

By the Committees on Judiciary; and Children, Families, and Elder Affairs; and Senator Detert

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1 A bill to be entitled
2 An act relating to guardianship; providing directives
3 to the Division of Law Revision and Information;
4 amending s. 744.1012, F.S.; revising legislative
5 intent; renumbering s. 744.201, F.S., relating to
6 domicile of ward; renumbering and amending s. 744.202,
7 F.S.; conforming a cross-reference; renumbering s.
8 744.2025, F.S., relating to change of ward's
9 residence; renumbering and amending s. 744.7021, F.S.;
10 renaming the Statewide Public Guardianship Office to
11 the Office of Public and Professional Guardians;
12 revising the duties and responsibilities of the
13 executive director for the Office of Public and
14 Professional Guardians; conforming provisions to
15 changes made by the act; renumbering and amending s.
16 744.1083, F.S.; providing that a guardian has standing
17 to seek judicial review pursuant to ch. 120, F.S., if
18 his or her registration is denied; removing a
19 provision authorizing the executive director to
20 suspend or revoke the registration of a guardian who
21 commits certain violations; removing the requirement
22 of written notification to the chief judge of the
23 judicial circuit upon the executive director's denial,
24 suspension, or revocation of a registration;
25 conforming provisions to changes made by the act;
26 conforming a cross-reference; renumbering and amending
27 s. 744.1085, F.S.; conforming provisions to changes
28 made by the act; removing an obsolete provision;
29 conforming a cross-reference; creating s. 744.2004,

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30 F.S.; requiring the Office of Public and Professional
31 Guardians to establish certain procedures by a
32 specified date; requiring the office to establish
33 disciplinary proceedings, conduct hearings, and take
34 administrative action pursuant to ch. 120, F.S.;

35 requiring the Department of Elderly Affairs to provide
36 certain written information in disciplinary
37 proceedings; requiring that certain findings and
38 recommendations be made within a certain time;

39 requiring the office, under certain circumstances, to
40 make a specified recommendation to a court of
41 competent jurisdiction; requiring the office to report
42 determination or suspicion of abuse to the Department
43 of Children and Families' central abuse hotline under
44 specified circumstances; requiring the Department of
45 Elderly Affairs to adopt rules; creating s. 744.20041,
46 F.S.; specifying the acts by a professional guardian
47 that constitute grounds for the Office of Public and
48 Professional Guardians to take specified disciplinary
49 actions; specifying penalties that the Office of
50 Public and Professional Guardians may impose;

51 requiring the Office of Public and Professional
52 Guardians to consider sanctions necessary to safeguard
53 wards and to protect the public; requiring the Office
54 of Public and Professional Guardians to adopt by rule
55 and periodically review disciplinary guidelines;
56 providing legislative intent for the disciplinary
57 guidelines; requiring the Office of Public and
58 Professional Guardians to designate by rule possible

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59 mitigating and aggravating circumstances and the
60 variation and range of penalties; requiring an
61 administrative law judge to follow the Office of
62 Public and Professional Guardians' disciplinary
63 guidelines when recommending penalties; requiring the
64 administrative law judge to provide written mitigating
65 or aggravating circumstances under certain
66 circumstances; authorizing the Office of Public and
67 Professional Guardians to impose a penalty other than
68 those in the disciplinary guidelines under certain
69 circumstances; authorizing the Office of Public and
70 Professional Guardians to seek an injunction or a writ
71 of mandamus for specified violations; providing for
72 permanent revocation of a professional guardian's
73 registration by the Office of Public and Professional
74 Guardians under certain circumstances; requiring the
75 Office of Public and Professional Guardians to notify
76 a court of the determination to suspend or revoke the
77 professional guardian's registration under certain
78 circumstances; providing that cross-references are
79 considered a general reference for the purpose of
80 incorporation by reference; requiring the Office of
81 Public and Professional Guardians to adopt rules;
82 renumbering and amending s. 744.344, F.S.; making
83 technical changes; renumbering and amending s.
84 744.703, F.S.; conforming provisions to changes made
85 by the act; renumbering ss. 744.704 and 744.705, F.S.,
86 relating to the powers and duties of public guardians
87 and the costs of public guardians, respectively;

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88 renumbering and amending ss. 744.706 and 744.707,
89 F.S.; conforming provisions to changes made by the
90 act; renumbering s. 744.709, F.S., relating to surety
91 bonds; renumbering and amending s. 744.708, F.S.;
92 conforming provisions to changes made by the act;
93 renumbering and amending s. 744.7081, F.S.; requiring
94 that the Office of Public and Professional Guardians
95 be provided financial audits upon its request as part
96 of an investigation; conforming provisions to changes
97 made by the act; renumbering and amending s. 744.7082,
98 F.S.; conforming provisions to changes made by the
99 act; renumbering and amending s. 744.712, F.S.;
100 providing legislative intent; conforming provisions;
101 renumbering and amending ss. 744.713, 744.714, and
102 744.715, F.S.; conforming provisions to changes made
103 by the act; amending s. 744.3135, F.S.; requiring the
104 office to adopt rules by a certain date; conforming
105 provisions to changes made by the act; repealing s.
106 744.701, F.S., relating to a short title; repealing s.
107 744.702, F.S., relating to legislative intent;
108 repealing s. 744.7101, F.S., relating to a short
109 title; repealing s. 744.711, F.S., relating to
110 legislative findings and intent; amending ss. 400.148
111 and 744.331, F.S.; conforming provisions to changes
112 made by the act; amending ss. 20.415, 415.1102,
113 744.309, and 744.524, F.S.; conforming cross-
114 references; making technical changes; providing an
115 effective date.
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117 Be It Enacted by the Legislature of the State of Florida:

118
119 Section 1. The Division of Law Revision and Information is
120 directed to add ss. 744.1096-744.1098, Florida Statutes, created
121 by this act, to part I of chapter 744, Florida Statutes.

122 Section 2. The Division of Law Revision and Information is
123 directed to rename part II of chapter 744, Florida Statutes,
124 entitled "VENUE," as "PUBLIC AND PROFESSIONAL GUARDIANS,"
125 consisting of ss. 744.2001-744.2109, Florida Statutes.

126 Section 3. The Division of Law Revision and Information is
127 directed to remove part IX of chapter 744, Florida Statutes.

128 Section 4. Section 744.1012, Florida Statutes, is amended
129 to read:

130 744.1012 Legislative intent.—The Legislature finds that:

131 (1) ~~That~~ Adjudicating a person totally incapacitated and in
132 need of a guardian deprives such person of all her or his civil
133 and legal rights and that such deprivation may be unnecessary.

134 (2) ~~The Legislature further finds that~~ It is desirable to
135 make available the least restrictive form of guardianship to
136 assist persons who are only partially incapable of caring for
137 their needs and that alternatives to guardianship and less
138 restrictive means of assistance, including, but not limited to,
139 guardian advocates, should always be explored before an
140 individual's rights are removed through an adjudication of
141 incapacity.

142 (3) By recognizing that every individual has unique needs
143 and differing abilities, ~~the Legislature declares that~~ it is the
144 purpose of this act to promote the public welfare by
145 establishing a system that permits incapacitated persons to

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146 participate as fully as possible in all decisions affecting
147 them; that assists such persons in meeting the essential
148 requirements for their physical health and safety, in protecting
149 their rights, in managing their financial resources, and in
150 developing or regaining their abilities to the maximum extent
151 possible; and that accomplishes these objectives through
152 providing, in each case, the form of assistance that least
153 interferes with the legal capacity of a person to act in her or
154 his own behalf. This act shall be liberally construed to
155 accomplish this purpose.

156 (4) Private guardianship may be inadequate when there is no
157 willing and responsible family member or friend, other person,
158 bank, or corporation available to serve as guardian for an
159 incapacitated person, and such person does not have adequate
160 income or wealth for the compensation of a private guardian.

161 (5) Through the establishment of the Office of Public and
162 Professional Guardians, the Legislature intends to permit the
163 establishment of offices of public guardians for the purpose of
164 providing guardianship services for incapacitated persons when
165 no private guardian is available.

166 (6) A public guardian will be provided only to those
167 persons whose needs cannot be met through less restrictive means
168 of intervention. A public guardian may also serve in the
169 capacity of a limited guardian or guardian advocate under s.
170 393.12 when the public guardian is the guardian of last resort
171 as described in subsection (4).

