

PROBATE PROCEEDINGS

This section provides guidance on procedures to be used when completing the monthly Probate SRS form. For ease of following the SRS form, this section is divided into the major sections indicated on the reporting form. Each **U** or **Y** indicates guidelines and directions that should be followed when completing specific sections of the SRS form.

Note: The section entitled Case Type Determinations (pages 5-8 and 5-9) provides case type and category definitions. The SRS reporting form for the Probate division is located in the tabbed section entitled SRS Reporting Forms (page 12-6).

FILINGS

Number of Filings

Please refer to section "A" of the SRS form which reports information associated with the number of filings during the specified reporting period.

- U** Report in the appropriate case type, the number of petitions filed during the reporting period.
- U** Report cases transferred to the reporting court from another court only if the transferred cases require a judge in the receiving jurisdiction to enter a disposition.
- U** Report **subsequent** substance abuse and involuntary treatment petitions which are submitted to the court only if the individual has completed treatment.
- U** Report petitions for expedited judicial intervention concerning medical treatment procedures filed under rule 5.900, Florida Probate Rules and section 765.105, Florida Statutes.
- U** Report in the appropriate case type, the number of petitions for involuntary examination pursuant to section 394.463, Florida Statutes (Baker Act).
- U** Report in the appropriate case type, the number of petitions for involuntary placement filed pursuant to section 394.467, Florida Statutes (Baker Act).
- U** Report in the appropriate case type, the number of petitions for involuntary assessment and stabilization pursuant to section 397.6811, Florida Statutes (Hal S. Marchman Act).
- U** Report in the appropriate case type, the number of petitions for involuntary treatment filed pursuant to section 397.693, Florida Statutes (Hal S. Marchman Act).

- U Report in the Guardianship case type, the number of petitions for removal of disabilities of non-age minors filed pursuant to sections 743.08 and 743.09, Florida Statutes, (i.e., judicial approval of professional sports contracts or contracts to provide artistic or creative services).
- U Report petitions to determine incapacity filed pursuant to section 744.3201, Florida Statutes.
- U Report petitions for settlement of minor claims filed pursuant to section 744.387, Florida Statutes.

The following items identify common reporting errors. Please check these items to ensure that the SRS report **does not** include these reporting errors.

- Y **DO NOT** report deposited wills or caveats.
- Y **DO NOT** report petitions to open a safe deposit box. **Report the case when a formal, family, or summary administration petition is filed.**
- Y **DO NOT** report written declarations filed with the clerk of court concerning pre-need guardians pursuant to sections 744.3045 and 744.3046, Florida Statutes.
- Y **DO NOT** report petitions for extraordinary authority filed under rule 5.635, Florida Probate Rules. If a guardian has been appointed then the petition should be reported as a reopened case (See Number of Reopened Cases, page 5-7).
- Y **DO NOT** report annual judicial reviews of guardianship accountings and plans (See Number of Reopened Cases, page 5-7).
- Y **DO NOT** report cases which were previously reported as disposed that are resubmitted to the court (See Number of Reopened Cases, page 5-7).
- Y **DO NOT** report petitions to gain entry into an apartment or dwelling.
- Y **DO NOT** report petitions for suggestion of capacity. If a guardian has been appointed then the petition should be reported as a reopened case (See Number of Reopened Cases, page 5-7).
- Y **DO NOT** report a notice of trust. Rather, report the petition to establish a trust, if it is established through the court. If the trust is not established through the court, report the petition to appoint or remove a trustee, which is often the initiating pleading in a trust case.

DISPOSITIONS

Number of Dispositions

Please refer to section “B” of the SRS form which reports information associated with the number of dispositions during the specified reporting period.

- U Report in the appropriate category, the number of cases disposed during the reporting period.
- U Report probate/estate cases as disposed after the final judicial decision which terminates the proceeding by an order of discharge entered by the court.
- U Report guardianship cases as disposed at the time the **guardian is appointed by the court.**

Note: A system should be developed at the local level which will report the guardianship case as disposed for **SRS** at the time the guardian is appointed, but will reflect that the case is ongoing for internal reporting for the clerk of court.

