

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.; renumbering and
6 amending s. 744.202, F.S.; conforming a cross-
7 reference; renumbering s. 744.2025, F.S.; renumbering
8 and amending s. 744.7021, F.S.; revising the
9 responsibilities of the executive director for the
10 Office of Public and Professional Guardians;
11 conforming provisions to changes made by the act;
12 renumbering and amending s. 744.1083, F.S.; removing a
13 provision authorizing the executive director to
14 suspend or revoke the registration of a guardian who
15 commits certain violations; removing the requirement
16 of written notification to the chief judge of the
17 judicial circuit upon the executive director's denial,
18 suspension, or revocation of a registration;
19 conforming provisions to changes made by the act;
20 conforming a cross-reference; renumbering and amending
21 s. 744.1085, F.S.; removing an obsolete provision;
22 conforming provisions to changes made by the act;
23 conforming a cross-reference; creating s. 744.2004,
24 F.S.; requiring the Office of Public and Professional
25 Guardians to adopt rules; requiring the office, under
26 certain circumstances, to make a specified

27 recommendation to a court of competent jurisdiction;
28 renumbering and amending s. 744.344, F.S.; requiring
29 that a professional guardian appointed by a court to
30 represent an allegedly incapacitated person be
31 selected from a registry of professional guardians;
32 requiring the chief judge of a circuit court to
33 compile a list of professional guardians by county and
34 provide the list to the clerk of court in each county;
35 providing requirements for inclusion in the registry;
36 providing procedures for a court to appoint a
37 professional guardian; providing an exception;
38 requiring the clerk of the court to maintain the
39 registry and provide the court with the name of a
40 professional guardian for appointment; renumbering and
41 amending s. 744.703, F.S.; conforming provisions to
42 changes made by the act; renumbering ss. 744.704 and
43 744.705, F.S.; renumbering and amending ss. 744.706
44 and 744.707, F.S.; conforming provisions to changes
45 made by the act; renumbering s. 744.709, F.S.;

46 renumbering and amending ss. 744.708, 744.7081, and
47 744.7082, F.S.; conforming provisions to changes made
48 by the act; renumbering and amending s. 744.712, F.S.;

49 providing legislative intent; conforming provisions;
50 renumbering and amending ss. 744.713, 744.714, and
51 744.715, F.S.; conforming provisions to changes made
52 by the act; repealing s. 744.701, F.S.; relating to a

53 short title; repealing s. 744.702, F.S.; relating to
 54 legislative intent; repealing s. 744.7101, F.S.;
 55 relating to a short title; repealing s. 744.711, F.S.;
 56 relating to legislative findings and intent; amending
 57 ss. 400.148, 744.3135, and 744.331, F.S.; conforming
 58 provisions to changes made by the act; amending ss.
 59 20.415, 415.1102, and 744.524, F.S.; conforming cross-
 60 references; making technical changes; providing an
 61 effective date.

62

63 Be It Enacted by the Legislature of the State of Florida:

64

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

68 Section 2. The Division of Law Revision and Information is
 69 directed to retitle part II of chapter 744, Florida Statutes,
 70 consisting of ss. 744.2001-744.2109, Florida Statutes, as
 71 "PUBLIC AND PROFESSIONAL GUARDIANS."

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

74 Section 4. Section 744.1012, Florida Statutes, is amended
 75 to read:

76 744.1012 Legislative intent.—The Legislature finds:

77 (1) That adjudicating a person totally incapacitated and
 78 in need of a guardian deprives such person of all her or his

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79 civil and legal rights and that such deprivation may be
80 unnecessary.

81 (2) The Legislature further finds That it is desirable to
82 make available the least restrictive form of guardianship to
83 assist persons who are only partially incapable of caring for
84 their needs and that alternatives to guardianship and less
85 intrusive means of assistance should always be explored,
86 including, but not limited to, guardian advocates, before an
87 individual's rights are removed through an adjudication of
88 incapacity.

89 (3) By recognizing that every individual has unique needs
90 and differing abilities, the Legislature declares that it is the
91 purpose of this act to promote the public welfare by
92 establishing a system that permits incapacitated persons to
93 participate as fully as possible in all decisions affecting
94 them; that assists such persons in meeting the essential
95 requirements for their physical health and safety, in protecting
96 their rights, in managing their financial resources, and in
97 developing or regaining their abilities to the maximum extent
98 possible; and that accomplishes these objectives through
99 providing, in each case, the form of assistance that least
100 interferes with the legal capacity of a person to act in her or
101 his own behalf. This act shall be liberally construed to
102 accomplish this purpose.

103 (4) That private guardianship is inadequate where there is
104 no willing and responsible family member or friend, other

105 person, bank, or corporation available to serve as guardian for
106 an incapacitated person, and such person does not have adequate
107 income or wealth for the compensation of a private guardian.

108 (5) The Legislature intends, through the establishment of
109 the Office of Public and Professional Guardians, to permit the
110 establishment of offices of public guardians for the purpose of
111 providing guardianship services for incapacitated persons when
112 no private guardian is available.

113 (6) That a public guardian be provided only to those
114 persons whose needs cannot be met through less drastic means of
115 intervention.

116 Section 5. Section 744.201, Florida Statutes, is
117 renumbered as section 744.1096, Florida Statutes.

118 Section 6. Section 744.202, Florida Statutes, is
119 renumbered as section 744.1097, Florida Statutes, and subsection
120 (3) of that section is amended to read:

121 744.1097 744.202 Venue.—

122 (3) When the residence of an incapacitated person is
123 changed to another county, the guardian shall petition to have
124 the venue of the guardianship changed to the county of the
125 acquired residence, except as provided in s. 744.1098 ~~s.~~
126 ~~744.2025~~.