172 Section 5. Section 744.201, Florida Statutes, is renumbered
173 as section 744.1096, Florida Statutes.

174 Section 6. Section 744.202, Florida Statutes, is renumbered

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175 as section 744.1097, Florida Statutes, and subsection (3) of
176 that section is amended, to read:

177 744.1097 ~~744.202~~ Venue.—

178 (3) When the residence of an incapacitated person is
179 changed to another county, the guardian shall petition to have
180 the venue of the guardianship changed to the county of the
181 acquired residence, except as provided in s. 744.1098 ~~s.~~
182 ~~744.2025~~.

183 Section 7. Section 744.2025, Florida Statutes, is
184 renumbered as section 744.1098, Florida Statutes.

185 Section 8. Section 744.7021, Florida Statutes, is
186 renumbered as section 744.2001, Florida Statutes, and amended to
187 read:

188 744.2001 ~~744.7021~~ ~~Statewide Public Guardianship Office of~~
189 ~~Public and Professional Guardians.~~—There is ~~hereby~~ created the
190 ~~Statewide Public Guardianship Office~~ of Public and Professional
191 Guardians within the Department of Elderly Affairs.

192 (1) The Secretary of Elderly Affairs shall appoint the
193 executive director, who shall be the head of the ~~Statewide~~
194 ~~Public Guardianship Office~~ of Public and Professional Guardians.
195 The executive director must be a member of The Florida Bar,
196 knowledgeable of guardianship law and of the social services
197 available to meet the needs of incapacitated persons, shall
198 serve on a full-time basis, and shall personally, or through a
199 representative ~~representatives~~ of the office, carry out the
200 purposes and functions of the ~~Statewide Public Guardianship~~
201 Office of Public and Professional Guardians in accordance with
202 state and federal law. The executive director shall serve at the
203 pleasure of and report to the secretary.

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204 (2) The executive director shall, within available
205 resources:~~7~~

206 (a) Have oversight responsibilities for all public and
207 professional guardians.

208 (b) Establish standards of practice for public and
209 professional guardians by rule, in consultation with
210 professional guardianship associations and other interested
211 stakeholders, no later than October 1, 2016. The executive
212 director shall provide a draft of the standards to the Governor,
213 the Legislature, and the secretary for review by August 1, 2016.

214 (c) Review and approve the standards and criteria for the
215 education, registration, and certification of public and
216 professional guardians in Florida.

217 (3) The executive director's oversight responsibilities of
218 professional guardians must be finalized by October 1, 2016, and
219 shall include, but are not limited to:

220 (a) Developing and implementing a monitoring tool to ensure
221 compliance of professional guardians with the standards of
222 practice established by the Office of Public and Professional
223 Guardians. This monitoring tool may not include a financial
224 audit as required by the clerk of the circuit court under s.
225 744.368.

226 (b) Developing procedures, in consultation with
227 professional guardianship associations and other interested
228 stakeholders, for the review of an allegation that a
229 professional guardian has violated the standards of practice
230 established by the Office of Public and Professional Guardians
231 governing the conduct of professional guardians.

232 (c) Establishing disciplinary proceedings, conducting

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233 hearings, and taking administrative action pursuant to chapter
234 120.

235 (4) The executive director's oversight responsibilities of
236 public guardians shall include, but are not limited to:

237 (a) Reviewing ~~The executive director shall review~~ the
238 current public guardian programs in Florida and other states.

239 (b) Developing ~~The executive director,~~ in consultation with
240 local guardianship offices and other interested stakeholders,
241 ~~shall develop~~ statewide performance measures and standards.

242 (c) Reviewing ~~The executive director shall review~~ the
243 various methods of funding public guardianship programs, the
244 kinds of services being provided by such programs, and the
245 demographics of the wards. In addition, the executive director
246 shall review and make recommendations regarding the feasibility
247 of recovering a portion or all of the costs of providing public
248 guardianship services from the assets or income of the wards.

249 (d) By January 1 of each year, providing ~~the executive~~
250 ~~director shall provide~~ a status report and ~~provide further~~
251 recommendations to the secretary which ~~that~~ address the need for
252 public guardianship services and related issues.

253 (e) Developing a guardianship training program curriculum
254 that may be offered to all guardians, whether public or private.

255 (5) ~~(e)~~ The executive director may provide assistance to
256 local governments or entities in pursuing grant opportunities.
257 The executive director shall review and make recommendations in
258 the annual report on the availability and efficacy of seeking
259 Medicaid matching funds. The executive director shall diligently
260 seek ways to use existing programs and services to meet the
261 needs of public wards.

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262 ~~(f) The executive director, in consultation with the~~
263 ~~Florida Guardianship Foundation, shall develop a guardianship~~
264 ~~training program curriculum that may be offered to all guardians~~
265 ~~whether public or private.~~

266 (6)~~(3)~~ The executive director may conduct or contract for
267 demonstration projects authorized by the Department of Elderly
268 Affairs, within funds appropriated or through gifts, grants, or
269 contributions for such purposes, to determine the feasibility or
270 desirability of new concepts of organization, administration,
271 financing, or service delivery designed to preserve the civil
272 and constitutional rights of persons of marginal or diminished
273 capacity. Any gifts, grants, or contributions for such purposes
274 shall be deposited in the Department of Elderly Affairs
275 Administrative Trust Fund.

276 Section 9. Section 744.1083, Florida Statutes, is
277 renumbered as section 744.2002, Florida Statutes, subsections
278 (1) through (5) of that section are amended, and subsections (7)
279 and (10) of that section are republished, to read:

280 744.2002 ~~744.1083~~ Professional guardian registration.—

281 (1) A professional guardian must register with the
282 ~~Statewide Public Guardianship Office~~ of Public and Professional
283 Guardians established in part II ~~IX~~ of this chapter.

284 (2) Annual registration shall be made on forms furnished by
285 the ~~Statewide Public Guardianship Office~~ of Public and
286 Professional Guardians and accompanied by the applicable
287 registration fee as determined by rule. The fee may not exceed
288 \$100.

289 (3) Registration must include the following:

290 (a) Sufficient information to identify the professional

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291 guardian, as follows:

292 1. If the professional guardian is a natural person, the
293 name, address, date of birth, and employer identification or
294 social security number of the person.

295 2. If the professional guardian is a partnership or
296 association, the name, address, and employer identification
297 number of the entity.

298 (b) Documentation that the bonding and educational
299 requirements of s. 744.2003 ~~s. 744.1085~~ have been met.

300 (c) Sufficient information to distinguish a guardian
301 providing guardianship services as a public guardian,
302 individually, through partnership, corporation, or any other
303 business organization.

304 (4) Prior to registering a professional guardian, the
305 ~~Statewide Public Guardianship~~ Office of Public and Professional
306 Guardians must receive and review copies of the credit and
307 criminal investigations conducted under s. 744.3135. The credit
308 and criminal investigations must have been completed within the
309 previous 2 years.

310 (5) The executive director of the office may deny
311 registration to a professional guardian if the executive
312 director determines that the guardian's proposed registration,
313 including the guardian's credit or criminal investigations,
314 indicates that registering the professional guardian would
315 violate any provision of this chapter. If a guardian's proposed
316 registration is denied, the guardian has standing to seek
317 judicial review of the denial pursuant to chapter 120 ~~If a~~
318 ~~guardian who is currently registered with the office violates a~~
319 ~~provision of this chapter, the executive director of the office~~

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320 ~~may suspend or revoke the guardian's registration. If the~~
321 ~~executive director denies registration to a professional~~
322 ~~guardian or suspends or revokes a professional guardian's~~
323 ~~registration, the Statewide Public Guardianship Office must send~~
324 ~~written notification of the denial, suspension, or revocation to~~
325 ~~the chief judge of each judicial circuit in which the guardian~~
326 ~~was serving on the day of the office's decision to deny,~~
327 ~~suspend, or revoke the registration.~~

328 (7) A trust company, a state banking corporation or state
329 savings association authorized and qualified to exercise
330 fiduciary powers in this state, or a national banking
331 association or federal savings and loan association authorized
332 and qualified to exercise fiduciary powers in this state, may,
333 but is not required to, register as a professional guardian
334 under this section. If a trust company, state banking
335 corporation, state savings association, national banking
336 association, or federal savings and loan association described
337 in this subsection elects to register as a professional guardian
338 under this subsection, the requirements of subsections (3) and
339 (4) do not apply and the registration must include only the
340 name, address, and employer identification number of the
341 registrant, the name and address of its registered agent, if
342 any, and the documentation described in paragraph (3)(b).