- U Report trust cases as disposed when a **trustee is appointed or removed by the court.**
- U Report ***Florida Mental Health Act*** or ***Baker Act*** cases as defined in section 394.463, Florida Statutes (involuntary examination) as disposed after the final judicial decision which terminates the proceeding by an *ex parte* order which recommends or denies examination (pursuant to section 394.463 (2) (a) 1, Florida Statutes, an *ex parte* order recommending examination typically directs law enforcement to, “... take the person into custody and deliver him or her to the nearest receiving facility for involuntary examination.”) (See Frequently Asked Questions, page 5-11).
- U Report ***Florida Mental Health Act*** or ***Baker Act*** cases as defined in section 394.467, Florida Statutes, (involuntary placement) as disposed after the final judicial decision which terminates the proceeding by an order which recommends or denies placement.
- U Report ***Hal S. Marchman Alcohol and Other Drug Services Act*** or **substance abuse** cases as defined in section 397.6811, Florida Statutes, (involuntary assessment and stabilization) as disposed after the final judicial decision which terminates the proceeding by an order which recommends or denies assessment.
- U Report ***Hal S. Marchman Alcohol and Other Drug Services Act*** or **substance abuse** cases as defined in section 397.693, Florida Statutes, (involuntary treatment) as disposed after the final judicial decision which terminates the proceeding by an order which recommends or denies treatment.

DISPOSITIONS

- U Report **tuberculosis control** cases as defined in sections 392.55, 392.56, and 392.57, Florida Statutes, as disposed after the final judicial decision which terminates the proceeding.
- U Report **developmental disability** cases as defined in section 393.11, Florida Statutes, as disposed after the final judicial decision which terminates the proceeding.

The following item is a common reporting error. Please check this item to ensure that the SRS report **does not** include the reporting error.

- Y **DO NOT** report the dispositions of reopened cases.

NOTES

DISPOSITION CATEGORIES

Disposed Before Hearing

- U Report in the appropriate case type, the number of cases disposed by an ex parte order **before** a hearing is held.

Quick Tip: *Ex parte* is defined by Black's Law Dictionary as: "On one side only; by or for one party; done for, in behalf of, or on the application of, one party only. A judicial proceeding, order, injunction, etc., is said to be *ex parte* when it is taken or granted at the instance and for the benefit of one party only, and without notice to, or contestation by, any person adversely interested."

- U Report dispositions of estates pertaining to:
 - C Disposition of Personal Property Without Administration under rule 5.420, Florida Probate Rules;
 - C Family Administration under rule 5.520, Florida Probate Rules; and
 - C Summary Administration under rule 5.530, Florida Probate Rules.
- U Report any case where the petition is dismissed prior to a hearing before the judge.

Disposed By Judge

DISPOSITIONS

For SRS reporting purposes, consider a disposed by judge disposition as a judgment or disposition reached by the judge in a case in which **no trial** is held.

- U Report in the appropriate case type, the number of cases disposed where a hearing is held and a judgment or decision has been reached by the judge.
- U Report cases disposed where the parties settle their dispute.
- U Report cases where a stipulation was entered after a hearing was held before the judge.
- U Report cases disposed as the result of a motion for summary judgment granted by the judge.
- U Report cases that are dismissed after a hearing is held before a judge.
- U Report cases where an order is entered by the court after consideration of the arguments.

Disposed By Non-Jury Trial

Please refer to section "B3" of the SRS form which reports information associated with the number of non-jury trial dispositions during the specified reporting period. For reporting purposes, consider the beginning of a non-jury trial to be when the first evidence is introduced or an opening statement is made and a final judgment results.

- U Report in the appropriate case type, the number of cases disposed as a result of a contested trial in which there is no jury and a judge determines both the issues of fact and law in a case.