127 Section 7. Section 744.2025, Florida Statutes, is
128 renumbered as section 744.1098, Florida Statutes.

129 Section 8. Section 744.7021, Florida Statutes, is
130 renumbered as section 744.2001, Florida Statutes, and amended to

131 read:

132 744.2001 ~~744.7021~~ ~~Statewide Public Guardianship~~ Office of
 133 Public and Professional Guardians.—There is hereby created the
 134 ~~Statewide Public Guardianship~~ Office of Public and Professional
 135 Guardians within the Department of Elderly Affairs.

136 (1) The Secretary of Elderly Affairs shall appoint the
 137 executive director, who shall be the head of the ~~Statewide~~
 138 ~~Public Guardianship~~ Office of Public and Professional Guardians.
 139 The executive director must be a member of The Florida Bar,
 140 knowledgeable of guardianship law and of the social services
 141 available to meet the needs of incapacitated persons, shall
 142 serve on a full-time basis, and shall personally, or through a
 143 representative ~~representatives~~ of the office, carry out the
 144 purposes and functions of the ~~Statewide Public Guardianship~~
 145 Office of Public and Professional Guardians in accordance with
 146 state and federal law. The executive director shall serve at the
 147 pleasure of and report to the secretary.

148 (2) The executive director shall, within available
 149 resources:7

150 (a) Have oversight responsibilities for all public and
 151 professional guardians.

152 (b) Review the standards and criteria for the education,
 153 registration, and certification of public and professional
 154 guardians in Florida.

155 (3) The executive director's oversight responsibilities of
 156 professional guardians shall include, but not be limited to:

157 (a) The development and implementation of a monitoring
158 tool to be used for regular monitoring activities of
159 professional guardians related to the management of each ward
160 and his or her personal affairs. This monitoring may not include
161 a financial audit as required by the clerk of the circuit court
162 under s. 744.368.

163 (b) The development of procedures, in consultation with
164 professional guardianship associations, for the review of an
165 allegation that a professional guardian has violated an
166 applicable statute, fiduciary duty, standard of practice, rule,
167 regulation, or other requirement governing the conduct of
168 professional guardians.

169 (c) The establishment of disciplinary proceedings,
170 including the authority to conduct investigations and take
171 appropriate administrative action pursuant to chapter 120.

172 (d) Assist the chief judge in each judicial circuit to
173 establish a registry to allow for the appointment of
174 professional guardians in rotating order as provided in s.
175 744.2005.

176 (4) The executive director's oversight responsibilities of
177 public guardians shall include, but not be limited to:

178 (a) ~~The executive director shall~~ review of the current
179 public guardian programs in Florida and other states.

180 (b) The development ~~executive director,~~ in consultation
181 with local guardianship offices, of ~~shall develop~~ statewide
182 performance measures and standards.

183 (c) The ~~executive director shall~~ review of the various
184 methods of funding public guardianship programs, the kinds of
185 services being provided by such programs, and the demographics
186 of the wards. In addition, the executive director shall review
187 and make recommendations regarding the feasibility of recovering
188 a portion or all of the costs of providing public guardianship
189 services from the assets or income of the wards.

190 (d) By January 1 of each year, providing ~~the executive~~
191 ~~director shall provide~~ a status report and providing ~~provide~~
192 further recommendations to the secretary that address the need
193 for public guardianship services and related issues.

194 (e) In consultation with the Florida Guardianship
195 Foundation, the development of a guardianship training program
196 curriculum that may be offered to all guardians, whether public
197 or private.

198 (5) The executive director may provide assistance to local
199 governments or entities in pursuing grant opportunities. The
200 executive director shall review and make recommendations in the
201 annual report on the availability and efficacy of seeking
202 Medicaid matching funds. The executive director shall diligently
203 seek ways to use existing programs and services to meet the
204 needs of public wards.

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

209 (6)~~(3)~~ The executive director may conduct or contract for
 210 demonstration projects authorized by the Department of Elderly
 211 Affairs, within funds appropriated or through gifts, grants, or
 212 contributions for such purposes, to determine the feasibility or
 213 desirability of new concepts of organization, administration,
 214 financing, or service delivery designed to preserve the civil
 215 and constitutional rights of persons of marginal or diminished
 216 capacity. Any gifts, grants, or contributions for such purposes
 217 shall be deposited in the Department of Elderly Affairs
 218 Administrative Trust Fund.

219 Section 9. Section 744.1083, Florida Statutes, is
 220 renumbered as section 744.2002, Florida Statutes, subsections
 221 (1) through (5) of that section are amended, and subsections (7)
 222 and (10) of that section are republished, to read:

223 744.2002 ~~744.1083~~ Professional guardian registration.—

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

227 (2) Annual registration shall be made on forms furnished
 228 by the ~~Statewide Public Guardianship~~ Office of Public and
 229 Professional Guardians and accompanied by the applicable
 230 registration fee as determined by rule. The fee may not exceed
 231 \$100.

232 (3) Registration must include the following:

233 (a) Sufficient information to identify the professional
 234 guardian, as follows:

235 1. If the professional guardian is a natural person, the
 236 name, address, date of birth, and employer identification or
 237 social security number of the person.

238 2. If the professional guardian is a partnership or
 239 association, the name, address, and employer identification
 240 number of the entity.

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

243 (c) Sufficient information to distinguish a guardian
 244 providing guardianship services as a public guardian,
 245 individually, through partnership, corporation, or any other
 246 business organization.

247 (4) Prior to registering a professional guardian, the
 248 ~~Statewide Public Guardianship Office~~ of Public and Professional
 249 Guardians must receive and review copies of the credit and
 250 criminal investigations conducted under s. 744.3135. The credit
 251 and criminal investigations must have been completed within the
 252 previous 2 years.