343 (10) A state college or university or an independent
344 college or university that is located and chartered in Florida,
345 that is accredited by the Commission on Colleges of the Southern
346 Association of Colleges and Schools or the Accrediting Council
347 for Independent Colleges and Schools, and that confers degrees
348 as defined in s. 1005.02(7) may, but is not required to,

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349 register as a professional guardian under this section. If a
350 state college or university or independent college or university
351 elects to register as a professional guardian under this
352 subsection, the requirements of subsections (3) and (4) do not
353 apply and the registration must include only the name, address,
354 and employer identification number of the registrant.

355 Section 10. Section 744.1085, Florida Statutes, is
356 renumbered as section 744.2003, Florida Statutes, subsections
357 (3), (6), and (9) of that section are amended, and subsection
358 (8) of that section is republished, to read:

359 744.2003 ~~744.1085~~ Regulation of professional guardians;
360 application; bond required; educational requirements.—

361 (3) Each professional guardian defined in s. 744.102(17)
362 and public guardian must receive a minimum of 40 hours of
363 instruction and training. Each professional guardian must
364 receive a minimum of 16 hours of continuing education every 2
365 calendar years after the year in which the initial 40-hour
366 educational requirement is met. The instruction and education
367 must be completed through a course approved or offered by the
368 ~~Statewide Public Guardianship Office~~ of Public and Professional
369 Guardians. The expenses incurred to satisfy the educational
370 requirements prescribed in this section may not be paid with the
371 assets of any ward. This subsection does not apply to any
372 attorney who is licensed to practice law in this state or an
373 institution acting as guardian under s. 744.2002(7).

374 (6) ~~After July 1, 2005,~~ Each professional guardian is ~~shall~~
375 ~~be~~ required to demonstrate competency to act as a professional
376 guardian by taking an examination approved by the Department of
377 Elderly Affairs.

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378 (a) The Department of Elderly Affairs shall determine the
379 minimum examination score necessary for passage of guardianship
380 examinations.

381 (b) The Department of Elderly Affairs shall determine the
382 procedure for administration of the examination.

383 (c) The Department of Elderly Affairs or its contractor
384 shall charge an examination fee for the actual costs of the
385 development and the administration of the examination. The
386 examination fee for a guardian may, not ~~to~~ exceed \$500.

387 (d) The Department of Elderly Affairs may recognize passage
388 of a national guardianship examination in lieu of all or part of
389 the examination approved by the Department of Elderly Affairs,
390 except that all professional guardians must take and pass an
391 approved examination section related to Florida law and
392 procedure.

393 (8) The Department of Elderly Affairs shall waive the
394 examination requirement in subsection (6) if a professional
395 guardian can provide:

396 (a) Proof that the guardian has actively acted as a
397 professional guardian for 5 years or more; and

398 (b) A letter from a circuit judge before whom the
399 professional guardian practiced at least 1 year which states
400 that the professional guardian had demonstrated to the court
401 competency as a professional guardian.

402 (9) ~~After July 1, 2004,~~ The court may ~~shall~~ not appoint any
403 professional guardian who is ~~has~~ not registered by the Office of
404 Public and Professional Guardians ~~met the requirements of this~~
405 ~~section and s. 744.1083.~~

406 Section 11. Section 744.2004, Florida Statutes, is created

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407 to read:

408 744.2004 Complaints; disciplinary proceedings; penalties;
409 enforcement.-

410 (1) By October 1, 2016, the Office of Public and
411 Professional Guardians shall establish procedures to:

412 (a) Review and, if determined legally sufficient,
413 investigate any complaint that a professional guardian has
414 violated the standards of practice established by the Office of
415 Public and Professional Guardians governing the conduct of
416 professional guardians. A complaint is legally sufficient if it
417 contains ultimate facts that show a violation of a standard of
418 practice by a professional guardian has occurred.

419 (b) Initiate an investigation no later than 10 business
420 days after the Office of Public and Professional Guardians
421 receives a complaint.

422 (c) Complete and provide initial investigative findings and
423 recommendations, if any, to the professional guardian and the
424 person who filed the complaint within 60 days of receipt.

425 (d) Obtain supporting information or documentation to
426 determine the legal sufficiency of a complaint.

427 (e) Interview a ward, family member, or interested party to
428 determine the legal sufficiency of a complaint.

429 (f) Dismiss any complaint if, at any time after legal
430 sufficiency is determined, it is found there is insufficient
431 evidence to support the allegations contained in the complaint.

432 (g) Coordinate, to the greatest extent possible, with the
433 clerks of court to avoid duplication of duties with regard to
434 the financial audits prepared by the clerks pursuant to s.
435 744.368.

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436 (2) The Office of Public and Professional Guardians shall
437 establish disciplinary proceedings, conduct hearings, and take
438 administrative action pursuant to chapter 120. Disciplinary
439 actions may include, but are not limited to, requiring a
440 professional guardian to participate in additional educational
441 courses provided or approved by the Office of Public and
442 Professional Guardians, imposing additional monitoring by the
443 office of the guardianships to which the professional guardian
444 is appointed, and suspension or revocation of a professional
445 guardian's registration.

446 (3) In any disciplinary proceeding that may result in the
447 suspension or revocation of a professional guardian's
448 registration, the Department of Elderly Affairs shall provide
449 the professional guardian and the person who filed the
450 complaint:

451 (a) A written explanation of how an administrative
452 complaint is resolved by the disciplinary process.

453 (b) A written explanation of how and when the person may
454 participate in the disciplinary process.

455 (c) A written notice of any hearing before the Division of
456 Administrative Hearings at which final agency action may be
457 taken.

458 (4) If the office makes a final determination to suspend or
459 revoke the professional guardian's registration, it must provide
460 such determination to the court of competent jurisdiction for
461 any guardianship case to which the professional guardian is
462 currently appointed.

463 (5) If the office determines or has reasonable cause to
464 suspect that a vulnerable adult has been or is being abused,

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465 neglected, or exploited as a result of a filed complaint or
466 during the course of an investigation of a complaint, it shall
467 immediately report such determination or suspicion to the
468 central abuse hotline established and maintained by the
469 Department of Children and Families pursuant to s. 415.103.

470 (6) By October 1, 2016, the Department of Elderly Affairs
471 shall adopt rules to implement the provisions of this section.

472 Section 12. Section 744.20041, Florida Statutes, is created
473 to read:

474 744.20041 Grounds for discipline; penalties; enforcement.-

475 (1) The following acts by a professional guardian shall
476 constitute grounds for which the disciplinary actions specified
477 in subsection (2) may be taken:

478 (a) Making misleading, deceptive, or fraudulent
479 representations in or related to the practice of guardianship.

480 (b) Violating any rule governing guardians or guardianships
481 adopted by the Office of Public and Professional Guardians.

482 (c) Being convicted or found guilty of, or entering a plea
483 of guilty or nolo contendere to, regardless of adjudication, a
484 crime in any jurisdiction which relates to the practice of or
485 the ability to practice as a professional guardian.

486 (d) Failing to comply with the educational course
487 requirements contained in s. 744.2003.

488 (e) Having a registration, a license, or the authority to
489 practice a regulated profession revoked, suspended, or otherwise
490 acted against, including the denial of registration or
491 licensure, by the registering or licensing authority of any
492 jurisdiction, including its agencies or subdivisions, for a
493 violation under Florida law. The registering or licensing

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494 authority's acceptance of a relinquishment of registration or
495 licensure, stipulation, consent order, or other settlement
496 offered in response to or in anticipation of the filing of
497 charges against the registration or license shall be construed
498 as an action against the registration or license.

499 (f) Knowingly filing a false report or complaint with the
500 Office of Public and Professional Guardians against another
501 guardian.

502 (g) Attempting to obtain, obtaining, or renewing a
503 registration or license to practice a profession by bribery, by
504 fraudulent misrepresentation, or as a result of an error by the
505 Office of Public and Professional Guardians which is known and
506 not disclosed to the Office of Public and Professional
507 Guardians.

508 (h) Failing to report to the Office of Public and
509 Professional Guardians any person who the professional guardian
510 knows is in violation of this chapter or the rules of the Office
511 of Public and Professional Guardians.

