

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; transferring, renumbering, and
7 amending s. 744.202, F.S.; conforming a cross-
8 reference; renumbering s. 744.2025, F.S., relating to
9 change of ward's residence; renumbering and amending
10 s. 744.7021, F.S.; renaming the Statewide Public
11 Guardianship Office to the Office of Public and
12 Professional Guardians; revising the duties and
13 responsibilities of the executive director for the
14 Office of Public and Professional Guardians;
15 conforming provisions to changes made by the act;
16 renumbering and amending s. 744.1083, F.S.; providing
17 that a guardian has standing to seek judicial review
18 pursuant to ch. 120, F.S., if his or her registration
19 is denied; removing a provision authorizing the
20 executive director to suspend or revoke the
21 registration of a guardian who commits certain
22 violations; removing the requirement of written
23 notification to the chief judge of the judicial
24 circuit upon the executive director's denial,
25 suspension, or revocation of a registration;
26 conforming provisions to changes made by the act;

27 conforming a cross-reference; renumbering and amending
28 s. 744.1085, F.S.; conforming provisions to changes
29 made by the act; removing an obsolete provision;
30 conforming a cross-reference; creating s. 744.2004,
31 F.S.; requiring the Office of Public and Professional
32 Guardians to establish certain procedures by a
33 specified date; requiring the office to establish
34 disciplinary proceedings, conduct hearings, and take
35 administrative action pursuant to ch. 120, F.S.;

36 requiring the Department of Elderly Affairs to provide
37 certain written information in disciplinary
38 proceedings; requiring that certain findings and
39 recommendations be made within a certain time;
40 requiring the office, under certain circumstances, to
41 make a specified recommendation to a court of
42 competent jurisdiction; requiring the office to report
43 determination or suspicion of abuse to the Department
44 of Children and Families' central abuse hotline under
45 specified circumstances; requiring the Department of
46 Elderly Affairs to adopt rules; creating s. 744.20041,
47 F.S.; providing grounds for discipline of professional
48 guardians by the Office of Public and Professional
49 Guardians; providing penalties; providing procedures
50 for determining which disciplinary action is
51 appropriate; providing legislative intent and purpose;
52 authorizing the office to seek an injunction or a writ

53 of mandamus against certain persons; providing for
54 permanent revocation of a professional guardian's
55 registration; providing procedures for suspension and
56 revocation of such registrations; directing the office
57 to adopt rules; renumbering and amending s. 744.344,
58 F.S.; making technical changes; renumbering and
59 amending s. 744.703, F.S.; conforming provisions to
60 changes made by the act; renumbering ss. 744.704 and
61 744.705, F.S., relating to the powers and duties of
62 public guardians and the costs of public guardians,
63 respectively; renumbering and amending ss. 744.706 and
64 744.707, F.S.; conforming provisions to changes made
65 by the act; renumbering s. 744.709, F.S., relating to
66 surety bonds; renumbering and amending s. 744.708,
67 F.S.; conforming provisions to changes made by the
68 act; renumbering and amending s. 744.7081, F.S.;
69 requiring that the Office of Public and Professional
70 Guardians be provided financial audits upon its
71 request as part of an investigation; conforming
72 provisions to changes made by the act; renumbering and
73 amending s. 744.7082, F.S.; conforming provisions to
74 changes made by the act; renumbering and amending s.
75 744.712, F.S.; providing legislative intent;
76 conforming provisions; renumbering and amending ss.
77 744.713, 744.714, and 744.715, F.S.; conforming
78 provisions to changes made by the act; amending s.

79 744.3135, F.S.; requiring the office to adopt rules by
 80 a certain date; conforming provisions to changes made
 81 by the act; repealing s. 744.701, F.S., relating to a
 82 short title; repealing s. 744.702, F.S., relating to
 83 legislative intent; repealing s. 744.7101, F.S.,
 84 relating to a short title; repealing s. 744.711, F.S.,
 85 relating to legislative findings and intent; amending
 86 ss. 400.148 and 744.331, F.S.; conforming provisions
 87 to changes made by the act; amending ss. 20.415,
 88 415.1102, 744.309, and 744.524, F.S.; conforming
 89 cross-references; making technical changes; providing
 90 an effective date.

91
 92 Be It Enacted by the Legislature of the State of Florida:

93
 94 Section 1. The Division of Law Revision and Information is
 95 directed to add ss. 744.1096-744.1098, Florida Statutes, created
 96 by this act, to part I of chapter 744, Florida Statutes.