253 (5) The executive director of the office may deny
 254 registration to a professional guardian if the executive
 255 director determines that the guardian's proposed registration,
 256 including the guardian's credit or criminal investigations,
 257 indicates that registering the professional guardian would
 258 violate any provision of this chapter. ~~If a guardian who is~~
 259 ~~currently registered with the office violates a provision of~~
 260 ~~this chapter, the executive director of the office may suspend~~

261 ~~or revoke the guardian's registration. If the executive director~~
262 ~~denies registration to a professional guardian or suspends or~~
263 ~~revokes a professional guardian's registration, the Statewide~~
264 ~~Public Guardianship Office must send written notification of the~~
265 ~~denial, suspension, or revocation to the chief judge of each~~
266 ~~judicial circuit in which the guardian was serving on the day of~~
267 ~~the office's decision to deny, suspend, or revoke the~~
268 ~~registration.~~

269 (7) A trust company, a state banking corporation or state
270 savings association authorized and qualified to exercise
271 fiduciary powers in this state, or a national banking
272 association or federal savings and loan association authorized
273 and qualified to exercise fiduciary powers in this state, may,
274 but is not required to, register as a professional guardian
275 under this section. If a trust company, state banking
276 corporation, state savings association, national banking
277 association, or federal savings and loan association described
278 in this subsection elects to register as a professional guardian
279 under this subsection, the requirements of subsections (3) and
280 (4) do not apply and the registration must include only the
281 name, address, and employer identification number of the
282 registrant, the name and address of its registered agent, if
283 any, and the documentation described in paragraph (3)(b).

284 (10) A state college or university or an independent
285 college or university that is located and chartered in Florida,
286 that is accredited by the Commission on Colleges of the Southern

287 Association of Colleges and Schools or the Accrediting Council
 288 for Independent Colleges and Schools, and that confers degrees
 289 as defined in s. 1005.02(7) may, but is not required to,
 290 register as a professional guardian under this section. If a
 291 state college or university or independent college or university
 292 elects to register as a professional guardian under this
 293 subsection, the requirements of subsections (3) and (4) do not
 294 apply and the registration must include only the name, address,
 295 and employer identification number of the registrant.

296 Section 10. Section 744.1085, Florida Statutes, is
 297 renumbered as section 744.2003, Florida Statutes, subsections
 298 (3), (6), and (9) of that section are amended, and subsection
 299 (8) of that section is republished, to read:

300 744.2003 ~~744.1085~~ Regulation of professional guardians;
 301 application; bond required; educational requirements.—

302 (3) Each professional guardian defined in s. 744.102(17)
 303 and public guardian must receive a minimum of 40 hours of
 304 instruction and training. Each professional guardian must
 305 receive a minimum of 16 hours of continuing education every 2
 306 calendar years after the year in which the initial 40-hour
 307 educational requirement is met. The instruction and education
 308 must be completed through a course approved or offered by the
 309 ~~Statewide Public Guardianship Office~~ of Public and Professional
 310 Guardians. The expenses incurred to satisfy the educational
 311 requirements prescribed in this section may not be paid with the
 312 assets of any ward. This subsection does not apply to any

313 attorney who is licensed to practice law in this state.

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

318 (a) The Department of Elderly Affairs shall determine the
319 minimum examination score necessary for passage of guardianship
320 examinations.

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

323 (c) The Department of Elderly Affairs or its contractor
324 shall charge an examination fee for the actual costs of the
325 development and the administration of the examination. The fee
326 for registration and licensing of a professional guardian may
327 not, not to exceed \$500.

328 (d) The Department of Elderly Affairs may recognize
329 passage of a national guardianship examination in lieu of all or
330 part of the examination approved by the Department of Elderly
331 Affairs, except that all professional guardians must take and
332 pass an approved examination section related to Florida law and
333 procedure.

334 (8) The Department of Elderly Affairs shall waive the
335 examination requirement in subsection (6) if a professional
336 guardian can provide:

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

339 (b) A letter from a circuit judge before whom the
 340 professional guardian practiced at least 1 year which states
 341 that the professional guardian had demonstrated to the court
 342 competency as a professional guardian.

343 (9) ~~After July 1, 2004,~~ The court may ~~shall~~ not appoint
 344 any professional guardian who has not met the requirements of
 345 this section and s. 744.2002 ~~s. 744.1083~~.

346 Section 11. Section 744.2004, Florida Statutes, is created
 347 to read:

348 744.2004 Complaints; disciplinary proceedings; penalties;
 349 enforcement.—

350 (1) The Office of Public and Professional Guardians shall
 351 adopt rules to:

352 (a) Review, and if determined appropriate, investigate an
 353 allegation that a professional guardian has violated an
 354 applicable statute, fiduciary duty, standard of practice, rule,
 355 regulation, or other requirement governing the conduct of
 356 professional guardians.

357 (b) Establish disciplinary proceedings, conduct hearings,
 358 and take administrative action pursuant to chapter 120.
 359 Disciplinary actions include, but are not limited to, requiring
 360 a professional guardian to participate in additional educational
 361 courses provided by the Office of Public and Professional
 362 Guardians, imposing additional monitoring by the office of the
 363 guardianships to which the professional guardian is appointed,
 364 and suspension or revocation of a professional guardian's

365 license.

366 (2) If the office makes a final recommendation for the
367 suspension or revocation of a professional guardian's license,
368 it must provide the recommendation to the court of competent
369 jurisdiction for any guardianship case to which the professional
370 guardian is currently appointed.