Note: Previous instructions (1995) listed specific examples of case types which could fall into the non-jury trial disposition category. These examples were misleading in that they appeared to suggest that these case types should only be reported in the non-jury trial category. In order to alleviate confusion, the examples have been eliminated from these instructions. Please refer to the definition included above when determining whether a given case should be reported in the Disposed by Non-Jury Trial disposition category.

The following item is a common reporting error. Please check this item to ensure that the SRS report does not include the reporting error.

- Y DO NOT include cases disposed as the result of the granting of a motion for a summary judgment (See Disposed by Judge, page 5-5).

DISPOSITIONS

Disposed by Other

- U Report in the appropriate case type, the number of cases receiving any disposition not included in the previously mentioned disposition categories.

NOTES

Number of Reopened Cases

Please refer to section "C" of the SRS form that reports information associated with the number of reopened cases during the specified reporting period.

- U Report in the appropriate case type, the number of cases previously reported as disposed which are reactivated or resubmitted to the court for action.
- U Report rehearings and all formal motions and petitions filed in cases previously reported as disposed **which may require judicial involvement**.
- U Report the enforcement and modification of previous judgments or decisions.
- U Report substance abuse and involuntary commitment cases which are returned to the court if the individual is still in treatment.
- U Report annual judicial reviews of guardianship accountings and plans.
- U Examples of reopened cases include, but are not limited to, the following:
 - C Motion for rehearing;
 - C Modification of final order;
 - C Motion for attorney's fees;
 - C Motion to seal file;
 - C Motion to amend or vacate order;
 - C Suggestion of capacity;
 - C Order to show cause;
 - C Petition for authorization to act;
 - C Petition for interim review;
 - C Petition for elective share;
 - C Petition for family allowance;
 - C Petition to sell personal property;
 - C Petition to sell real estate;
 - C Petition for appointment of successor, personal representative/guardian; and

REOPENED CASES

C Petition for discharge.

The following item is a common reporting error. Please check this item to ensure that the SRS report **does not** include the reporting error.

Y **DO NOT** report the dispositions of reopened cases.

Case Type Determinations

The following list includes the types of proceedings that are included for each SRS case type. To select the correct SRS case type you should follow these procedures:

1. Review each petition or complaint and determine the issue involved;
2. Select the appropriate SRS case type for the matters indicated within the petition or complaint; and
3. Report the petition or complaint under the correct SRS case type on the Probate SRS form.

Probate

- ? All matters relating to the validity of wills and their execution; distribution, management, sale, transfer and accounting of estate property; and ancillary administration pursuant to chapters 731, 732, 733, 734 and 735, Florida Statutes.

DO NOT include wills that are deposited with the Clerk of Court or **caveats** pursuant to **section 731.110, Florida Statutes.**

Guardianship

- ? All matters relating to determination of status; contracts and conveyances of incompetents; maintenance custody of wards and their property interests; control and restoration of rights; appointment and removal of guardians pursuant to chapter 744, Florida Statutes; appointment of guardian advocates for individuals with developmental

CASE TYPE DETERMINATIONS

disabilities pursuant to section 393.12, Florida Statutes; and actions to remove the disabilities of non-age minors pursuant to sections 743.08 and 743.09, Florida Statutes.

Trusts

- ? All matters relating to the right of property, real or personal, held by one party for the benefit of another pursuant to chapter 737, Florida Statutes.

Florida Mental Health Act or Baker Act

- ? All matters relating to the care and treatment of individuals with mental, emotional, and behavioral disorders pursuant to sections 394.463 and 394.467, Florida Statutes.

Substance Abuse Act

- ? All matters related to the involuntary assessment/treatment of substance abuse pursuant to sections 397.6811 and 397.693, Florida Statutes.