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

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

103 Section 4. Section 744.1012, Florida Statutes, is amended
 104 to read:

105 744.1012 Legislative intent.—The Legislature finds that:

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

110 (2) ~~The Legislature further finds that~~ It is desirable to
 111 make available the least restrictive form of guardianship to
 112 assist persons who are only partially incapable of caring for
 113 their needs and that alternatives to guardianship and less
 114 restrictive means of assistance, including, but not limited to,
 115 guardian advocates, should always be explored before an
 116 individual's rights are removed through an adjudication of
 117 incapacity.

118 (3) By recognizing that every individual has unique needs
 119 and differing abilities, ~~the Legislature declares that~~ it is the
 120 purpose of this act to promote the public welfare by
 121 establishing a system that permits incapacitated persons to
 122 participate as fully as possible in all decisions affecting
 123 them; that assists such persons in meeting the essential
 124 requirements for their physical health and safety, in protecting
 125 their rights, in managing their financial resources, and in
 126 developing or regaining their abilities to the maximum extent
 127 possible; and that accomplishes these objectives through
 128 providing, in each case, the form of assistance that least
 129 interferes with the legal capacity of a person to act in her or
 130 his own behalf. This act shall be liberally construed to

131 accomplish this purpose.

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

137 (5) Through the establishment of the Office of Public and
138 Professional Guardians, the Legislature intends to permit the
139 establishment of offices of public guardians for the purpose of
140 providing guardianship services for incapacitated persons when
141 no private guardian is available.

142 (6) A public guardian will be provided only to those
143 persons whose needs cannot be met through less restrictive means
144 of intervention. A public guardian may also serve in the
145 capacity of a limited guardian under s. 744.102, or guardian
146 advocate under s. 393.12, when the public guardian is the
147 guardian of last resort as described in subsection (4).

148 Section 5. Section 744.201, Florida Statutes, is
149 renumbered as section 744.1096, Florida Statutes.

150 Section 6. Section 744.202, Florida Statutes, is
151 renumbered as section 744.1097, Florida Statutes, and subsection
152 (3) of that section is amended, to read:

153 744.1097 ~~744.202~~ Venue.—

154 (3) When the residence of an incapacitated person is
155 changed to another county, the guardian shall petition to have
156 the venue of the guardianship changed to the county of the

157 | acquired residence, except as provided in s. 744.1098 ~~s.~~
 158 | ~~744.2025~~.

159 | Section 7. Section 744.2025, Florida Statutes, is
 160 | renumbered as section 744.1098, Florida Statutes.

161 | Section 8. Section 744.7021, Florida Statutes, is
 162 | renumbered as section 744.2001, Florida Statutes, and amended to
 163 | read:

164 | 744.2001 ~~744.7021~~ ~~Statewide Public Guardianship~~ Office of
 165 | Public and Professional Guardians.—There is ~~hereby~~ created the
 166 | ~~Statewide Public Guardianship~~ Office of Public and Professional
 167 | Guardians within the Department of Elderly Affairs.

168 | (1) The Secretary of Elderly Affairs shall appoint the
 169 | executive director, who shall be the head of the ~~Statewide~~
 170 | ~~Public Guardianship~~ Office of Public and Professional Guardians.

171 | The executive director must be a member of The Florida Bar,
 172 | knowledgeable of guardianship law and of the social services
 173 | available to meet the needs of incapacitated persons, shall
 174 | serve on a full-time basis, and shall personally, or through a
 175 | representative ~~representatives~~ of the office, carry out the
 176 | purposes and functions of the ~~Statewide Public Guardianship~~
 177 | Office of Public and Professional Guardians in accordance with
 178 | state and federal law. The executive director shall serve at the
 179 | pleasure of and report to the secretary.

180 | (2) The executive director shall, within available
 181 | resources: ~~r~~

182 | (a) Have oversight responsibilities for all public and

183 professional guardians.

184 (b) Establish standards of practice for public and
185 professional guardians by rule, in consultation with
186 professional guardianship associations and other interested
187 stakeholders, no later than October 1, 2016. The executive
188 director shall provide a draft of the standards to the Governor,
189 the Legislature, and the secretary for review by August 1, 2016.

190 (c) Review and approve the standards and criteria for the
191 education, registration, and certification of public and
192 professional guardians in Florida.

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

196 (a) Developing and implementing a monitoring tool to
197 ensure compliance of professional guardians with the standards
198 of practice established by the Office of Public and Professional
199 Guardians. This monitoring tool may not include a financial
200 audit as required by the clerk of the circuit court under s.
201 744.368.

