

Exploitation Injunction Handbook

What is the new cause of action created by HB 1059?

An Injunction for Protection Against the Exploitation of a Vulnerable Adult.

This is set out in NEW §825.1035, F.S.

Who is a Vulnerable Adult (“VA”)? As defined in §415.102(28), F.S.

- 18 years old and older
- Impaired ability to
 - Perform normal activities of daily living (e.g., meal preparation and eating, bathing, dressing, grooming, toileting (or continence), ambulation (transferring or walking) OR
 - Provide for own care or protection
- Impairment is due to any of the following: disability (mental, emotional, sensory, long-term physical or developmental), brain damage, or infirmities of aging

Note that this definition does not necessarily require that the person lack capacity.

What is Exploitation? As defined in §825.103(1), F.S.

1. Depriving the VA of their funds or property

- Using or trying to use a VA’s funds or property with intent to deprive the VA of the use, or to benefit someone else
- By someone who either
 - Is in a position of trust and confidence with the VA OR
 - Has a business relationship with the VA

2. Depriving the VA with diminished capacity of funds or property

- Using or trying to use a VA’s funds or property with intent to deprive the VA them of the use, or to benefit someone else
- By a person who knew or should know that the VA lacks capacity to consent

3. Breach of a fiduciary duty to the VA (Fiduciary includes a trustee, guardian, or agent under a POA)

- Unauthorized appropriation, sale or transfer of the VA’s property (VA does not receive reasonable value), OR
- Fiduciary violates the following duties:
 - Fraud in appointment;
 - Abuse of powers;
 - Wasting, embezzling or intentionally mismanaging assets;
 - If agent under a POA, acting contrary to the principal’s sole benefit or best interest

4. Bank account misuse

- Misappropriation, misuse or transfer without authorization of funds belonging to the VA IF the VA was the sole contributor or payee of the funds
- Applies only to
 - Personal accounts
 - Joint accounts created with the intent that the VA has all rights to the money deposited
 - Convenience accounts (see §655.80, F.S.)

5. Failure to provide necessities

- Intentional or negligent failure to effectively use the VA's income and assets for necessities of support and maintenance
- By a
 - Caregiver, OR
 - Person who stands in a position of trust and confidence

What is the relief available for a Temporary Injunction?

- Temporary injunction for 15 days can be entered without notice to the respondent (*ex parte*). Advanced notice can often result in the loss of more assets and disappearance of the exploiter.
- The court can:
 - Prohibit contact, including awarding possession of dwelling to VA
 - Freeze assets or credit lines of VA, even if held jointly or in respondent's name only (but must show money can be traced to exploitation)
 - Allow for certain expenses to be paid notwithstanding a freeze, if the need is set out in the Petition
 - Provide directives to law enforcement officers

What relief can the court order after a hearing?

- Continue the temporary injunction, in whole or part
- Restrain the respondent from exploiting
- Award the VA exclusive use and possession of the dwelling (after confirming the availability of alternate caregivers, if needed)
- Ordering the respondent to participate in treatment
- Directing assets to be returned to the VA or remain frozen until ownership can be determined
- If there has been exploitation, order respondent to pay costs
- Order other relief necessary to protect the VA

Who can bring the action (i.e., who has standing)?

- The Vulnerable Adult ("VA")
- The VA's guardian

- A person or organization acting on behalf of the VA *with consent* of the VA or guardian. *NOTE: It is recommended that you get consent in writing and attach to the petition.*
- A person who also files for appointment of emergency temporary guardian of the VA

Who else can help?

- ***The clerk of the circuit court can assist by:***
 - Providing an informational brochure about exploitation and why you should not provide false information to the court
 - Providing simplified petition forms and instructions
 - Providing forms to report violations of an injunction
 - Facilitate (but not provide legal advice) on filling out forms
 - Service of pleadings and orders (via sheriff or law enforcement agency)
- ***Advocates from State Attorney’s Office, law enforcement, or APS*** can be present with petitioner or respondent at any court hearing
- ***APS*** must provide the court the results of “any relevant investigations” related to the VA within 72 hours of receipt of any petition or order.
- ***Law enforcement*** may accompany the VA to assure that possession of a dwelling is returned to the VA, pursuant to the court’s order.

