



| Comparison of  | Chapter 393<br>Guardian Advocacy  | Chapter 744<br>Guardianship  |
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| <b>Person that is the subject of the proceedings</b>     | Must have a developmental disability attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely  | Anyone that needs assistance with decision-making, including persons with a developmental disability   |
| <b>Petition to Determine Incapacity</b>                  | None  | Petitioner alleges incapacity, including which rights the person is incapable of exercising  |
| <b>Examining Committee</b>                               | None  | 3 member committee evaluates individual and reports findings to the court. Paid for their services unless individual found to be indigent in which case the State of Florida pays  |
| <b>Hearing to determine incapacity</b>                   | None  | Alleged incapacitated person must attend unless presence waived. Petitioner(s) must attend   |
| <b>Petition for Appointment of Guardian</b>              | Must include specific information about disability as well as the person(s) proposed as the guardian advocate   | Petition for the appointment of a guardian must be filed with Petition to Determine Incapacity. Must name proposed guardian(s)   |
| <b>Hearing on petition to appoint guardian</b>           | Yes   | Yes, but hearing may be combined with hearing on Petition to Determine Incapacity  |
| <b>Removal of Rights</b>                                 | Only those rights specifically delegated to the appointed guardian advocate(s)  | Those rights the court determines the incapacitated individual is not capable of exercising. Guardian only authorized to act over delegable rights   |
| <b>Initial Reports Required</b>                          | Yes   | Yes  |
| <b>Annual Reports Required</b>                           | Yes   | Yes  |
| <b>Initial/Annual Background Investigations Required</b> | Yes<br>Fee waived (Broward County)  | Yes<br>\$50 annual fee (Broward County)  |
| <b>Educational Course Requirement</b>                    | Yes   | Yes  |
| <b>Court Supervision</b>                                 | Ongoing   | Ongoing  |
| <b>Legal Representation</b>                              | No attorney required for guardian advocate if guardian advocacy only delegated personal rights or the right to be the representative payee. The developmentally disabled individual will have a court appointed attorney to represent them through the proceedings if they are unable to afford a private attorney.   | Required for all guardians. The incapacitated individual will have a court appointed attorney to represent them through the proceedings if they are unable to afford a private attorney. The court appointed attorney is generally discharged after the initial reports have been approved. The guardian must have an attorney for the duration of the guardianship. |
| <b>Restoration</b>                                       | Suggestion of Restoration of Rights by an interested person, including the person with a developmental disability and provide evidentiary support or good faith basis for the suggestion. If no evidentiary support, hearing set to enter orders to secure the required documents. Counsel appointed. Hearing held if objection timely filed, or if evidentiary support suggests that restoration is not appropriate. | Suggestion of Capacity by an interested person, including the ward. Physician appointed to examine the ward and file report with the court. Hearing held if objection timely filed, or if report suggests less than full restoration is appropriate. Attorney appointed to represent the ward at hearing. Preponderance of the evidence.                             |