512 (i) Failing to perform any statutory or legal obligation
513 placed upon a professional guardian.

514 (j) Making or filing a report or record that the
515 professional guardian knows to be false, intentionally or
516 negligently failing to file a report or record required by state
517 or federal law, or willfully impeding or obstructing another
518 person's attempt to do so. Such reports or records shall include
519 only those that are signed in the guardian's capacity as a
520 professional guardian.

521 (k) Using the position of guardian for the purpose of
522 financial gain by a professional guardian or a third party,

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523 other than the funds awarded to the professional guardian by the
524 court pursuant to s. 744.108.

525 (l) Violating a lawful order of the Office of Public and
526 Professional Guardians or failing to comply with a lawfully
527 issued subpoena of the Office of Public and Professional
528 Guardians.

529 (m) Improperly interfering with an investigation or
530 inspection authorized by statute or rule or with any
531 disciplinary proceeding.

532 (n) Using the guardian relationship to engage or attempt to
533 engage the ward, or an immediate family member or a
534 representative of the ward, in verbal, written, electronic, or
535 physical sexual activity.

536 (o) Failing to report to the Office of Public and
537 Professional Guardians in writing within 30 days after being
538 convicted or found guilty of, or entered a plea of nolo
539 contendere to, regardless of adjudication, a crime in any
540 jurisdiction.

541 (p) Being unable to perform the functions of a professional
542 guardian with reasonable skill by reason of illness or use of
543 alcohol, drugs, narcotics, chemicals, or any other type of
544 substance or as a result of any mental or physical condition.

545 (q) Failing to post and maintain a blanket fiduciary bond
546 pursuant to s. 744.1085.

547 (r) Failing to maintain all records pertaining to a
548 guardianship for a reasonable time after the court has closed
549 the guardianship matter.

550 (s) Violating any provision of this chapter or any rule
551 adopted pursuant thereto.

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552 (2) When the Office of Public and Professional Guardians
553 finds a professional guardian guilty of violating subsection
554 (1), it may enter an order imposing one or more of the following
555 penalties:

556 (a) Refusal to register an applicant as a professional
557 guardian.

558 (b) Suspension or permanent revocation of a professional
559 guardian's registration.

560 (c) Issuance of a reprimand or letter of concern.

561 (d) Requirement that the professional guardian undergo
562 treatment, attend continuing education courses, submit to
563 reexamination, or satisfy any terms that are reasonably tailored
564 to the violations found.

565 (e) Requirement that the professional guardian pay
566 restitution of any funds obtained, disbursed, or obtained
567 through a violation of any statute, rule, or other legal
568 authority to a ward or the ward's estate, if applicable.

569 (f) Requirement that the professional guardian undergo
570 remedial education.

571 (3) In determining what action is appropriate, the Office
572 of Public and Professional Guardians must first consider what
573 sanctions are necessary to safeguard wards and to protect the
574 public. Only after those sanctions have been imposed may the
575 Office of Public and Professional Guardians consider and include
576 in the order requirements designed to mitigate the circumstances
577 and rehabilitate the professional guardian.

578 (4) The Office of Public and Professional Guardians shall
579 adopt by rule and periodically review the disciplinary
580 guidelines applicable to each ground for disciplinary action

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581 that may be imposed by the Office of Public and Professional
582 Guardians pursuant to this chapter.

583 (5) It is the intent of the Legislature that the
584 disciplinary guidelines specify a meaningful range of designated
585 penalties based upon the severity and repetition of specific
586 offenses and that minor violations be distinguished from those
587 which endanger the health, safety, or welfare of a ward or the
588 public; that such guidelines provide reasonable and meaningful
589 notice to the public of likely penalties that may be imposed for
590 proscribed conduct; and that such penalties be consistently
591 applied by the Office of Public and Professional Guardians.

592 (6) The Office of Public and Professional Guardians shall
593 by rule designate possible mitigating and aggravating
594 circumstances and the variation and range of penalties permitted
595 for such circumstances.

596 (a) An administrative law judge, in recommending penalties
597 in any recommended order, must follow the disciplinary
598 guidelines established by the Office of Public and Professional
599 Guardians and must state in writing any mitigating or
600 aggravating circumstance upon which a recommended penalty is
601 based if such circumstance causes the administrative law judge
602 to recommend a penalty other than that provided in the
603 disciplinary guidelines.

604 (b) The Office of Public and Professional Guardians may
605 impose a penalty other than those provided for in the
606 disciplinary guidelines upon a specific finding in the final
607 order of mitigating or aggravating circumstances.

608 (7) In addition to, or in lieu of, any other remedy or
609 criminal prosecution, the Office of Public and Professional

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610 Guardians may file a proceeding in the name of the state seeking
611 issuance of an injunction or a writ of mandamus against any
612 person who violates any provision of this chapter or any
613 provision of law with respect to professional guardians or the
614 rules adopted pursuant thereto.

615 (8) Notwithstanding chapter 120, if the Office of Public
616 and Professional Guardians determines that revocation of a
617 professional guardian's registration is the appropriate penalty,
618 the revocation is permanent.

619 (9) If the Office of Public and Professional Guardians
620 makes a final determination to suspend or revoke the
621 professional guardian's registration, the office must provide
622 the determination to the court of competent jurisdiction for any
623 guardianship case to which the professional guardian is
624 currently appointed.

625 (10) The purpose of this section is to facilitate uniform
626 discipline for those actions made punishable under this section
627 and, to this end, a reference to this section constitutes a
628 general reference under the doctrine of incorporation by
629 reference.

630 (11) The Office of Public and Professional Guardians shall
631 adopt rules to administer this section.

632 Section 13. Section 744.344, Florida Statutes, is
633 renumbered as section 744.2005, Florida Statutes, and amended to
634 read:

635 744.2005 ~~744.344~~ Order of appointment.-

636 (1) The court may hear testimony on the question of who is
637 entitled to preference in the appointment of a guardian. Any
638 interested person may intervene in the proceedings.

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639 (2) The order appointing a guardian must state the nature
640 of the guardianship as either plenary or limited. If limited,
641 the order must state that the guardian may exercise only those
642 delegable rights which have been removed from the incapacitated
643 person and specifically delegated to the guardian. The order
644 shall state the specific powers and duties of the guardian.

645 (3)~~(2)~~ The order appointing a guardian must be consistent
646 with the incapacitated person's welfare and safety, must be the
647 least restrictive appropriate alternative, and must reserve to
648 the incapacitated person the right to make decisions in all
649 matters commensurate with the person's ability to do so.

650 (4)~~(3)~~ If a petition for appointment of a guardian has been
651 filed, an order appointing a guardian must be issued
652 contemporaneously with the order adjudicating the person
653 incapacitated. The order must specify the amount of the bond to
654 be given by the guardian and must state specifically whether the
655 guardian must place all, or part, of the property of the ward in
656 a restricted account in a financial institution designated
657 pursuant to s. 69.031.

658 (5)~~(4)~~ If a petition for the appointment of a guardian has
659 not been filed or ruled upon at the time of the hearing on the
660 petition to determine capacity, the court may appoint an
661 emergency temporary guardian in the manner and for the purposes
662 specified in s. 744.3031.

663 (6)~~(5)~~ A plenary guardian shall exercise all delegable
664 rights and powers of the incapacitated person.

665 (7)~~(6)~~ A person for whom a limited guardian has been
666 appointed retains all legal rights except those that ~~which~~ have
667 been specifically granted to the guardian in the court's written

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668 order.

669 Section 14. Section 744.703, Florida Statutes, is
670 renumbered as section 744.2006, Florida Statutes, and
671 subsections (1) and (6) of that section are amended, to read:

672 744.2006 ~~744.703~~ Office of Public and Professional
673 Guardians ~~guardian~~; appointment, notification.—

674 (1) The executive director of the ~~Statewide Public~~
675 ~~Guardianship~~ Office of Public and Professional Guardians, after
676 consultation with the chief judge and other circuit judges
677 within the judicial circuit and with appropriate advocacy groups
678 and individuals and organizations who are knowledgeable about
679 the needs of incapacitated persons, may establish, within a
680 county in the judicial circuit or within the judicial circuit,
681 one or more offices of public guardian and if so established,
682 shall create a list of persons best qualified to serve as the
683 public guardian, who have been investigated pursuant to s.
684 744.3135. The public guardian must have knowledge of the legal
685 process and knowledge of social services available to meet the
686 needs of incapacitated persons. The public guardian shall
687 maintain a staff or contract with professionally qualified
688 individuals to carry out the guardianship functions, including
689 an attorney who has experience in probate areas and another
690 person who has a master's degree in social work, or a
691 gerontologist, psychologist, registered nurse, or nurse
692 practitioner. A public guardian that is a nonprofit corporate
693 guardian under s. 744.309(5) must receive tax-exempt status from
694 the United States Internal Revenue Service.