Do you need an attorney?

No

Is there a filing fee?

No

What is filed initially?

Petition:

The Petition is “verified” (sworn to under penalty of perjury) and should allege sufficient facts to establish the likelihood that exploitation is, or is in imminent danger of occurring. Include the following, if known:

- Details and contact information for the respondent (the alleged exploiter)
- How the respondent is associated with the VA, including any role as caregiver, fiduciary, or anything that would show a position or trust or confidence
- Any other pending actions between the VA and respondent
- Any reports made to state or federal agencies related to abuse, neglect or exploitation of the VA and results of any investigation, if known

- Description of incidents of actual or threatened exploitation. *In this narrative, include information as to why the victim is a “vulnerable adult.”*
- Description of who is responsible for care of the VA (including the respondent), any alternative arrangements made for care, and whether the petitioner has resources to access alternate care
- List of assets, accounts, lines of credit and the related financial institutions
- Approximate worth of the assets to be frozen
- What relief is requested
- Any critical expenses of the VA that must be paid, notwithstanding the freeze
- ***Verification that the allegations in the petition were reported to APS***

The court will need some detailed financial information to be able to make a decision AND to figure out where to direct the injunction. Advocates should help petitioners/VA’s gather information. In addition, it might be important to develop both a financial safety plan (to make sure that critical bills are paid and funds are available for food and shelter) and a personal safety plan, if the exploiter is a caregiver or relative.

Supporting Affidavits:

If any witnesses other than the Petitioner can testify about the exploitation, a written affidavit (sworn and notarized) of their statement can be attached to the petition. This person should be available to testify at an evidentiary hearing, as well.

Other Evidence:

This could include law enforcement reports, APS reports, any bank statements, letters or emails from the respondent, etc. *Any documents that are attached should be referenced in the verified Petition or a supporting Affidavit to identify the document and its contents.*

Request to keep financial information confidential:

The Act does not specifically address this, but see FL Rule of Judicial Administration 2.425, which limits sensitive information in a pleading, including any part of SSN, bank account number, credit/debit card number, and only last 4 digits of phone numbers, financial accounts, insurance policies, and loan accounts. If this information is included in the Petition, filing a Notice of Confidential Information will direct the clerk to redact before making public.

Request for accommodations for disabilities:

If the Petitioner, victim or any witness has a disability that needs accommodation by the court in order to participate in a court proceeding, it

should be requested either with the Petition, or soon thereafter. Examples include assignment to a wheelchair accessible courtroom, need for assistive listening systems, providing documents in alternate formats. There is a Model ADA form for this, although the request can be made without use of the standard form.

Motion to Testify by Telephone or Video:

The ADA request for accommodations does NOT include cases where the victim or any witness may be too ill to travel to the court, but could testify at the hearing by phone. For this type of “accommodation,” a motion must be filed asking the presiding judge for permission. It is recommended that you file this motion along with the petition. Be aware that any testimony by phone or video requires the presence of a notary to verify identification and swear in the witness.

What are the legal requirements for injunctive relief?

- Being exploited or in imminent danger of being exploited
- Likelihood of irreparable harm
- Substantial likelihood of success on merits
- Threatened injury to the VA outweighs possible harm to the respondent

Where is it filed?

- In circuit where VA resides OR
- If there is a pending guardianship, it is filed in that proceeding

How are pleadings and orders served?

The clerk is responsible for service of the petition, any affidavits, notices of hearing and any temporary injunction. These must be served on the respondent, and the VA (if the VA is not the Petitioner). Any orders of injunction must also be served on the financial institution where frozen assets or credit lines are held.

For service on individuals, the clerk can fax certified copies of documents to the sheriff (or other law enforcement agency) in the county where that person is located for personal service. If a respondent is personally served with a temporary injunction but fails to appear at the hearing, the clerk can serve other documents by certified mail.

