

**Policy Directive Concerning Application of Florida Statutes,
§§ 744.365(2) (a), 744.3678(2) (a) and 744.441(19)
Requiring Trust Reporting in a Guardianship**

744.365(2) (a) --- Verified Inventory

Where the ward is the beneficiary of a trust, the guardian must file the page of the trust listing the amount in the trust and the identity of the trustee. A copy of the entire trust is required if the guardian serves as a trustee. If the guardian is not the trustee, the inventory should reflect the ward's beneficial interest in the trust at a \$1.00 carrying value. If the guardian serves as trustee, the trust assets should be itemized and listed as the value on hand at the time of appointment. The Court will require copies of the statements, as of the date of appointment so that the beginning values can be verified before any monies are expended. The audit fee is based on the corpus of inventory, which includes trust assets so listed.

744.3678(2) (a)—Annual Accounting

The guardian is required to file an annual accounting with the court each year. The accounting need not include "any property or any trust of which the ward is a beneficiary but which is not under the control or administration of the guardian." If the trust is controlled or administered by the guardian, then it must be included in the annual accounting. If the guardian is the trustee, then the trust property must be included in the annual accounting. All Court requirements stated above apply. The Court requires a fiscal year filing cycle not a calendar year cycle for accountings.

744.441(19)—Powers of guardian upon court approval

With court approval, the guardian has the power to create or amend a revocable trust or create an irrevocable trust with the ward's property for tax/estate/gift/income planning purposes. The Court now retains "oversight" of the property transferred to the trust, UNLESS the court orders otherwise. There is no indication from the statute of what oversight means; however, this court has interpreted this to mean the court has oversight when it reviews the trust property per the annual accounting. By court order, the court can relieve the guardian of the court's oversight.