695 (6) Public guardians who have been previously appointed by
696 a chief judge prior to the effective date of this act pursuant

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697 to this section may continue in their positions until the
698 expiration of their term pursuant to their agreement. However,
699 oversight of all public guardians shall transfer to the
700 ~~Statewide Public Guardianship~~ Office of Public and Professional
701 Guardians upon the effective date of this act. The executive
702 director of the ~~Statewide Public Guardianship~~ Office of Public
703 and Professional Guardians shall be responsible for all future
704 appointments of public guardians pursuant to this act.

705 Section 15. Section 744.704, Florida Statutes, is
706 renumbered as section 744.2007, Florida Statutes.

707 Section 16. Section 744.705, Florida Statutes, is
708 renumbered as section 744.2008, Florida Statutes.

709 Section 17. Section 744.706, Florida Statutes, is
710 renumbered as section 744.2009, Florida Statutes, and amended to
711 read:

712 744.2009 ~~744.706~~ Preparation of budget.—Each public
713 guardian, whether funded in whole or in part by money raised
714 through local efforts, grants, or any other source or whether
715 funded in whole or in part by the state, shall prepare a budget
716 for the operation of the office of public guardian to be
717 submitted to the ~~Statewide Public Guardianship~~ Office of Public
718 and Professional Guardians. As appropriate, the ~~Statewide Public~~
719 ~~Guardianship~~ Office of Public and Professional Guardians will
720 include such budgetary information in the Department of Elderly
721 Affairs' legislative budget request. The office of public
722 guardian shall be operated within the limitations of the General
723 Appropriations Act and any other funds appropriated by the
724 Legislature to that particular judicial circuit, subject to the
725 provisions of chapter 216. The Department of Elderly Affairs

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726 shall make a separate and distinct request for an appropriation
727 for the ~~Statewide Public Guardianship~~ Office of Public and
728 Professional Guardians. However, this section may ~~shall~~ not be
729 construed to preclude the financing of any operations of the
730 office of ~~the~~ public guardian by moneys raised through local
731 effort or through the efforts of the ~~Statewide Public~~
732 ~~Guardianship~~ Office of Public and Professional Guardians.

733 Section 18. Section 744.707, Florida Statutes, is
734 renumbered as section 744.2101, Florida Statutes, and amended to
735 read:

736 744.2101 ~~744.707~~ Procedures and rules.—The public guardian,
737 subject to the oversight of the ~~Statewide Public Guardianship~~
738 Office of Public and Professional Guardians, is authorized to:

739 (1) Formulate and adopt necessary procedures to assure the
740 efficient conduct of the affairs of the ward and general
741 administration of the office and staff.

742 (2) Contract for services necessary to discharge the duties
743 of the office.

744 (3) Accept the services of volunteer persons or
745 organizations and provide reimbursement for proper and necessary
746 expenses.

747 Section 19. Section 744.709, Florida Statutes, is
748 renumbered as section 744.2102, Florida Statutes.

749 Section 20. Section 744.708, Florida Statutes, is
750 renumbered as section 744.2103, Florida Statutes, and
751 subsections (3), (4), (5), and (7) of that section are amended,
752 to read:

753 744.2103 ~~744.708~~ Reports and standards.—

754 (3) A public guardian shall file an annual report on the

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755 operations of the office of public guardian, in writing, by
756 September 1 for the preceding fiscal year with the ~~Statewide~~
757 ~~Public Guardianship~~ Office of Public and Professional Guardians,
758 which shall have responsibility for supervision of the
759 operations of the office of public guardian.

760 (4) Within 6 months of his or her appointment as guardian
761 of a ward, the public guardian shall submit to the clerk of the
762 court for placement in the ward's guardianship file and to the
763 executive director of the ~~Statewide Public Guardianship~~ Office
764 of Public and Professional Guardians a report on his or her
765 efforts to locate a family member or friend, other person, bank,
766 or corporation to act as guardian of the ward and a report on
767 the ward's potential to be restored to capacity.

768 (5) (a) Each office of public guardian shall undergo an
769 independent audit by a qualified certified public accountant at
770 least once every 2 years. A copy of the audit report shall be
771 submitted to the ~~Statewide Public Guardianship~~ Office of Public
772 and Professional Guardians.

773 (b) In addition to regular monitoring activities, the
774 ~~Statewide Public Guardianship~~ Office of Public and Professional
775 Guardians shall conduct an investigation into the practices of
776 each office of public guardian related to the managing of each
777 ward's personal affairs and property. If feasible, the
778 investigation shall be conducted in conjunction with the
779 financial audit of each office of public guardian under
780 paragraph (a).

781 (7) The ratio for professional staff to wards shall be 1
782 professional to 40 wards. The ~~Statewide Public Guardianship~~
783 Office of Public and Professional Guardians may increase or

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784 decrease the ratio after consultation with the local public
785 guardian and the chief judge of the circuit court. The basis for
786 the decision to increase or decrease the prescribed ratio must
787 be included in the annual report to the secretary.

788 Section 21. Section 744.7081, Florida Statutes, is
789 renumbered as section 744.2104, Florida Statutes, and amended to
790 read:

791 744.2104 ~~744.7081~~ Access to records by the Statewide Public
792 Guardianship Office of Public and Professional Guardians;
793 confidentiality.-

794 (1) Notwithstanding any other provision of law to the
795 contrary, any medical, financial, or mental health records held
796 by an agency, or the court and its agencies, or financial audits
797 prepared by the clerk of the court pursuant to s. 744.368 and
798 held by the court, which are necessary as part of an
799 investigation of a guardian as a result of a complaint filed
800 with the Office of Public and Professional Guardians to evaluate
801 the public guardianship system, to assess the need for
802 additional public guardianship, or to develop required reports,
803 shall be provided to the ~~Statewide Public Guardianship~~ Office of
804 Public and Professional Guardians upon that office's request.

805 Any confidential or exempt information provided to the ~~Statewide~~
806 ~~Public Guardianship~~ Office of Public and Professional Guardians
807 shall continue to be held confidential or exempt as otherwise
808 provided by law.

809 (2) All records held by the ~~Statewide Public Guardianship~~
810 Office of Public and Professional Guardians relating to the
811 medical, financial, or mental health of vulnerable adults as
812 defined in chapter 415, persons with a developmental disability

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813 as defined in chapter 393, or persons with a mental illness as
814 defined in chapter 394, shall be confidential and exempt from s.
815 119.07(1) and s. 24(a), Art. I of the State Constitution.

816 Section 22. Section 744.7082, Florida Statutes, is
817 renumbered as section 744.2105, Florida Statutes, and
818 subsections (1) through (5) and (8) of that section are amended,
819 to read:

820 744.2105 ~~744.7082~~ Direct-support organization; definition;
821 use of property; board of directors; audit; dissolution.—

822 (1) DEFINITION.—As used in this section, the term “direct-
823 support organization” means an organization whose sole purpose
824 is to support the ~~Statewide Public Guardianship~~ Office of Public
825 and Professional Guardians and is:

826 (a) A not-for-profit corporation incorporated under chapter
827 617 and approved by the Department of State;

828 (b) Organized and operated to conduct programs and
829 activities; to raise funds; to request and receive grants,
830 gifts, and bequests of moneys; to acquire, receive, hold,
831 invest, and administer, in its own name, securities, funds,
832 objects of value, or other property, real or personal; and to
833 make expenditures to or for the direct or indirect benefit of
834 the ~~Statewide Public Guardianship~~ Office of Public and
835 Professional Guardians; and

836 (c) Determined by the ~~Statewide Public Guardianship~~ Office
837 of Public and Professional Guardians to be consistent with the
838 goals of the office, in the best interests of the state, and in
839 accordance with the adopted goals and mission of the Department
840 of Elderly Affairs and the ~~Statewide Public Guardianship~~ Office
841 of Public and Professional Guardians.