Service on financial institutions is set out in §655.0201, which allows for service on the institution’s registered agent.

What gives reasonable cause to believe the VA is being exploited?

- An order of protection has been issued before [Does this mean DV?]
- Previous history of exploitation by respondent (of VA or any other VA)

- VA's capacity to make financial or property decisions is impaired
- Evidence of undue influence
- Any criminal history of respondent
- Any probable cause findings by APS about respondent

What if the court grants the temporary injunction?

- If a temporary injunction is granted, the court should set the matter for hearing within 15 days. After 15 days, the temporary injunction is no longer in effect.
- The clerk will arrange for service of the petition and temporary injunction on:
 - The respondent
 - The VA (if the Petition is filed by someone else)
 - Any depository or financial institution where assets or lines of credit are frozen (see §655.0201, F.S.)

What if the court denies the temporary injunction?

- If a temporary injunction is denied, the court has to enter an order noting the legal grounds.
- A petitioner can amend the petition, if possible.
- If the only ground for denial is the failure to show immediate danger of exploitation, the court should still set a full hearing "at the earliest possible date." In these cases, the respondent will receive the petition and order of denial/notice of hearing with no protective injunction in place. This may be problematic, especially if the respondent is a caregiver or relative.
 - *Note: One of the forms used with petitions for injunction against domestic violence includes a "Request to Dismiss" that may be filed with the Petition, asking the court to dismiss the case if a temporary injunction is not granted so that the respondent is never served.*

What happens at an evidentiary hearing?

- All hearings are recorded.
- Both petitioner and respondent will have the right to call witnesses at a hearing.
- The normal rules of evidence apply, including exclusion of hearsay and authentication of documents.
- Judicial notice can be taken of any court records.

The actual process for setting hearings, which judge will preside, and other details are hard to predict at this point. In addition, each circuit may have different procedures.

What are the risks of filing?

"Actual damages" can be assessed against a petitioner, but only if the court finds that the petition *lacked substantial fact or legal support*.

What happens if the injunction is violated?

- Civil or criminal contempt
- The Act creates a NEW §825.1036, F.S. for violation of an injunction for protection against exploitation of a vulnerable adult.
 - Petitioner can go to the clerk of the court where the violation occurs and get help preparing an affidavit explaining the violation.
 - The clerk forwards the affidavit to the state attorney and to the designated circuit court judge, and to law enforcement if a crime is alleged.
 - Law enforcement has 20 days to investigate, with findings sent to the state attorney.
 - The state attorney has 30 business days to determine whether to file criminal charges, motion for an order to show cause why the respondent should not be held in criminal contempt, or notice that the case remains under investigation.
 - If the court has knowledge that the VA is in immediate danger, it may appoint a state attorney to file a motion sooner.
 - Criminal penalties range from 1st degree misdemeanor the first violation, up to 3rd degree felony for 2 or more prior convictions. Plus, the VA may be awarded damages for any loss or injury and attorney fees and costs for enforcement.
- Law enforcement may make a warrantless arrest based on probable cause of violation of an injunction. §901.15(6).
- A financial institution directed to freeze assets is not a party and can't be held in contempt. It can only be held responsible for a "knowing and intentional violation of the injunction."

Appendix

Sample Petition (as set out in the Act)

Sample Consent by VA to Petitioner

Sample Notice of Confidentiality

Model ADA Request for Accommodations

Sample Motion to Testify by Telephone or Video Conferencing

Sample Request to Dismiss If Temporary Injunction is Denied

Note: This Petition format is directly from the Exploitation Injunction Act and is not intended to be used for filing. Check with the clerk of the court where the Vulnerable Adult resides to get the current version of the Petition form.