371 Section 12. Section 744.344, Florida Statutes, is
372 renumbered as section 744.2005, Florida Statutes, and amended to
373 read:

374 744.2005 ~~744.344~~ Order of appointment.—

375 (1) A professional guardian appointed by the court to
376 provide representation of an alleged incapacitated person shall
377 be selected from a registry of professional guardians.

378 (2) In using a registry:

379 (a) The chief judge of the judicial circuit shall compile
380 a list of professional guardians by county and provide the list
381 to the clerk of court in each county. To be included on a
382 registry, the professional guardian must be certified by the
383 Office of Public and Professional Guardians.

384 (b) The court shall appoint professional guardians in the
385 order in which the names appear on the applicable registry,
386 unless the court makes a finding of good cause on the record for
387 appointment of a professional guardian out of order. The clerk
388 of the court shall maintain the registry and provide to the
389 court the name of the professional guardian for appointment. A
390 professional guardian not appointed in the order in which her or

391 his name appears on the list shall remain next in order.

392 (3)~~(1)~~ The court may hear testimony on the question of who
393 is entitled to preference in the appointment of a guardian. Any
394 interested person may intervene in the proceedings.

395 (4) The order appointing a guardian must state the nature
396 of the guardianship as either plenary or limited. If limited,
397 the order must state that the guardian may exercise only those
398 delegable rights which have been removed from the incapacitated
399 person and specifically delegated to the guardian. The order
400 shall state the specific powers and duties of the guardian.

401 (5)~~(2)~~ The order appointing a guardian must be consistent
402 with the incapacitated person's welfare and safety, must be the
403 least restrictive appropriate alternative, and must reserve to
404 the incapacitated person the right to make decisions in all
405 matters commensurate with the person's ability to do so.

406 (6)~~(3)~~ If a petition for appointment of guardian has been
407 filed, an order appointing a guardian must be issued
408 contemporaneously with the order adjudicating the person
409 incapacitated. The order must specify the amount of the bond to
410 be given by the guardian and must state specifically whether the
411 guardian must place all, or part, of the property of the ward in
412 a restricted account in a financial institution designated
413 pursuant to s. 69.031.

414 (7)~~(4)~~ If a petition for the appointment of a guardian has
415 not been filed at the time of the hearing on the petition to
416 determine capacity, the court may appoint an emergency temporary

417 guardian in the manner and for the purposes specified in s.
 418 744.3031.

419 ~~(8)-(5)~~ A plenary guardian shall exercise all delegable
 420 rights and powers of the incapacitated person.

421 ~~(9)-(6)~~ A person for whom a limited guardian has been
 422 appointed retains all legal rights except those which have been
 423 specifically granted to the guardian in the court's written
 424 order.

425 Section 13. Section 744.703, Florida Statutes, is
 426 renumbered as 744.2006, Florida Statutes, and subsections (1)
 427 and (6) of that section are amended, to read:

428 744.2006 ~~744.703~~ Office of public and professional
 429 guardians ~~guardian~~; appointment, notification.—

430 (1) The executive director of the ~~Statewide Public~~
 431 ~~Guardianship~~ Office of Public and Professional Guardians, after
 432 consultation with the chief judge and other circuit judges
 433 within the judicial circuit and with appropriate advocacy groups
 434 and individuals and organizations who are knowledgeable about
 435 the needs of incapacitated persons, may establish, within a
 436 county in the judicial circuit or within the judicial circuit,
 437 one or more offices of public and professional guardian and if
 438 so established, shall create a list of persons best qualified to
 439 serve as the public guardian, who have been investigated
 440 pursuant to s. 744.3135. The public guardian must have knowledge
 441 of the legal process and knowledge of social services available
 442 to meet the needs of incapacitated persons. The public guardian

443 shall maintain a staff or contract with professionally qualified
 444 individuals to carry out the guardianship functions, including
 445 an attorney who has experience in probate areas and another
 446 person who has a master's degree in social work, or a
 447 gerontologist, psychologist, registered nurse, or nurse
 448 practitioner. A public guardian that is a nonprofit corporate
 449 guardian under s. 744.309(5) must receive tax-exempt status from
 450 the United States Internal Revenue Service.

451 (6) Public guardians who have been previously appointed by
 452 a chief judge prior to the effective date of this act pursuant
 453 to this section may continue in their positions until the
 454 expiration of their term pursuant to their agreement. However,
 455 oversight of all public guardians shall transfer to the
 456 ~~Statewide Public Guardianship Office~~ of Public and Professional
 457 Guardians upon the effective date of this act. The executive
 458 director of the ~~Statewide Public Guardianship Office~~ of Public
 459 and Professional Guardians shall be responsible for all future
 460 appointments of public guardians pursuant to this act.

461 Section 14. Section 744.704, Florida Statutes, is
 462 renumbered as section 744.2007, Florida Statutes.

463 Section 15. Section 744.705, Florida Statutes, is
 464 renumbered as section 744.2008, Florida Statutes.

465 Section 16. Section 744.706, Florida Statutes, is
 466 renumbered as section 744.2009, Florida Statutes, and amended to
 467 read:

468 744.2009 ~~744.706~~ Preparation of budget.—Each public

469 guardian, whether funded in whole or in part by money raised
470 through local efforts, grants, or any other source or whether
471 funded in whole or in part by the state, shall prepare a budget
472 for the operation of the office of public guardian to be
473 submitted to the ~~Statewide Public Guardianship~~ Office of Public
474 and Professional Guardians. As appropriate, the ~~Statewide Public~~
475 ~~Guardianship~~ Office of Public and Professional Guardians will
476 include such budgetary information in the Department of Elderly
477 Affairs' legislative budget request. The office of public
478 guardian shall be operated within the limitations of the General
479 Appropriations Act and any other funds appropriated by the
480 Legislature to that particular judicial circuit, subject to the
481 provisions of chapter 216. The Department of Elderly Affairs
482 shall make a separate and distinct request for an appropriation
483 for the ~~Statewide Public Guardianship~~ Office of Public and
484 Professional Guardians. However, this section may ~~shall~~ not be
485 construed to preclude the financing of any operations of the
486 office of the public guardian by moneys raised through local
487 effort or through the efforts of the ~~Statewide Public~~
488 ~~Guardianship~~ Office of Public and Professional Guardians.

