Florida Rules of General Practice and Judicial Administration, the Chief Judge is authorized to appoint General Magistrates; and

WHEREAS, a General Magistrate has been appointed for the Probate Division for the Eleventh Judicial Circuit of Florida to perform certain duties in accordance with the applicable Florida Statutes, federal law, and court rules; and

WHEREAS, Administrative Order 21-20, effective November 15, 2021, establishes General Magistrate section "PMHGMB" in the Probate Division, and the Administrative Memorandum dated May 19, 2022, defines the duties for section PMHGMB; and

WHEREAS, section 744.331, Florida Statutes, provides the procedures for proceedings regarding the determination of incapacity; and

WHEREAS, section 744.3031, Florida Statutes, provides the procedures for the appointment of an Emergency Temporary Guardian; and

WHEREAS, section 744.464, Florida Statutes, provides the procedures for the Restoration to Capacity for a ward who has previously been adjudicated incapacitated; and

NOW, THEREFORE, pursuant to the authority vested in me as Administrative Judge of the Probate Division of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida, and Florida General Practice and Judicial Administration Rule 2.215(5), set forth the following procedure for the referral of the proceedings specified herein:

1. Proceedings to Determine Incapacity, Restore Capacity, or Appoint an Emergency Temporary Guardian assigned to PMH Section(s) 3 or 6, shall be referred to Section PMHGMB without further action of the Court.
2. Proceedings to Determine Incapacity, Restore Capacity, or Appoint an Emergency Temporary Guardian assigned to PMH Section 4, shall be referred to Section PMHGMA without further action of the Court.
3. Proceedings to Determine Incapacity, Restore Capacity, or Appoint an Emergency Temporary Guardian assigned to PMH Section(s) 1, shall continue to be heard by the assigned Judge but may be referred to PMHGMA via the Notice of Hearing.
4. Proceedings to Determine Incapacity, Restore Capacity, or Appoint an Emergency Temporary Guardian assigned to PMH Section 5, shall continue to be heard by the assigned Judge but may be referred to PMHGMB via the Notice of Hearing.
5. Any interested person may object to the referral by filing a written objection within ten (10) days of issuance of the Notice of Hearing. If an objection is made, the objecting party shall notify the assigned Judge's chambers of the objection and secure a time from the assigned Judge to set the matter for hearing. If the assigned Judge is unavailable, the objecting party shall contact the Administrative Judge of the Probate Division to secure a hearing time. Failure to file a written objection within the time frame shall be deemed as consent to the referral of the matter to the General Magistrate.
6. Upon conclusion of any hearing before the General Magistrate, as per Florida Probate Rule 5.095(h), either party has the right to file exception(s) to the GM's report and recommendation. Any exceptions must be filed within 10 days of the hearing. Any party that files an exception to the GM's Report, must contact the section Judge's chambers, and set the matter for hearing.

This Administrative Memorandum shall take effect immediately upon execution and shall remain in effect until it is amended or revoked.

Dated this 31st day of May, 2024 *nunc pro tunc* to May 20, 2024.

/s/ Yvonne Colodny

**Yvonne Colodny, Administrative Judge
Eleventh Judicial Circuit of Florida, Probate Division**