**PETITION FOR INJUNCTION FOR PROTECTION AGAINST
EXPLOITATION OF A VULNERABLE ADULT**

Before me, the undersigned authority, personally appeared Petitioner, _____, who has been sworn and says that the following statements are true:

1. The vulnerable adult resides at:
2. The respondent resides at:
3. The respondent's last known place of employment is:
4. The physical description of the respondent is:

Race:
Sex:
Date of Birth:
Height:
Weight:
Eye Color:
Hair Color:
Distinguishing marks or scars:
5. Aliases of the respondent are:
6. The respondent is associated with the vulnerable adult as follows:
7. The following describes (1) any other cause of action currently pending between the petitioner and the respondent, any proceeding under chapter 744 concerning the vulnerable adult, and any previous or pending attempts by the petitioner to obtain an injunction for protection against exploitation of the vulnerable adult in this or any other circuit, (2) related case numbers, if available, and (3) the results of any such attempts:
8. The following describes the petitioner's knowledge of any reports made to (1) a government agency, including, but not limited to, the Department of Elder Affairs, the Department of Children and Families, and the adult protective services program relating to the abuse, neglect, or exploitation of the vulnerable adult, (2) any investigations performed by a government agency relating to abuse, neglect, or exploitation of the vulnerable adult, and (3) the results of any such reports or investigations:

9. The petitioner knows the vulnerable adult is either a victim of exploitation or the petitioner has reasonable cause to believe the vulnerable adult is, or is in imminent danger of becoming, a victim of exploitation because the respondent has caused the following incidents or caused the following threats of exploitation:

10. The following describes (1) the petitioner's knowledge of the vulnerable adult's dependence on the respondent for care, (2) alternative provisions for the vulnerable adult's care in the absence of the respondent, if necessary, (3) available resources the vulnerable adult has in order to access such alternative provisions, and (4) the vulnerable adult's willingness to use such alternative provisions:

11. The petitioner knows the vulnerable adult maintains assets, accounts, or line items of credit at the following financial institutions (provide name, address, and account number of each):

12. The petitioner believes that the vulnerable adult's assets to be frozen are (check one):

- a. worth less than \$1500
- b. worth between \$1500 and \$5000
- c. worth more than \$5000

13. The petitioner genuinely fears imminent exploitation of the vulnerable adult by the respondent.

14. The petitioner seeks an injunction for the protection of the vulnerable adult, including (mark appropriate section or sections):

- a. prohibiting the respondent from having any direct or indirect contact with the vulnerable adult
- b. immediately restraining the respondent from committing any acts of exploitation against the vulnerable adult
- c. freezing the assets of the vulnerable adult held at (name and address of depository or financial institution) even if titled jointly with the respondent, or in the respondent's name only, in the court's discretion
- d. freezing the credit lines of the vulnerable adult at (name and address of financial institution) even if jointly with the respondent, in the court's discretion
- e. providing any terms the court deems necessary for the protection of the vulnerable adult or his or her assets, including any injunctions or directives to law enforcement agencies.

15. If the court enters an injunction freezing assets and credit lines, the petitioner believes that the critical expenses of the vulnerable adult will be paid for or provided by the following persons or entities:

16. The petitioner requests that the following expenses be paid notwithstanding the freeze (for each expense, list the name of the payee, address, account number if known, amount to be paid, and a brief explanation of why payment is critical):

17. I ACKNOWLEDGE THAT PURSUANT TO SECTION 415.1034, FLORIDA STATUTES, ANY PERSON WHO KNOWS, OR HAS REASONABLE CAUSE TO SUSPECT, THAT A VULNERABLE ADULT HAS BEEN OR IS BEING ABUSED, NEGLECTED, OR EXPLOITED HAS A DUTY TO IMMEDIATELY REPORT SUCH KNOWLEDGE OR SUSPICION TO THE CENTRAL ABUSE HOTLINE. I HAVE REPORTED THE ALLEGATIONS IN THIS PETITION TO THE CENTRAL ABUSE HOTLINE.

18. I HAVE READ EACH STATEMENT MADE IN THIS PETITION AND EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY PUNISHABLE AS PROVIDED IN SECTION 837.02, FLORIDA STATUTES.

SIGNATURE OF PETITIONER

Consent for Petitioner to File of Behalf of Vulnerable Adult

I wish to designate _____ to petition on my
behalf for an injunction for protection against exploitation.