489 Section 17. Section 744.707, Florida Statutes, is
490 renumbered as section 744.2101, Florida Statutes, and amended to
491 read:

492 744.2101 ~~744.707~~ Procedures and rules.—The public
493 guardian, subject to the oversight of the ~~Statewide Public~~
494 ~~Guardianship~~ Office of Public and Professional Guardians, is

495 authorized to:

496 (1) Formulate and adopt necessary procedures to assure the
 497 efficient conduct of the affairs of the ward and general
 498 administration of the office and staff.

499 (2) Contract for services necessary to discharge the
 500 duties of the office.

501 (3) Accept the services of volunteer persons or
 502 organizations and provide reimbursement for proper and necessary
 503 expenses.

504 Section 18. Section 744.709, Florida Statutes, is
 505 renumbered as section 744.2102, Florida Statutes.

506 Section 19. Section 744.708, Florida Statutes, is
 507 renumbered as section 744.2103, Florida Statutes, and
 508 subsections (3), (4), (5), and (7) of that section are amended,
 509 to read:

510 744.2103 ~~744.708~~ Reports and standards.—

511 (3) A public guardian shall file an annual report on the
 512 operations of the office of public guardian, in writing, by
 513 September 1 for the preceding fiscal year with the ~~Statewide~~
 514 ~~Public Guardianship~~ Office of Public and Professional Guardians,
 515 which shall have responsibility for supervision of the
 516 operations of the office of public guardian.

517 (4) Within 6 months of his or her appointment as guardian
 518 of a ward, the public guardian shall submit to the clerk of the
 519 court for placement in the ward's guardianship file and to the
 520 executive director of the ~~Statewide Public Guardianship~~ Office

521 of Public and Professional Guardians a report on his or her
522 efforts to locate a family member or friend, other person, bank,
523 or corporation to act as guardian of the ward and a report on
524 the ward's potential to be restored to capacity.

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

530 (b) In addition to regular monitoring activities, the
531 ~~Statewide Public Guardianship~~ Office of Public and Professional
532 Guardians shall conduct an investigation into the practices of
533 each office of public guardian related to the managing of each
534 ward's personal affairs and property. If feasible, the
535 investigation shall be conducted in conjunction with the
536 financial audit of each office of public guardian under
537 paragraph (a).

538 (7) The ratio for professional staff to wards shall be 1
539 professional to 40 wards. The ~~Statewide Public Guardianship~~
540 Office of Public and Professional Guardians may increase or
541 decrease the ratio after consultation with the local public
542 guardian and the chief judge of the circuit court. The basis for
543 the decision to increase or decrease the prescribed ratio must
544 be included in the annual report to the secretary.

545 Section 20. Section 744.7081, Florida Statutes, is
546 renumbered as section 744.2104, Florida Statutes, and amended to

547 read:

548 744.2104 ~~744.7081~~ Access to records by the Statewide
 549 ~~Public Guardianship~~ Office of Public and Professional Guardians;
 550 confidentiality.—Notwithstanding any other provision of law to
 551 the contrary, any medical, financial, or mental health records
 552 held by an agency, or the court and its agencies, which are
 553 necessary to evaluate the public guardianship system, to assess
 554 the need for additional public guardianship, or to develop
 555 required reports, shall be provided to the ~~Statewide Public~~
 556 ~~Guardianship~~ Office of Public and Professional Guardians upon
 557 that office's request. Any confidential or exempt information
 558 provided to the ~~Statewide Public Guardianship~~ Office of Public
 559 and Professional Guardians shall continue to be held
 560 confidential or exempt as otherwise provided by law. All records
 561 held by the ~~Statewide Public Guardianship~~ Office of Public and
 562 Professional Guardians relating to the medical, financial, or
 563 mental health of vulnerable adults as defined in chapter 415,
 564 persons with a developmental disability as defined in chapter
 565 393, or persons with a mental illness as defined in chapter 394,
 566 shall be confidential and exempt from s. 119.07(1) and s. 24(a),
 567 Art. I of the State Constitution.

568 Section 21. Section 744.7082, Florida Statutes, is
 569 renumbered as section 744.2105, Florida Statutes, and
 570 subsections (1) through (5) and (8) of that section are amended,
 571 to read:

572 744.2105 ~~744.7082~~ Direct-support organization; definition;

573 use of property; board of directors; audit; dissolution.—

574 (1) DEFINITION.—As used in this section, the term "direct-
575 support organization" means an organization whose sole purpose
576 is to support the ~~Statewide Public Guardianship Office~~ of Public
577 and Professional Guardians and is:

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

580 (b) Organized and operated to conduct programs and
581 activities; to raise funds; to request and receive grants,
582 gifts, and bequests of moneys; to acquire, receive, hold,
583 invest, and administer, in its own name, securities, funds,
584 objects of value, or other property, real or personal; and to
585 make expenditures to or for the direct or indirect benefit of
586 the ~~Statewide Public Guardianship Office~~ of Public and
587 Professional Guardians; and

588 (c) Determined by the ~~Statewide Public Guardianship Office~~
589 of Public and Professional Guardians to be consistent with the
590 goals of the office, in the best interests of the state, and in
591 accordance with the adopted goals and mission of the Department
592 of Elderly Affairs and the ~~Statewide Public Guardianship Office~~
593 of Public and Professional Guardians.