202 (b) Developing procedures, in consultation with
203 professional guardianship associations and other interested
204 stakeholders, for the review of an allegation that a
205 professional guardian has violated the standards of practice
206 established by the Office of Public and Professional Guardians
207 governing the conduct of professional guardians.

208 (c) Establishing disciplinary proceedings, conducting

209 hearings, and taking administrative action pursuant to chapter
210 120.

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

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

215 (b) Developing ~~The executive director,~~ in consultation
216 with local guardianship offices and other interested
217 stakeholders, shall develop statewide performance measures ~~and~~
218 ~~standards.~~

219 (c) Reviewing ~~The executive director shall review~~ the
220 various methods of funding public guardianship programs, the
221 kinds of services being provided by such programs, and the
222 demographics of the wards. In addition, the executive director
223 shall review and make recommendations regarding the feasibility
224 of recovering a portion or all of the costs of providing public
225 guardianship services from the assets or income of the wards.

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

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

232 (5)-(e) The executive director may provide assistance to
233 local governments or entities in pursuing grant opportunities.
234 The executive director shall review and make recommendations in

235 the annual report on the availability and efficacy of seeking
 236 Medicaid matching funds. The executive director shall diligently
 237 seek ways to use existing programs and services to meet the
 238 needs of public wards.

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

243 (6)~~(3)~~ The executive director may conduct or contract for
 244 demonstration projects authorized by the Department of Elderly
 245 Affairs, within funds appropriated or through gifts, grants, or
 246 contributions for such purposes, to determine the feasibility or
 247 desirability of new concepts of organization, administration,
 248 financing, or service delivery designed to preserve the civil
 249 and constitutional rights of persons of marginal or diminished
 250 capacity. Any gifts, grants, or contributions for such purposes
 251 shall be deposited in the Department of Elderly Affairs
 252 Administrative Trust Fund.

253 Section 9. Section 744.1083, Florida Statutes, is
 254 renumbered as section 744.2002, Florida Statutes, subsections
 255 (1) through (5) of that section are amended, and subsections (7)
 256 and (10) of that section are republished, to read:

257 744.2002 ~~744.1083~~ Professional guardian registration.—

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

261 (2) Annual registration shall be made on forms furnished
 262 by the ~~Statewide Public Guardianship~~ Office of Public and
 263 Professional Guardians and accompanied by the applicable
 264 registration fee as determined by rule. The fee may not exceed
 265 \$100.

266 (3) Registration must include the following:

267 (a) Sufficient information to identify the professional
 268 guardian, as follows:

269 1. If the professional guardian is a natural person, the
 270 name, address, date of birth, and employer identification or
 271 social security number of the person.

272 2. If the professional guardian is a partnership or
 273 association, the name, address, and employer identification
 274 number of the entity.

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

277 (c) Sufficient information to distinguish a guardian
 278 providing guardianship services as a public guardian,
 279 individually, through partnership, corporation, or any other
 280 business organization.

281 (4) Prior to registering a professional guardian, the
 282 ~~Statewide Public Guardianship~~ Office of Public and Professional
 283 Guardians must receive and review copies of the credit and
 284 criminal investigations conducted under s. 744.3135. The credit
 285 and criminal investigations must have been completed within the
 286 previous 2 years.

287 (5) The executive director of the office may deny
 288 registration to a professional guardian if the executive
 289 director determines that the guardian's proposed registration,
 290 including the guardian's credit or criminal investigations,
 291 indicates that registering the professional guardian would
 292 violate any provision of this chapter. If a guardian's proposed
 293 registration is denied, the guardian has standing to seek
 294 judicial review of the denial pursuant to chapter 120 ~~If a~~
 295 ~~guardian who is currently registered with the office violates a~~
 296 ~~provision of this chapter, the executive director of the office~~
 297 ~~may suspend or revoke the guardian's registration. If the~~
 298 ~~executive director denies registration to a professional~~
 299 ~~guardian or suspends or revokes a professional guardian's~~
 300 ~~registration, the Statewide Public Guardianship Office must send~~
 301 ~~written notification of the denial, suspension, or revocation to~~
 302 ~~the chief judge of each judicial circuit in which the guardian~~
 303 ~~was serving on the day of the office's decision to deny,~~
 304 ~~suspend, or revoke the registration.~~

305 (7) A trust company, a state banking corporation or state
 306 savings association authorized and qualified to exercise
 307 fiduciary powers in this state, or a national banking
 308 association or federal savings and loan association authorized
 309 and qualified to exercise fiduciary powers in this state, may,
 310 but is not required to, register as a professional guardian
 311 under this section. If a trust company, state banking
 312 corporation, state savings association, national banking

313 association, or federal savings and loan association described
314 in this subsection elects to register as a professional guardian
315 under this subsection, the requirements of subsections (3) and
316 (4) do not apply and the registration must include only the
317 name, address, and employer identification number of the
318 registrant, the name and address of its registered agent, if
319 any, and the documentation described in paragraph (3)(b).