Other Social

- ? All other matters involving involuntary commitment not included under the Baker and Substance Abuse Act categories. The following types of cases would be included, but not limited to:
 - C Tuberculosis control cases pursuant to sections 392.55, 395.56, and 392.57, Florida Statutes.
 - C Developmental disability cases under section 393.11, Florida Statutes.
 - C Review of surrogate or proxy's health care decisions pursuant to section 765.105, Florida Statutes, and rule 5.900, Florida Probate Rules.
 - C Incapacity determination cases pursuant to section 744.3201, 744.3215 and 744.331, Florida Statutes.
 - C Adult Protective Services Act cases pursuant to section 415.104, Florida Statutes.

CASE TYPE DETERMINATIONS

If you are unable to determine the correct SRS case type, contact Court Services staff at (850) 922-5094 or Suncom 292-5094.

Probate Frequently Asked Questions

1. (Q) How should guardianship cases be reported as disposed for SRS reporting purposes?
(A) Report guardianship cases as disposed at the time the guardian is appointed by the court.
2. (Q) How should estate cases be reported as disposed for SRS Reporting purposes?
(A) Report probate/estate cases as disposed after the final judicial decision which terminates the proceeding by an order of discharge entered by the court.
3. (Q) Should petitions for guardianship filed contemporaneously with petitions to determine incapacity be reported as separate filings?
(A) Both petitions should be reported for SRS. Each should be reported as disposed pursuant to the instructions contained in the Dispositions section (pages 5-3 through 5-6) of the SRS Manual.
4. (Q) Should a petition to determine heirs be reported as a probate filing for SRS?
(A) Report a petition to determine heirs as a probate filing only when a petition for administration has not been filed. If a petition for administration is filed after the petition to determine heirs, the petition for administration would not be reported, as it would be considered a continuation of the case initiated from the filing of the petition

FREQUENTLY ASKED QUESTIONS

to determine heirs.

5. (Q) Should a petition to determine homestead be reported as a probate filing for SRS?

(A) Report a petition to determine homestead as a probate filing only when a petition for administration has not been filed. If a petition for administration is filed after the petition to determine homestead, the petition for administration would not be reported, as it would be considered a continuation of the case initiated from the filing of the petition to determine homestead.

6. (Q) How is a notice of trust disposed for SRS reporting purposes?

(A) For SRS purposes, a "Notice of Trust" should not be reported as a filing. Rather, the petition which establishes the trust should be reported, if the trust is established through the court. If the trust is not established through the court, report the petition to appoint or remove a trustee, which is often the initiating pleading in a trust case. Pursuant to the Dispositions section (page 5-3) of the SRS Manual, the petition should be reported disposed when the trustee is appointed or removed by the court.

77. (Q) If, in a Baker Act (mental health) case, a petition for involuntary placement is filed subsequent to the disposition of a petition for involuntary examination, should the petition for involuntary placement be reported as a new filing or a reopened case for SRS purposes?

(A) For mental health cases filed pursuant to sections 394.463 and 394.467, Florida Statutes, report each petition as a filing for SRS. This instruction represents a change from the previous instructions articulated in the 1995 release of the SRS Manual.

8. (Q) If, in a Marchman Act (substance abuse) case, a petition for involuntary treatment is filed subsequent to the disposition of a petition for involuntary examination, should the petition for involuntary treatment be reported as a new filing or a reopened case for SRS purposes?

(A) For substance abuse cases filed pursuant to sections 397.6811 and 397.693, Florida Statutes, report each petition as a filing for SRS. This instruction represents a change from the previous instructions articulated in the 1995 release of the SRS Manual.

9. (Q) In my county, an evidentiary hearing is held before the judge will grant or deny an involuntary examination. Should the petition for involuntary examination be reported as a new filing or a reopened case for SRS purposes?

(A) Though petitions for involuntary examination are often disposed when an ex parte order "Disposed by Judge" disposition category. If an evidentiary hearing is not held, report the petition disposed in the "Disposed Before Hearing" disposition category.

FREQUENTLY ASKED QUESTIONS

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