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842 (2) CONTRACT.—The direct-support organization shall operate
843 under a written contract with the ~~Statewide Public Guardianship~~
844 Office of Public and Professional Guardians. The written
845 contract must provide for:

846 (a) Certification by the ~~Statewide Public Guardianship~~
847 Office of Public and Professional Guardians that the direct-
848 support organization is complying with the terms of the contract
849 and is doing so consistent with the goals and purposes of the
850 office and in the best interests of the state. This
851 certification must be made annually and reported in the official
852 minutes of a meeting of the direct-support organization.

853 (b) The reversion of moneys and property held in trust by
854 the direct-support organization:

855 1. To the ~~Statewide Public Guardianship~~ Office of Public
856 and Professional Guardians if the direct-support organization is
857 no longer approved to operate for the office;

858 2. To the ~~Statewide Public Guardianship~~ Office of Public
859 and Professional Guardians if the direct-support organization
860 ceases to exist;

861 3. To the Department of Elderly Affairs if the ~~Statewide~~
862 ~~Public Guardianship~~ Office of Public and Professional Guardians
863 ceases to exist; or

864 4. To the state if the Department of Elderly Affairs ceases
865 to exist.

866
867 The fiscal year of the direct-support organization shall begin
868 on July 1 of each year and end on June 30 of the following year.

869 (c) The disclosure of the material provisions of the
870 contract, and the distinction between the ~~Statewide Public~~

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871 ~~Guardianship~~ Office of Public and Professional Guardians and the
872 direct-support organization, to donors of gifts, contributions,
873 or bequests, including such disclosure on all promotional and
874 fundraising publications.

875 (3) BOARD OF DIRECTORS.—The Secretary of Elderly Affairs
876 shall appoint a board of directors for the direct-support
877 organization from a list of nominees submitted by the executive
878 director of the ~~Statewide Public Guardianship~~ Office of Public
879 and Professional Guardians.

880 (4) USE OF PROPERTY.—The Department of Elderly Affairs may
881 permit, without charge, appropriate use of fixed property and
882 facilities of the department or the ~~Statewide Public~~
883 ~~Guardianship~~ Office of Public and Professional Guardians by the
884 direct-support organization. The department may prescribe any
885 condition with which the direct-support organization must comply
886 in order to use fixed property or facilities of the department
887 or the ~~Statewide Public Guardianship~~ Office of Public and
888 Professional Guardians.

889 (5) MONEYS.—Any moneys may be held in a separate depository
890 account in the name of the direct-support organization and
891 subject to the provisions of the written contract with the
892 ~~Statewide Public Guardianship~~ Office of Public and Professional
893 Guardians. Expenditures of the direct-support organization shall
894 be expressly used to support the ~~Statewide Public Guardianship~~
895 Office of Public and Professional Guardians. The expenditures of
896 the direct-support organization may not be used for the purpose
897 of lobbying as defined in s. 11.045.

898 (8) DISSOLUTION.—A ~~After July 1, 2004, any~~ not-for-profit
899 corporation incorporated under chapter 617 that is determined by

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900 a circuit court to be representing itself as a direct-support
901 organization created under this section, but that does not have
902 a written contract with the ~~Statewide Public Guardianship~~ Office
903 of Public and Professional Guardians in compliance with this
904 section, is considered to meet the grounds for a judicial
905 dissolution described in s. 617.1430(1)(a). The ~~Statewide Public~~
906 ~~Guardianship~~ Office of Public and Professional Guardians shall
907 be the recipient for all assets held by the dissolved
908 corporation which accrued during the period that the dissolved
909 corporation represented itself as a direct-support organization
910 created under this section.

911 Section 23. Section 744.712, Florida Statutes, is
912 renumbered as section 744.2106, Florida Statutes, and amended to
913 read:

914 744.2106 ~~744.712~~ Joining Forces for Public Guardianship
915 grant program; purpose.—The Legislature establishes the Joining
916 Forces for Public Guardianship matching grant program for the
917 purpose of assisting counties to establish and fund community-
918 supported public guardianship programs. The Joining Forces for
919 Public Guardianship matching grant program shall be established
920 and administered by the ~~Statewide Public Guardianship~~ Office of
921 Public and Professional Guardians within the Department of
922 Elderly Affairs. The purpose of the program is to provide
923 startup funding to encourage communities to develop and
924 administer locally funded and supported public guardianship
925 programs to address the needs of indigent and incapacitated
926 residents.

927 (1) The ~~Statewide Public Guardianship~~ Office of Public and
928 Professional Guardians may distribute the grant funds as

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929 follows:

930 (a) As initial startup funding to encourage counties that
931 have no office of public guardian to establish an office, or as
932 initial startup funding to open an additional office of public
933 guardian within a county whose public guardianship needs require
934 more than one office of public guardian.

935 (b) As support funding to operational offices of public
936 guardian that demonstrate a necessity for funds to meet the
937 public guardianship needs of a particular geographic area in the
938 state which the office serves.

939 (c) To assist counties that have an operating public
940 guardianship program but that propose to expand the geographic
941 area or population of persons they serve, or to develop and
942 administer innovative programs to increase access to public
943 guardianship in this state.

944

945 Notwithstanding this subsection, the executive director of the
946 office may award emergency grants if he or she determines that
947 the award is in the best interests of public guardianship in
948 this state. Before making an emergency grant, the executive
949 director must obtain the written approval of the Secretary of
950 Elderly Affairs. Subsections (2), (3), and (4) do not apply to
951 the distribution of emergency grant funds.

952 (2) One or more grants may be awarded within a county.
953 However, a county may not receive an award that equals, or
954 multiple awards that cumulatively equal, more than 20 percent of
955 the total amount of grant funds appropriated during any fiscal
956 year.

957 (3) If an applicant is eligible and meets the requirements

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958 to receive grant funds more than once, the ~~Statewide Public~~
959 ~~Guardianship~~ Office of Public and Professional Guardians shall
960 award funds to prior awardees in the following manner:

961 (a) In the second year that grant funds are awarded, the
962 cumulative sum of the award provided to one or more applicants
963 within the same county may not exceed 75 percent of the total
964 amount of grant funds awarded within that county in year one.

965 (b) In the third year that grant funds are awarded, the
966 cumulative sum of the award provided to one or more applicants
967 within the same county may not exceed 60 percent of the total
968 amount of grant funds awarded within that county in year one.

969 (c) In the fourth year that grant funds are awarded, the
970 cumulative sum of the award provided to one or more applicants
971 within the same county may not exceed 45 percent of the total
972 amount of grant funds awarded within that county in year one.

973 (d) In the fifth year that grant funds are awarded, the
974 cumulative sum of the award provided to one or more applicants
975 within the same county may not exceed 30 percent of the total
976 amount of grant funds awarded within that county in year one.

977 (e) In the sixth year that grant funds are awarded, the
978 cumulative sum of the award provided to one or more applicants
979 within the same county may not exceed 15 percent of the total
980 amount of grant funds awarded within that county in year one.

981
982 The ~~Statewide Public Guardianship~~ Office of Public and
983 Professional Guardians may not award grant funds to any
984 applicant within a county that has received grant funds for more
985 than 6 years.

986 (4) Grant funds shall be used only to provide direct

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987 services to indigent wards, except that up to 10 percent of the
988 grant funds may be retained by the awardee for administrative
989 expenses.

990 (5) Implementation of the program is subject to a specific
991 appropriation by the Legislature in the General Appropriations
992 Act.

993 Section 24. Section 744.713, Florida Statutes, is
994 renumbered as section 744.2107, Florida Statutes, and amended to
995 read:

996 744.2107 ~~744.713~~ Program administration; duties of the
997 ~~Statewide Public Guardianship Office of Public and Professional~~
998 ~~Guardians.~~—The ~~Statewide Public Guardianship Office of Public~~
999 ~~and Professional Guardians~~ shall administer the grant program.

1000 The office shall:

1001 (1) Publicize the availability of grant funds to entities
1002 that may be eligible for the funds.

1003 (2) Establish an application process for submitting a grant
1004 proposal.

1005 (3) Request, receive, and review proposals from applicants
1006 seeking grant funds.

1007 (4) Determine the amount of grant funds each awardee may
1008 receive and award grant funds to applicants.

1009 (5) Develop a monitoring process to evaluate grant
1010 awardees, which may include an annual monitoring visit to each
1011 awardee's local office.