Signature

Print Name

ADDRESS:

Date: _____

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Petitioner,

Vs.

Case No.:

Respondent,

NOTICE OF CONFIDENTIAL INFORMATION WITHIN COURT FILING

Pursuant to Florida Rule of Judicial Administration 2.420(d)(2), filed documents contain confidential information as described in Rule 2.420(d)(1)(B) and that:

(a) The title/type of documents are:

[EXAMPLES:]

Visa Credit Card Number

Bank Statements from Wells Fargo;

Copies of checks from Wells Fargo; and

Letter from Wells Fargo

(b) () the entire document is confidential, or

() the confidential information within the document is precisely located at:

/s/ _____
PETITIONER
Address

Note: The clerk of court shall review filings identified as containing confidential information to determine whether the information is facially subject to confidentiality under the identified provision. The clerk shall notify the filer in writing within 5 days if the clerk determines that the information is NOT subject to confidentiality, and the records shall not be held as confidential for more than 10 days, unless a motion is filed pursuant to subdivision (d)(3) of the Rule. Fla. R. Jud. Admin. 2.420(d)(2).

FLORIDA STATE COURTS SYSTEM ADA TITLE II ACCOMMODATION REQUEST FORM¹

June 10, 2010

RIGHT TO AN ACCOMMODATION

If you are an individual with a disability who needs an accommodation in order to participate in a court proceeding or other court service, program, or activity, you are entitled, at no cost to you, to the provision of certain assistance. Requests for accommodations may be presented on this form, in another written format, or orally. Please complete the attached form and return it to *[identify applicable court personnel by name, address, telephone number, fax number, and email address]* as far in advance as possible, but preferably at least seven (7) days before your scheduled court appearance or other court activity.

Upon request by a qualified individual with a disability, this document will be made available in an alternate format. If you need assistance in completing this form due to your disability, or to request this document in an alternate format, please contact *[insert name and contact information for the appropriate court ADA coordinator]*.

ADA ACCOMMODATIONS PROVIDED BY FLORIDA COURTS

Pursuant to Title II of the Americans with Disabilities Act the Florida State Courts System will make reasonable modifications in policies, practices, and procedures; furnish auxiliary aids and services; and afford program accessibility through the provision of accessible facilities, the relocation of services or programs, or the provision of services at alternative sites, as appropriate and necessary.

Examples of auxiliary aids or services that the State Courts System may provide for qualified individuals with disabilities include:

- Assistive listening devices
- Qualified ASL or other types of interpreters for persons with hearing loss
- Communication access real-time translation / Real-time transcription services
- Accessible formats such as large print, Braille, electronic document, or audio tapes
- Qualified readers

¹ This form was developed for use by individuals with disabilities who may require a modification in a policy, provision of an auxiliary aid or service, or assignment to an accessible location in order to participate in a court proceeding or other court service, program, or activity that is covered by Title II of the Americans with Disabilities Act. Court employees with disabilities who need a reasonable accommodation to be able to perform the essential functions of their jobs should contact their immediate supervisor, the ADA coordinator for their court, the OSCA Office of Personnel Services, or the State Courts ADA Coordinator.

Accommodations that are granted by the state courts are made at no cost to qualified individuals with disabilities.²

AIDS/SERVICES COURTS CANNOT ADMINISTRATIVELY GRANT AS ADA ACCOMMODATIONS

Examples of aids or services the Florida State Courts System cannot provide as an accommodation under Title II of the Americans with Disabilities Act include:

- Transportation to and from the courthouse
- Legal counsel or advice
- An official transcript of a court proceeding
- Personal devices such as wheelchairs, hearing aids, or prescription eyeglasses
- Personal services such as medical or attendant care
- Readers for personal use or study

Additionally, the courts cannot administratively grant, as an ADA accommodation, requests that impact court procedures within a specific case. Requests for an extension of time, a change of venue, or participation in court proceedings by telephone or videoconferencing must be submitted by written motion to the presiding judge as part of the case. The judge may consider an individual's disability, along with other relevant factors, in granting or denying the motion.

