



# FLORIDA STATE GUARDIANSHIP ASSOCIATION

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August 18, 2021

Honorable Ken Burke, Pinellas County Clerk & Comptroller  
Clearwater Courthouse  
315 Court Street, Room 400  
Clearwater, FL 33756

RE: Appointment of an authoritative Guardianship Law Study Commission

Dear Clerk Burke,

The Florida State Guardianship Association (FSGA) since its very formation in 1983 is dedicated to the protection of the dignity and rights of incapacitated persons and to increasing the professionalism of guardians through education.

FSGA firmly stands by education for all types of guardians – family, public, and private as well as others, in order to adequately perform the important duties and functions of guardians; to promote professional excellence in the practice of guardianship; and to serve as a voice for vulnerable persons and the people who serve them.

FSGA has been first in supporting and for some time now, increasing the continuing education requirement for Guardians to 30 hours every two years from the present requirement of 16 hours. Moreover, FSGA supports the inclusion of, specialization of credits within the 30 hours in the three important areas of Ethics, End of Life, and Fiduciary Duty.

FSGA officers and members have met with and requested this increase in CEU requirements of Elder Affairs Secretary Richard Prudom, and various legislators including the Honorable Senator Kathleen Passidomo and Representative Colleen Burton. We continue in our efforts to encourage and support best practices through education, for example through our Annual Conference, frequent Webinars, and Annual Symposiums dedicated to the Ethical practice of guardianship. Even through these difficult times due to COVID 19, we have continued regular continuing educational sessions for our members and attendees without interruption.

In our state, having the third largest in population in the country, there are many unique and difficult issues happening in the field of guardianship that require our attention. The geographic and demographic diversities are considerable. There are differences and nuances from region to region, across all the judicial circuits, and, yes, most certainly among all sixty-seven Clerks offices.

The clerks of the courts wear many hats and their responsibilities also differ from county to county. The following is the very first observation cited in the Florida Clerks of Court Study prepared for the Florida Legislature conducted by the MGT Consulting Group published on November 15, 2019:

*“The Clerks of Court play a vital role in the state’s judicial system. Yet, if one were to start from scratch to rebuild a statewide system of Clerks of Court, it is unlikely that you would design the approach MGT observed in Florida today, which is evident in the inconsistencies in the way court-related functions are managed across jurisdictions.”*

The population increase in Florida over the years has been staggering and well known to everyone. For those 65 years of age or older, the estimated increases from 2000 to 2020 have been particularly dramatic. Basically, the older population is the fastest growing demographic group.

While legal guardianship is often thought of in the context of older individuals, the guardianship arena also assists minors as well as adults of any age who are incapacitated. Guardians are appointed by a Court to assist individuals with disabilities of any age, whether the incapacity or disability arises as early as birth or develops with age. Guardians may be appointed on either a temporary or permanent basis. Accordingly, the range of issues which are addressed by guardianship are complex and are increasing over time.

There have been significant changes in the guardianship laws in the last several years, and there is a proposal to enact an entirely new chapter in the Florida Statutes to replace our current guardianship laws. In order to deal with the complex landscape of guardianship, a piecemeal approach is not the best.

FSGA is concerned this “task force” is not well aimed on addressing statewide issues, and it has certainly been formed in haste. Some individuals were not even identified until close to the first scheduled meeting. This effort is, frankly, lacking in representation from across more judicial circuits and from the Judiciary. The few total hours scheduled is illogical and a disservice to all concerned. Even within this fast time table, hardly any time is being set aside for substantive deliberations. Notwithstanding, and amazingly, a target date has been set for the issuance of a report in a matter of just a few weeks. Additionally, this task force is functioning under the auspices of the Florida Clerks Association or FCCC. The FCCC’s official states “it is not an entity of state or local government”, and, “is not subject to Florida’s Public Records law.” In fact, FSGA’s public records request for information has been denied.



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FSGA has been attempting to obtain information relevant to the stated purpose of this “task force” from various sources including several Clerks as well as OPPG. After more than 6-weeks, only three Clerk offices have responded with the information requested. Pinellas Clerk Burke’s Office was the first and most responsive, which is greatly appreciated. Others have yet to do so, including the Palm Beach Clerk’s Office and OPPG. Essentially, obtaining adequate information, or information of any kind, has been very difficult.

The Florida State Guardianship Association has a solid history of working with other stakeholders in making tangible improvements and elevating ethical guardianship practices. Through our efforts, sound Standards of Practice were incorporated into the Department of Elder Affairs overall administrative rule Chapter 58M-2, Florida Administrative Code. FSGA, along with several other organizations, was involved from the outset in the early efforts that eventually led to the new law concerning Eldercaring Coordination.

Accordingly, FSGA has asked our state leaders, Governor Ron DeSantis, Senate President Wilton Simpson and House Speaker Chris Sprowls to name an official commission to truly delve into the many important and complex issues involving guardianship. Such an effort can be supported by the Legislature’s audit and research arm – the Office of Program Policy Analysis and Government Accountability (OPPAGA).

These recommendations include reviewing all of Florida’s Guardianship laws and rules, making wholesale proposals for improvements throughout the guardianship structure, while continuing to respect the rights of all vulnerable citizens and ensuring their well-being, as well as increasing the training and education requirements for all the participants, and how to better the oversight of the courts.

We trust a comprehensive, more thought-out approach will produce real improvements for all Floridians. We look forward to working with you Clerk Burke, and many others in that endeavor.

Sincerely,



Gina Rossi-Scheiman  
Executive Director