1012 (6) Ensure that persons or organizations awarded grant
1013 funds meet and adhere to the requirements of this act.

1014 Section 25. Section 744.714, Florida Statutes, is
1015 renumbered as section 744.2108, Florida Statutes, and paragraph

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1016 (b) of subsection (1) and paragraph (b) of subsection (2) of
1017 that section are amended, to read:

1018 744.2108 ~~744.714~~ Eligibility.—

1019 (1) Any person or organization that has not been awarded a
1020 grant must meet all of the following conditions to be eligible
1021 to receive a grant:

1022 (b) The applicant must have already been appointed by, or
1023 is pending appointment by, the ~~Statewide Public Guardianship~~
1024 Office of Public and Professional Guardians to become an office
1025 of public guardian in this state.

1026 (2) Any person or organization that has been awarded a
1027 grant must meet all of the following conditions to be eligible
1028 to receive another grant:

1029 (b) The applicant must have been appointed by, or is
1030 pending reappointment by, the ~~Statewide Public Guardianship~~
1031 Office of Public and Professional Guardians to be an office of
1032 public guardian in this state.

1033 Section 26. Section 744.715, Florida Statutes, is
1034 renumbered as section 744.2109, Florida Statutes, and amended to
1035 read:

1036 744.2109 ~~744.715~~ Grant application requirements; review
1037 criteria; awards process.—Grant applications must be submitted
1038 to the ~~Statewide Public Guardianship~~ Office of Public and
1039 Professional Guardians for review and approval.

1040 (1) A grant application must contain:

1041 (a) The specific amount of funds being requested.

1042 (b) The proposed annual budget for the office of public
1043 guardian for which the applicant is applying on behalf of,
1044 including all sources of funding, and a detailed report of

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1045 proposed expenditures, including administrative costs.

1046 (c) The total number of wards the applicant intends to
1047 serve during the grant period.

1048 (d) Evidence that the applicant has:

1049 1. Attempted to procure funds and has exhausted all
1050 possible other sources of funding; or

1051 2. Procured funds from local sources, but the total amount
1052 of the funds collected or pledged is not sufficient to meet the
1053 need for public guardianship in the geographic area that the
1054 applicant intends to serve.

1055 (e) An agreement or confirmation from a local funding
1056 source, such as a county, municipality, or any other public or
1057 private organization, that the local funding source will
1058 contribute matching funds to the public guardianship program
1059 totaling not less than \$1 for every \$1 of grant funds awarded.
1060 For purposes of this section, an applicant may provide evidence
1061 of agreements or confirmations from multiple local funding
1062 sources showing that the local funding sources will pool their
1063 contributed matching funds to the public guardianship program
1064 for a combined total of not less than \$1 for every \$1 of grant
1065 funds awarded. In-kind contributions, such as materials,
1066 commodities, office space, or other types of facilities,
1067 personnel services, or other items as determined by rule shall
1068 be considered by the office and may be counted as part or all of
1069 the local matching funds.

1070 (f) A detailed plan describing how the office of public
1071 guardian for which the applicant is applying on behalf of will
1072 be funded in future years.

1073 (g) Any other information determined by rule as necessary

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1074 to assist in evaluating grant applicants.

1075 (2) If the ~~Statewide Public Guardianship~~ Office of Public
1076 and Professional Guardians determines that an applicant meets
1077 the requirements for an award of grant funds, the office may
1078 award the applicant any amount of grant funds the executive
1079 director deems appropriate, if the amount awarded meets the
1080 requirements of this act. The office may adopt a rule allocating
1081 the maximum allowable amount of grant funds which may be
1082 expended on any ward.

1083 (3) A grant awardee must submit a new grant application for
1084 each year of additional funding.

1085 (4) (a) In the first year of the Joining Forces for Public
1086 Guardianship program's existence, the ~~Statewide Public~~
1087 ~~Guardianship~~ Office of Public and Professional Guardians shall
1088 give priority in awarding grant funds to those entities that:

1089 1. Are operating as appointed offices of public guardians
1090 in this state;

1091 2. Meet all of the requirements for being awarded a grant
1092 under this act; and

1093 3. Demonstrate a need for grant funds during the current
1094 fiscal year due to a loss of local funding formerly raised
1095 through court filing fees.

1096 (b) In each fiscal year after the first year that grant
1097 funds are distributed, the ~~Statewide Public Guardianship~~ Office
1098 of Public and Professional Guardians may give priority to
1099 awarding grant funds to those entities that:

1100 1. Meet all of the requirements of this section and ss.
1101 744.2106, 744.2107, and 744.2108 ~~this act~~ for being awarded
1102 grant funds; and

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1103 2. Submit with their application an agreement or
1104 confirmation from a local funding source, such as a county,
1105 municipality, or any other public or private organization, that
1106 the local funding source will contribute matching funds totaling
1107 an amount equal to or exceeding \$2 for every \$1 of grant funds
1108 awarded by the office. An entity may submit with its application
1109 agreements or confirmations from multiple local funding sources
1110 showing that the local funding sources will pool their
1111 contributed matching funds to the public guardianship program
1112 for a combined total of not less than \$2 for every \$1 of grant
1113 funds awarded. In-kind contributions allowable under this
1114 section shall be evaluated by the ~~Statewide Public Guardianship~~
1115 Office of Public and Professional Guardians and may be counted
1116 as part or all of the local matching funds.

1117 Section 27. Subsection (3), paragraph (c) of subsection
1118 (4), and subsections (5) and (6) of section 744.3135, Florida
1119 Statutes, are amended to read:

1120 744.3135 Credit and criminal investigation.—

1121 (3) For professional guardians, the court and the ~~Statewide~~
1122 ~~Public Guardianship~~ Office of Public and Professional Guardians
1123 shall accept the satisfactory completion of a criminal history
1124 record check by any method described in this subsection. A
1125 professional guardian satisfies the requirements of this section
1126 by undergoing an electronic fingerprint criminal history record
1127 check. A professional guardian may use any electronic
1128 fingerprinting equipment used for criminal history record
1129 checks. By October 1, 2016, the ~~Statewide Public Guardianship~~
1130 Office of Public and Professional Guardians shall adopt a rule
1131 detailing the acceptable methods for completing an electronic

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1132 fingerprint criminal history record check under this section.
1133 The professional guardian shall pay the actual costs incurred by
1134 the Federal Bureau of Investigation and the Department of Law
1135 Enforcement for the criminal history record check. The entity
1136 completing the record check must immediately send the results of
1137 the criminal history record check to the clerk of the court and
1138 the ~~Statewide Public Guardianship~~ Office of Public and
1139 Professional Guardians. The clerk of the court shall maintain
1140 the results in the professional guardian's file and shall make
1141 the results available to the court.

1142 (4)

1143 (c) The Department of Law Enforcement shall search all
1144 arrest fingerprints received under s. 943.051 against the
1145 fingerprints retained in the statewide automated biometric
1146 identification system under paragraph (b). Any arrest record
1147 that is identified with the fingerprints of a person described
1148 in this paragraph must be reported to the clerk of court. The
1149 clerk of court must forward any arrest record received for a
1150 professional guardian to the ~~Statewide Public Guardianship~~
1151 Office of Public and Professional Guardians within 5 days. Each
1152 professional guardian who elects to submit fingerprint
1153 information electronically shall participate in this search
1154 process by paying an annual fee to the ~~Statewide Public~~
1155 ~~Guardianship~~ Office of Public and Professional Guardians of the
1156 Department of Elderly Affairs and by informing the clerk of
1157 court and the ~~Statewide Public Guardianship~~ Office of Public and
1158 Professional Guardians of any change in the status of his or her
1159 guardianship appointment. The amount of the annual fee to be
1160 imposed for performing these searches and the procedures for the

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1161 retention of professional guardian fingerprints and the
1162 dissemination of search results shall be established by rule of
1163 the Department of Law Enforcement. At least once every 5 years,
1164 the ~~Statewide Public Guardianship~~ Office of Public and
1165 Professional Guardians must request that the Department of Law
1166 Enforcement forward the fingerprints maintained under this
1167 section to the Federal Bureau of Investigation.

1168 (5) (a) A professional guardian, and each employee of a
1169 professional guardian who has a fiduciary responsibility to a
1170 ward, must complete, at his or her own expense, an investigation
1171 of his or her credit history before and at least once every 2
1172 years after the date of the guardian's registration with the
1173 ~~Statewide Public Guardianship~~ Office of Public and Professional
1174 Guardians.