320 (10) A state college or university or an independent
321 college or university that is located and chartered in Florida,
322 that is accredited by the Commission on Colleges of the Southern
323 Association of Colleges and Schools or the Accrediting Council
324 for Independent Colleges and Schools, and that confers degrees
325 as defined in s. 1005.02(7) may, but is not required to,
326 register as a professional guardian under this section. If a
327 state college or university or independent college or university
328 elects to register as a professional guardian under this
329 subsection, the requirements of subsections (3) and (4) do not
330 apply and the registration must include only the name, address,
331 and employer identification number of the registrant.

332 Section 10. Section 744.1085, Florida Statutes, is
333 renumbered as section 744.2003, Florida Statutes, subsections
334 (3), (6), and (9) of that section are amended, and subsection
335 (8) of that section is republished, to read:

336 744.2003 ~~744.1085~~ Regulation of professional guardians;
337 application; bond required; educational requirements.—

338 (3) Each professional guardian defined in s. 744.102(17)

339 and public guardian must receive a minimum of 40 hours of
340 instruction and training. Each professional guardian must
341 receive a minimum of 16 hours of continuing education every 2
342 calendar years after the year in which the initial 40-hour
343 educational requirement is met. The instruction and education
344 must be completed through a course approved or offered by the
345 ~~Statewide Public Guardianship~~ Office of Public and Professional
346 Guardians. The expenses incurred to satisfy the educational
347 requirements prescribed in this section may not be paid with the
348 assets of any ward. This subsection does not apply to any
349 attorney who is licensed to practice law in this state or an
350 institution acting as guardian under s. 744.2002(7).

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

355 (a) The Department of Elderly Affairs shall determine the
356 minimum examination score necessary for passage of guardianship
357 examinations.

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

360 (c) The Department of Elderly Affairs or its contractor
361 shall charge an examination fee for the actual costs of the
362 development and the administration of the examination. The
363 examination fee for a guardian may not ~~to~~ exceed \$500.

364 (d) The Department of Elderly Affairs may recognize

365 passage of a national guardianship examination in lieu of all or
366 part of the examination approved by the Department of Elderly
367 Affairs, except that all professional guardians must take and
368 pass an approved examination section related to Florida law and
369 procedure.

370 (8) The Department of Elderly Affairs shall waive the
371 examination requirement in subsection (6) if a professional
372 guardian can provide:

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

375 (b) A letter from a circuit judge before whom the
376 professional guardian practiced at least 1 year which states
377 that the professional guardian had demonstrated to the court
378 competency as a professional guardian.

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

383 Section 11. Section 744.2004, Florida Statutes, is created
384 to read:

385 744.2004 Complaints; disciplinary proceedings; penalties;
386 enforcement.-

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

389 (a) Review and, if determined legally sufficient,
390 investigate any complaint that a professional guardian has

391 violated the standards of practice established by the Office of
392 Public and Professional Guardians governing the conduct of
393 professional guardians. A complaint is legally sufficient if it
394 contains ultimate facts that show a violation of a standard of
395 practice by a professional guardian has occurred.

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

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

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

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

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

409 (g) Coordinate, to the greatest extent possible, with the
410 clerks of court to avoid duplication of duties with regard to
411 the financial audits prepared by the clerks pursuant to s.
412 744.368.

413 (2) The Office of Public and Professional Guardians shall
414 establish disciplinary proceedings, conduct hearings, and take
415 administrative action pursuant to chapter 120. Disciplinary
416 actions may include, but are not limited to, requiring a

417 professional guardian to participate in additional educational
418 courses provided or approved by the Office of Public and
419 Professional Guardians, imposing additional monitoring by the
420 office of the guardianships to which the professional guardian
421 is appointed, and suspension or revocation of a professional
422 guardian's registration.