Furthermore, the court cannot exceed the law in granting a request for an accommodation. For example, the court cannot extend the statute of limitations for filing an action because someone claims that he or she could not make it to the court on time due to a disability, nor can the court modify the terms of agreements among parties as an ADA accommodation.

Finally, the Americans with Disabilities Act (ADA) does not require the court system to take any action that would fundamentally alter the nature of court programs, services, or activities, or that would impose an undue financial or administrative burden on the courts.

² Please note that providing accommodations for some individuals with disabilities who appear in the courtroom as part of their employment duties or professional practice is a responsibility that appropriately may be shared by the individual's employer and the courts. Title I of the Americans with Disabilities Act requires employers of 15 or more employees and Title II of the Americans with Disabilities Act requires all state and local government employers to provide reasonable accommodations to qualified employees with disabilities. In addition, Section 504 of the Rehabilitation Act of 1973, as amended, covers recipients of federal funding, and requires all covered organizations to provide accommodations for their employees. These responsibilities are concomitant with the courts' responsibility under Title II of the ADA. It is to everyone's benefit when employers and the court system work together to ensure that reasonable accommodations for individuals with disabilities are provided in the most efficient and cost effective manner.

DOCUMENTATION OF THE NEED FOR AUXILIARY AIDS AND SERVICES

If an individual has a disability that is not obvious, or when it is not readily apparent how a requested accommodation relates to an individual's impairment, it may be necessary for the court to require the individual to provide documentation from a qualified health care provider in order for the court to fully and fairly evaluate the accommodation request. These information requests will be limited to documentation that (a) establishes the existence of a disability; (b) identifies the individual's functional limitations; and (c) describes how the requested accommodation addresses those limitations. Any cost to obtain such documentation is the obligation of the person requesting the accommodation.

FLORIDA STATE COURTS SYSTEM TITLE II ADA ACCOMMODATION REQUEST FORM

Please return this completed form to *[insert name, address, phone number, fax number, and email address]* **as far in advance as possible, but preferably at least seven (7) days before your scheduled court appearance or other court activity.**

1. Date request submitted: ____/____/____

2. Person needing accommodation

Name: _____

Are you (please check one of the following seven options):

Defendant Litigant/Party Witness Juror Victim Attorney

Other (please specify): _____

3. Contact information for person needing accommodation

Street or P.O. Box: _____

City: _____

State: _____ Zip Code: _____

Telephone Number (include area code): _____

Email Address: _____

4. Person making request (if other than the person needing the accommodation)

Name: _____

Telephone Number (include area code): _____

Email Address: _____

Relationship to person needing an accommodation: _____

5. Case information (if applicable)

Style of case (case title), if known: _____

Case number, if known: _____

Judge, if known: _____

Date accommodation needed: _____

Time accommodation needed: _____

Location (courthouse/courtroom) accommodation needed: _____

Duration for which the accommodation is requested: _____

Type of case, if known (please check one of the following ten options):

appeal circuit criminal circuit civil family court

probate, guardianship, or mental health county criminal county civil
 traffic court small claim other (please specify) _____

Type of proceeding, if known (please check one of the following six options):

arraignment bond hearing hearing trial appellate oral argument
 other (please specify) _____

6. Accommodations requested

Nature of disability that necessitates accommodation: _____

Accommodation requested (please check one of the following six options):

Assistive listening device (*Assistive listening systems work by increasing the loudness of sounds, minimizing background noise, reducing the effect of distance, and overriding poor acoustics. The listener uses a receiver with headphones or a neckloop to hear the speaker.*)

Communication access real-time translation/real-time transcription services (*CART is a word-for-word speech-to-text interpreting service for people who need communication access. A rendering of everything said in the courtroom will appear on a computer screen. CART is not an official transcript of a court proceeding.*)

Sign Language Interpreter (*Please specify American Sign Language, oral interpreter, signed English, or other type of signing system used by persons with hearing loss.*): _____