1175 (b) By October 1, 2016, the ~~Statewide Public Guardianship~~
1176 Office of Public and Professional Guardians shall adopt a rule
1177 detailing the acceptable methods for completing a credit
1178 investigation under this section. If appropriate, the ~~Statewide~~
1179 ~~Public Guardianship~~ Office of Public and Professional Guardians
1180 may administer credit investigations. If the office chooses to
1181 administer the credit investigation, the office may adopt a rule
1182 setting a fee, not to exceed \$25, to reimburse the costs
1183 associated with the administration of a credit investigation.

1184 (6) The ~~Statewide Public Guardianship~~ Office of Public and
1185 Professional Guardians may inspect at any time the results of
1186 any credit or criminal history record check of a public or
1187 professional guardian conducted under this section. The office
1188 shall maintain copies of the credit or criminal history record
1189 check results in the guardian's registration file. If the

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1190 results of a credit or criminal investigation of a public or
1191 professional guardian have not been forwarded to the ~~Statewide~~
1192 ~~Public Guardianship~~ Office of Public and Professional Guardians
1193 by the investigating agency, the clerk of the court shall
1194 forward copies of the results of the investigations to the
1195 office upon receiving them.

1196 Section 28. Section 744.701, Florida Statutes, is repealed.

1197 Section 29. Section 744.702, Florida Statutes, is repealed.

1198 Section 30. Section 744.7101, Florida Statutes, is
1199 repealed.

1200 Section 31. Section 744.711, Florida Statutes, is repealed.

1201 Section 32. Subsection (5) of section 400.148, Florida
1202 Statutes, is amended to read:

1203 400.148 Medicaid "Up-or-Out" Quality of Care Contract
1204 Management Program.—

1205 (5) The agency shall, jointly with the ~~Statewide Public~~
1206 ~~Guardianship~~ Office of Public and Professional Guardians,
1207 develop a system in the pilot project areas to identify Medicaid
1208 recipients who are residents of a participating nursing home or
1209 assisted living facility who have diminished ability to make
1210 their own decisions and who do not have relatives or family
1211 available to act as guardians in nursing homes listed on the
1212 Nursing Home Guide Watch List. The agency and the ~~Statewide~~
1213 ~~Public Guardianship~~ Office of Public and Professional Guardians
1214 shall give such residents priority for publicly funded
1215 guardianship services.

1216 Section 33. Paragraph (d) of subsection (3) of section
1217 744.331, Florida Statutes, is amended to read:

1218 744.331 Procedures to determine incapacity.—

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1219 (3) EXAMINING COMMITTEE.—

1220 (d) A member of an examining committee must complete a
1221 minimum of 4 hours of initial training. The person must complete
1222 2 hours of continuing education during each 2-year period after
1223 the initial training. The initial training and continuing
1224 education program must be developed under the supervision of the
1225 ~~Statewide Public Guardianship Office~~ of Public and Professional
1226 Guardians, in consultation with the Florida Conference of
1227 Circuit Court Judges; the Elder Law and the Real Property,
1228 Probate and Trust Law sections of The Florida Bar; and the
1229 Florida State Guardianship Association; ~~and the Florida~~
1230 ~~Guardianship Foundation~~. The court may waive the initial
1231 training requirement for a person who has served for not less
1232 than 5 years on examining committees. If a person wishes to
1233 obtain his or her continuing education on the Internet or by
1234 watching a video course, the person must first obtain the
1235 approval of the chief judge before taking an Internet or video
1236 course.

1237 Section 34. Paragraph (a) of subsection (1) of section
1238 20.415, Florida Statutes, is amended to read:

1239 20.415 Department of Elderly Affairs; trust funds.—The
1240 following trust funds shall be administered by the Department of
1241 Elderly Affairs:

1242 (1) Administrative Trust Fund.

1243 (a) Funds to be credited to and uses of the trust fund
1244 shall be administered in accordance with ss. 215.32, 744.534,
1245 and 744.2001 ~~744.7021~~.

1246 Section 35. Paragraph (e) of subsection (2) of section
1247 415.1102, Florida Statutes, is amended to read:

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1248 415.1102 Adult protection teams.—

1249 (2) Such teams may be composed of, but need not be limited
1250 to:

1251 (e) Public and professional guardians as described in part
1252 II ~~IX~~ of chapter 744.

1253 Section 36. Paragraph (a) of subsection (7) of section
1254 744.309, Florida Statutes, is amended to read:

1255 744.309 Who may be appointed guardian of a resident ward.—

1256 (7) FOR-PROFIT CORPORATE GUARDIAN.—A for-profit corporate
1257 guardian existing under the laws of this state is qualified to
1258 act as guardian of a ward if the entity is qualified to do
1259 business in the state, is wholly owned by the person who is the
1260 circuit's public guardian in the circuit where the corporate
1261 guardian is appointed, has met the registration requirements of
1262 s. 744.2002 ~~s. 744.1083~~, and posts and maintains a bond or
1263 insurance policy under paragraph (a).

1264 (a) The for-profit corporate guardian must meet one of the
1265 following requirements:

1266 1. Post and maintain a blanket fiduciary bond of at least
1267 \$250,000 with the clerk of the circuit court in the county in
1268 which the corporate guardian has its principal place of
1269 business. The corporate guardian shall provide proof of the
1270 fiduciary bond to the clerks of each additional circuit court in
1271 which he or she is serving as a guardian. The bond must cover
1272 all wards for whom the corporation has been appointed as a
1273 guardian at any given time. The liability of the provider of the
1274 bond is limited to the face value of the bond, regardless of the
1275 number of wards for whom the corporation is acting as a
1276 guardian. The terms of the bond must cover the acts or omissions

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1277 of each agent or employee of the corporation who has direct
1278 contact with the ward or access to the assets of the
1279 guardianship. The bond must be payable to the Governor and his
1280 or her successors in office and be conditioned on the faithful
1281 performance of all duties of a guardian under this chapter. The
1282 bond is in lieu of and not in addition to the bond required
1283 under s. 744.2003 ~~s. 744.1085~~ but is in addition to any bonds
1284 required under s. 744.351. The expenses incurred to satisfy the
1285 bonding requirements of this section may not be paid with the
1286 assets of any ward; or

1287 2. Maintain a liability insurance policy that covers any
1288 losses sustained by the guardianship caused by errors,
1289 omissions, or any intentional misconduct committed by the
1290 corporation's officers or agents. The policy must cover all
1291 wards for whom the corporation is acting as a guardian for
1292 losses up to \$250,000. The terms of the policy must cover acts
1293 or omissions of each agent or employee of the corporation who
1294 has direct contact with the ward or access to the assets of the
1295 guardianship. The corporate guardian shall provide proof of the
1296 policy to the clerk of each circuit court in which he or she is
1297 serving as a guardian.

1298 Section 37. Section 744.524, Florida Statutes, is amended
1299 to read:

1300 744.524 Termination of guardianship on change of domicile
1301 of resident ward.—When the domicile of a resident ward has
1302 changed as provided in s. 744.1098 ~~s. 744.2025~~, and the foreign
1303 court having jurisdiction over the ward at the ward's new
1304 domicile has appointed a guardian and that guardian has
1305 qualified and posted a bond in an amount required by the foreign

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1306 court, the guardian in this state may file her or his final
1307 report and close the guardianship in this state. The guardian of
1308 the property in this state shall cause a notice to be published
1309 once a week for 2 consecutive weeks, in a newspaper of general
1310 circulation published in the county, that she or he has filed
1311 her or his accounting and will apply for discharge on a day
1312 certain and that jurisdiction of the ward will be transferred to
1313 the state of foreign jurisdiction. If an objection is filed to
1314 the termination of the guardianship in this state, the court
1315 shall hear the objection and enter an order either sustaining or
1316 overruling the objection. Upon the disposition of all objections
1317 filed, or if no objection is filed, final settlement shall be
1318 made by the Florida guardian. On proof that the remaining
1319 property in the guardianship has been received by the foreign
1320 guardian, the guardian of the property in this state shall be
1321 discharged. The entry of the order terminating the guardianship
1322 in this state shall not exonerate the guardian or the guardian's
1323 surety from any liability previously incurred.

1324 Section 38. This act shall take effect upon becoming a law.