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

598 (a) Certification by the ~~Statewide Public Guardianship~~

599 Office of Public and Professional Guardians that the direct-
 600 support organization is complying with the terms of the contract
 601 and is doing so consistent with the goals and purposes of the
 602 office and in the best interests of the state. This
 603 certification must be made annually and reported in the official
 604 minutes of a meeting of the direct-support organization.

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

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

610 2. To the ~~Statewide Public Guardianship~~ Office of Public
 611 and Professional Guardians if the direct-support organization
 612 ceases to exist;

613 3. To the Department of Elderly Affairs if the ~~Statewide~~
 614 ~~Public Guardianship~~ Office of Public and Professional Guardians
 615 ceases to exist; or

616 4. To the state if the Department of Elderly Affairs
 617 ceases to exist.

618
 619 The fiscal year of the direct-support organization shall begin
 620 on July 1 of each year and end on June 30 of the following year.

621 (c) The disclosure of the material provisions of the
 622 contract, and the distinction between the ~~Statewide Public~~
 623 ~~Guardianship~~ Office of Public and Professional Guardians and the
 624 direct-support organization, to donors of gifts, contributions,

625 or bequests, including such disclosure on all promotional and
 626 fundraising publications.

627 (3) BOARD OF DIRECTORS.—The Secretary of Elderly Affairs
 628 shall appoint a board of directors for the direct-support
 629 organization from a list of nominees submitted by the executive
 630 director of the ~~Statewide Public Guardianship~~ Office of Public
 631 and Professional Guardians.

632 (4) USE OF PROPERTY.—The Department of Elderly Affairs may
 633 permit, without charge, appropriate use of fixed property and
 634 facilities of the department or the ~~Statewide Public~~
 635 ~~Guardianship~~ Office of Public and Professional Guardians by the
 636 direct-support organization. The department may prescribe any
 637 condition with which the direct-support organization must comply
 638 in order to use fixed property or facilities of the department
 639 or the ~~Statewide Public Guardianship~~ Office of Public and
 640 Professional Guardians.

641 (5) MONEYS.—Any moneys may be held in a separate
 642 depository account in the name of the direct-support
 643 organization and subject to the provisions of the written
 644 contract with the ~~Statewide Public Guardianship~~ Office of Public
 645 and Professional Guardians. Expenditures of the direct-support
 646 organization shall be expressly used to support the ~~Statewide~~
 647 ~~Public Guardianship~~ Office of Public and Professional Guardians.
 648 The expenditures of the direct-support organization may not be
 649 used for the purpose of lobbying as defined in s. 11.045.

650 (8) DISSOLUTION.—~~A~~ After July 1, 2004, any not-for-profit

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651 corporation incorporated under chapter 617 that is determined by
652 a circuit court to be representing itself as a direct-support
653 organization created under this section, but that does not have
654 a written contract with the ~~Statewide Public Guardianship~~ Office
655 of Public and Professional Guardians in compliance with this
656 section, is considered to meet the grounds for a judicial
657 dissolution described in s. 617.1430(1)(a). The ~~Statewide Public~~
658 ~~Guardianship~~ Office of Public and Professional Guardians shall
659 be the recipient for all assets held by the dissolved
660 corporation which accrued during the period that the dissolved
661 corporation represented itself as a direct-support organization
662 created under this section.

663 Section 22. Section 744.712, Florida Statutes, is
664 renumbered as section 744.2106, Florida Statutes, and
665 subsections (1) and (3) are amended, to read:

666 744.2106 ~~744.712~~ Joining Forces for Public Guardianship
667 grant program; purpose.—The Legislature intends to establish the
668 Joining Forces for Public Guardianship matching grant program
669 for the purpose of assisting counties to establish and fund
670 community-supported public guardianship programs. The Joining
671 Forces for Public Guardianship matching grant program shall be
672 established and administered by the ~~Statewide Public~~
673 ~~Guardianship~~ Office of Public and Professional Guardians within
674 the Department of Elderly Affairs. The purpose of the program is
675 to provide startup funding to encourage communities to develop
676 and administer locally funded and supported public guardianship

677 programs to address the needs of indigent and incapacitated
678 residents.

679 (1) The ~~Statewide Public Guardianship~~ Office of Public and
680 Professional Guardians may distribute the grant funds as
681 follows:

682 (a) As initial startup funding to encourage counties that
683 have no office of public guardian to establish an office, or as
684 initial startup funding to open an additional office of public
685 guardian within a county whose public guardianship needs require
686 more than one office of public guardian.

687 (b) As support funding to operational offices of public
688 guardian that demonstrate a necessity for funds to meet the
689 public guardianship needs of a particular geographic area in the
690 state which the office serves.

691 (c) To assist counties that have an operating public
692 guardianship program but that propose to expand the geographic
693 area or population of persons they serve, or to develop and
694 administer innovative programs to increase access to public
695 guardianship in this state.

696
697 Notwithstanding this subsection, the executive director of the
698 office may award emergency grants if he or she determines that
699 the award is in the best interests of public guardianship in
700 this state. Before making an emergency grant, the executive
701 director must obtain the written approval of the Secretary of
702 Elderly Affairs. Subsections (2), (3), and (4) do not apply to

703 the distribution of emergency grant funds.

704 (3) If an applicant is eligible and meets the requirements
705 to receive grant funds more than once, the ~~Statewide Public~~
706 ~~Guardianship~~ Office of Public and Professional Guardians shall
707 award funds to prior awardees in the following manner:

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

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

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

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

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

728

729 The ~~Statewide Public Guardianship~~ Office of Public and
 730 Professional Guardians may not award grant funds to any
 731 applicant within a county that has received grant funds for more
 732 than 6 years.