Assignment to a courtroom that is accessible to a person using a mobility device (*Please specify wheelchair, scooter, walker, or other mobility device that is used.*): _____

Provision of court documents in an alternative format (*Please specify Braille, large print, accessible electronic document, or other accessible format used by persons who are blind or have low vision.*): _____

Other accommodation (please specify): _____

7. Use the following "Submit" Button to send us your request:

THE FOLLOWING SECTION IS TO BE COMPLETED BY COURT PERSONNEL ONLY

8. Date request was received: ____/____/____
9. Additional oral or written information requested? Yes No
If so, describe information: _____

10. Describe the accommodation(s) granted by the court: _____

11. Indicate the duration the accommodation will be provided: _____

12. If an accommodation is denied, indicate reason(s) for denial:³
- Based on the information provided, it appears the person does not have a disability as defined by the ADA
 - Requested accommodation does not directly correlate to functional limitations
 - Request relates to a service, program, or activity outside the court system (transportation, legal representation, mental health counseling, parenting course, etc.)
 - Request is for an aid/service the courts cannot administratively grant as an accommodation pursuant to Title II of the ADA (official transcript, extension of time, etc.)
 - Requested accommodation would result in an undue burden
 - Requested accommodation would result in a fundamental alteration
 - Other (please specify): _____
13. Remarks: _____

14. Court staff responding to request: _____
15. Date person notified of determination: ____/____/____

³ If the request is denied, granted only in part, or if an alternative accommodation is granted, Rule of Judicial Administration 2.540 requires the court to respond in writing to the individual with a disability. Transmittal of a copy of this section of the accommodation request form by email or by U.S. Mail delivery is one means of providing the written response required by rule 2.540. If an accommodation is denied due to a finding of undue burden or fundamental alteration, the Americans with Disabilities Act requires that such determination be made in writing by the chief judge or chief judge's designee.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Petitioner,

Vs.

Case No.:

Respondent,

**PETITIONER'S MOTION FOR TESTIMONY BY TELEPHONE OR
VIDEO CONFERENCING**

Petitioner requests that _____ be allowed to testify by phone at the hearing on the Petition for an Injunction Against Exploitation for the following reasons:

1. *[Example]* _____ is currently [in the hospital/residing in a skilled nursing facility/under the care of home health staff] for a chronic illness and it would be unsafe to transport her to the courthouse.

2. _____ will have a notary available to take his/her oath for sworn testimony.

/s/ _____
PETITIONER
Address

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Petitioner,

Vs.

Case No.:

Respondent,

**PETITIONER'S REQUEST TO DISMISS PETITION FOR INJUNCTION IF
TEMPORARY INJUNCTION IS DENIED**

1. I understand that I am entitled to a full, final hearing before a Judge on my Petition for Protection against Exploitation within 15 days of its filing. This hearing will determine if there will be a final/permanent injunction. The Respondent will be served with a copy of my Petition by the _____ Sheriff's Office. He/she has the right to appear at the final hearing.
2. I understand that the Judge will decide today if there will be a temporary injunction in place during that 15 day period.
3. If the temporary injunction is denied, I understand that the Respondent will still be served with a copy of my Petition even though there is no temporary injunction or "no contact" order in place.

With this knowledge, I do NOT believe it will be in my best interest to have a final hearing if the temporary injunction (no contact order) is denied. I GIVE UP my right to the final hearing and request that the case be dismissed at that time. The case will END and my Petition will NOT be served upon the Respondent. I understand that a victim advocate from _____
_____ may call me to discuss my case, my safety, and my options.

Dated: _____
Signature

I HEREBY CERTIFY that a copy of the foregoing was furnished by ____ (email) ____ (delivery) ____ (mail) ____ (fax) on (All parties and Affected Non-Parties. Note: If the name or address of a Party or Affected Non-Party is confidential, DO NOT include such information in this Certificate of Service. Instead, serve the State Attorney or request Court Service. See Rule 2.420(k) _____

on, _____, 20____.

/s/ _____
PETITIONER
Address