733 Section 23. Section 744.713, Florida Statutes, is
 734 renumbered as section 744.2107, Florida Statutes, and amended to
 735 read:

736 744.2107 ~~744.713~~ Program administration; duties of the
 737 ~~Statewide Public Guardianship~~ Office of Public and Professional
 738 Guardians.—The ~~Statewide Public Guardianship~~ Office of Public
 739 and Professional Guardians shall administer the grant program.

740 The office shall:

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

743 (2) Establish an application process for submitting a
 744 grant proposal.

745 (3) Request, receive, and review proposals from applicants
 746 seeking grant funds.

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

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

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

754 Section 24. Section 744.714, Florida Statutes, is

755 | renumbered as section 744.2108, Florida Statutes, and paragraph
 756 | (b) of subsection (1) and paragraph (b) of subsection (2) of
 757 | that section are amended, to read:

758 | 744.2108 ~~744.714~~ Eligibility.—

759 | (1) Any person or organization that has not been awarded a
 760 | grant must meet all of the following conditions to be eligible
 761 | to receive a grant:

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

766 | (2) Any person or organization that has been awarded a
 767 | grant must meet all of the following conditions to be eligible
 768 | to receive another grant:

769 | (b) The applicant must have been appointed by, or is
 770 | pending reappointment by, the ~~Statewide Public Guardianship~~
 771 | Office of Public and Professional Guardians to be an office of
 772 | public guardian in this state.

773 | Section 25. Section 744.715, Florida Statutes, is
 774 | renumbered as section 744.2109, Florida Statutes, and
 775 | subsections (2) and (4) of that section are amended, to read:

776 | 744.2109 ~~744.715~~ Grant application requirements; review
 777 | criteria; awards process.—Grant applications must be submitted
 778 | to the ~~Statewide Public Guardianship~~ Office of Public and
 779 | Professional Guardians for review and approval.

780 | (2) If the ~~Statewide Public Guardianship~~ Office of Public

781 and Professional Guardians determines that an applicant meets
782 the requirements for an award of grant funds, the office may
783 award the applicant any amount of grant funds the executive
784 director deems appropriate, if the amount awarded meets the
785 requirements of this act. The office may adopt a rule allocating
786 the maximum allowable amount of grant funds which may be
787 expended on any ward.

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

792 1. Are operating as appointed offices of public guardians
793 in this state;

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

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

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

803 1. Meet all of the requirements of this act for being
804 awarded grant funds; and

805 2. Submit with their application an agreement or
806 confirmation from a local funding source, such as a county,

807 municipality, or any other public or private organization, that
808 the local funding source will contribute matching funds totaling
809 an amount equal to or exceeding \$2 for every \$1 of grant funds
810 awarded by the office. An entity may submit with its application
811 agreements or confirmations from multiple local funding sources
812 showing that the local funding sources will pool their
813 contributed matching funds to the public guardianship program
814 for a combined total of not less than \$2 for every \$1 of grant
815 funds awarded. In-kind contributions allowable under this
816 section shall be evaluated by the ~~Statewide Public Guardianship~~
817 Office of Public and Professional Guardians and may be counted
818 as part or all of the local matching funds.

819 Section 26. Section 744.701, Florida Statutes, is
820 repealed.

821 Section 27. Section 744.702, Florida Statutes, is
822 repealed.

823 Section 28. Section 744.7101, Florida Statutes, is
824 repealed.

825 Section 29. Section 744.711, Florida Statutes, is
826 repealed.

827 Section 30. Subsection (5) of section 400.148, Florida
828 Statutes, is amended to read:

829 400.148 Medicaid "Up-or-Out" Quality of Care Contract
830 Management Program.—

831 (5) The agency shall, jointly with the ~~Statewide Public~~
832 Guardianship Office of Public and Professional Guardians,

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833 develop a system in the pilot project areas to identify Medicaid
834 recipients who are residents of a participating nursing home or
835 assisted living facility who have diminished ability to make
836 their own decisions and who do not have relatives or family
837 available to act as guardians in nursing homes listed on the
838 Nursing Home Guide Watch List. The agency and the ~~Statewide~~
839 ~~Public Guardianship~~ Office of Public and Professional Guardians
840 shall give such residents priority for publicly funded
841 guardianship services.

842 Section 31. Subsection (3), paragraph (c) of subsection
843 (4), and subsections (5) and (6) of section 744.3135, Florida
844 Statutes, are amended to read:

845 744.3135 Credit and criminal investigation.—

846 (3) For professional guardians, the court and the
847 ~~Statewide Public Guardianship~~ Office of Public and Professional
848 Guardians shall accept the satisfactory completion of a criminal
849 history record check by any method described in this subsection.
850 A professional guardian satisfies the requirements of this
851 section by undergoing an electronic fingerprint criminal history
852 record check. A professional guardian may use any electronic
853 fingerprinting equipment used for criminal history record
854 checks. The ~~Statewide Public Guardianship~~ Office of Public and
855 Professional Guardians shall adopt a rule detailing the
856 acceptable methods for completing an electronic fingerprint
857 criminal history record check under this section. The
858 professional guardian shall pay the actual costs incurred by the

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859 Federal Bureau of Investigation and the Department of Law
860 Enforcement for the criminal history record check. The entity
861 completing the record check must immediately send the results of
862 the criminal history record check to the clerk of the court and
863 the ~~Statewide Public Guardianship~~ Office of Public and
864 Professional Guardians. The clerk of the court shall maintain
865 the results in the professional guardian's file and shall make
866 the results available to the court.

867 (4)

868 (c) The Department of Law Enforcement shall search all
869 arrest fingerprints received under s. 943.051 against the
870 fingerprints retained in the statewide automated biometric
871 identification system under paragraph (b). Any arrest record
872 that is identified with the fingerprints of a person described
873 in this paragraph must be reported to the clerk of court. The
874 clerk of court must forward any arrest record received for a
875 professional guardian to the ~~Statewide Public Guardianship~~
876 Office of Public and Professional Guardians within 5 days. Each
877 professional guardian who elects to submit fingerprint
878 information electronically shall participate in this search
879 process by paying an annual fee to the ~~Statewide Public~~
880 ~~Guardianship~~ Office of Public and Professional Guardians of the
881 Department of Elderly Affairs and by informing the clerk of
882 court and the ~~Statewide Public Guardianship~~ Office of Public and
883 Professional Guardians of any change in the status of his or her
884 guardianship appointment. The amount of the annual fee to be

885 imposed for performing these searches and the procedures for the
886 retention of professional guardian fingerprints and the
887 dissemination of search results shall be established by rule of
888 the Department of Law Enforcement. At least once every 5 years,
889 the ~~Statewide Public Guardianship~~ Office of Public and
890 Professional Guardians must request that the Department of Law
891 Enforcement forward the fingerprints maintained under this
892 section to the Federal Bureau of Investigation.

893 (5) (a) A professional guardian, and each employee of a
894 professional guardian who has a fiduciary responsibility to a
895 ward, must complete, at his or her own expense, an investigation
896 of his or her credit history before and at least once every 2
897 years after the date of the guardian's registration with the
898 ~~Statewide Public Guardianship~~ Office of Public and Professional
899 Guardians.

900 (b) The ~~Statewide Public Guardianship~~ Office of Public and
901 Professional Guardians shall adopt a rule detailing the
902 acceptable methods for completing a credit investigation under
903 this section. If appropriate, the ~~Statewide Public Guardianship~~
904 Office of Public and Professional Guardians may administer
905 credit investigations. If the office chooses to administer the
906 credit investigation, the office may adopt a rule setting a fee,
907 not to exceed \$25, to reimburse the costs associated with the
908 administration of a credit investigation.

909 (6) The ~~Statewide Public Guardianship~~ Office of Public and
910 Professional Guardians may inspect at any time the results of

911 any credit or criminal history record check of a public or
 912 professional guardian conducted under this section. The office
 913 shall maintain copies of the credit or criminal history record
 914 check results in the guardian's registration file. If the
 915 results of a credit or criminal investigation of a public or
 916 professional guardian have not been forwarded to the ~~Statewide~~
 917 ~~Public Guardianship~~ Office of Public and Professional Guardians
 918 by the investigating agency, the clerk of the court shall
 919 forward copies of the results of the investigations to the
 920 office upon receiving them.

921 Section 32. Paragraph (e) of subsection (2) of section
 922 415.1102, Florida Statutes, is amended to read:

923 415.1102 Adult protection teams.—

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

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

928 Section 33. Paragraph (d) of subsection (3) of section
 929 744.331, Florida Statutes, is amended to read:

930 744.331 Procedures to determine incapacity.—

931 (3) EXAMINING COMMITTEE.—

932 (d) A member of an examining committee must complete a
 933 minimum of 4 hours of initial training. The person must complete
 934 2 hours of continuing education during each 2-year period after
 935 the initial training. The initial training and continuing
 936 education program must be developed under the supervision of the

937 ~~Statewide Public Guardianship~~ Office of Public and Professional
 938 Guardians, in consultation with the Florida Conference of
 939 Circuit Court Judges; the Elder Law and the Real Property,
 940 Probate and Trust Law sections of The Florida Bar; the Florida
 941 State Guardianship Association; and the Florida Guardianship
 942 Foundation. The court may waive the initial training requirement
 943 for a person who has served for not less than 5 years on
 944 examining committees. If a person wishes to obtain his or her
 945 continuing education on the Internet or by watching a video
 946 course, the person must first obtain the approval of the chief
 947 judge before taking an Internet or video course.

948 Section 34. Paragraph (a) of subsection (1) of section
 949 20.415, Florida Statutes, is amended to read:

950 20.415 Department of Elderly Affairs; trust funds.—The
 951 following trust funds shall be administered by the Department of
 952 Elderly Affairs:

953 (1) Administrative Trust Fund.

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

957 Section 35. Section 744.524, Florida Statutes, is amended
 958 to read:

959 744.524 Termination of guardianship on change of domicile
 960 of resident ward.—When the domicile of a resident ward has
 961 changed as provided in s. 744.1098 ~~s. 744.2025~~, and the foreign
 962 court having jurisdiction over the ward at the ward's new

963 domicile has appointed a guardian and that guardian has
964 qualified and posted a bond in an amount required by the foreign
965 court, the guardian in this state may file her or his final
966 report and close the guardianship in this state. The guardian of
967 the property in this state shall cause a notice to be published
968 once a week for 2 consecutive weeks, in a newspaper of general
969 circulation published in the county, that she or he has filed
970 her or his accounting and will apply for discharge on a day
971 certain and that jurisdiction of the ward will be transferred to
972 the state of foreign jurisdiction. If an objection is filed to
973 the termination of the guardianship in this state, the court
974 shall hear the objection and enter an order either sustaining or
975 overruling the objection. Upon the disposition of all objections
976 filed, or if no objection is filed, final settlement shall be
977 made by the Florida guardian. On proof that the remaining
978 property in the guardianship has been received by the foreign
979 guardian, the guardian of the property in this state shall be
980 discharged. The entry of the order terminating the guardianship
981 in this state shall not exonerate the guardian or the guardian's
982 surety from any liability previously incurred.

983 Section 36. This act shall take effect July 1, 2015.