423 (3) In any disciplinary proceeding that may result in the
424 suspension or revocation of a professional guardian's
425 registration, the Department of Elderly Affairs shall provide
426 the professional guardian and the person who filed the
427 complaint:

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

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

432 (c) A written notice of any hearing before the Division of
433 Administrative Hearings at which final agency action may be
434 taken.

435 (4) If the office makes a final determination to suspend
436 or revoke the professional guardian's registration, it must
437 provide such determination to the court of competent
438 jurisdiction for any guardianship case to which the professional
439 guardian is currently appointed.

440 (5) If the office determines or has reasonable cause to
441 suspect that a vulnerable adult has been or is being abused,
442 neglected, or exploited as a result of a filed complaint or

443 during the course of an investigation of a complaint, it shall
 444 immediately report such determination or suspicion to the
 445 central abuse hotline established and maintained by the
 446 Department of Children and Families pursuant to s. 415.103.

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

449 Section 12. Section 744.20041, Florida Statutes, is
 450 created to read:

451 744.20041 Grounds for discipline; penalties; enforcement.-

452 (1) It is the intent of the Legislature that the
 453 disciplinary guidelines in this section specify a meaningful
 454 range of designated penalties based upon the severity and
 455 repetition of specific offenses and that minor violations be
 456 distinguished from those which endanger the health, safety, or
 457 welfare of the ward or the public; that such guidelines provide
 458 reasonable and meaningful notice to the public of likely
 459 penalties which may be imposed for prohibited conduct; and that
 460 such penalties be consistently applied by the Office of Public
 461 and Professional Guardians.

462 (2) The purpose of this section is to facilitate uniform
 463 discipline for those actions made punishable under this section
 464 and, to this end, a reference to this section constitutes a
 465 general reference under the doctrine of incorporation by
 466 reference.

467 (3) The following acts by a professional guardian
 468 constitute grounds for which the disciplinary actions specified

469 in subsection (4) may be taken:

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

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

475 (c) Being convicted or found guilty of, or entering a plea
476 of guilty or nolo contendere to, regardless of adjudication, a
477 crime in any jurisdiction which relates to the practice of, or
478 the ability to practice as, a professional guardian.

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

481 (e) Having a registration, a license, or the authority to
482 practice a regulated profession revoked, suspended, or otherwise
483 acted against, including the denial of registration or
484 licensure, by the registering or licensing authority of any
485 jurisdiction, including its agencies or subdivisions, for a
486 violation of Florida law. The registering or licensing
487 authority's acceptance of a relinquishment of registration or
488 licensure, stipulation, consent order, or other settlement,
489 offered in response to or in anticipation of the filing of
490 charges against the registration or license, shall be construed
491 as action against the registration or license.

492 (f) Knowingly filing a false report or complaint with the
493 Office of Public and Professional Guardians against another
494 guardian.

495 (g) Attempting to obtain, obtaining, attempting to renew,
496 or renewing a registration or license to practice a profession
497 by bribery, by fraudulent misrepresentation, or as a result of
498 an error by the Office of Public and Professional Guardians
499 which error is known and not disclosed to the Office of Public
500 and Professional Guardians.

501 (h) Failing to report to the Office of Public and
502 Professional Guardians any person who the professional guardian
503 knows is in violation of this chapter or the rules of the Office
504 of Public and Professional Guardians.

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

507 (j) Making or filing a report or record which the
508 professional guardian knows to be false, intentionally or
509 negligently failing to file a report or record required by state
510 or federal law, or willfully impeding or obstructing another
511 person's attempt to file a report or record required by state or
512 federal law. Such reports or records shall include only those
513 that are signed in the guardian's capacity as a professional
514 guardian.

515 (k) Using the position of guardian for the purpose of
516 financial gain by the guardian or for a third party other than
517 the funds awarded to the guardian by the court pursuant to s.
518 744.108.

519 (l) Violating a lawful order, or failing to comply with a
520 lawfully issued subpoena, of the Office of Public and

521 Professional Guardians.

522 (m) Improperly interfering with an investigation or
523 inspection authorized by statute, by rule, or with any
524 disciplinary proceeding.

525 (n) Using the guardian relationship to engage or attempt
526 to engage the ward, or an immediate family member or
527 representative of the ward, in verbal, written, electronic, or
528 physical sexual activity.

529 (o) Failing to report to the Office of Public and
530 Professional Guardians in writing within 30 days after being
531 convicted or found guilty of, or entering a plea of nolo
532 contendere to, regardless of adjudication, a crime in any
533 jurisdiction.

534 (p) Being unable to perform the functions of a guardian
535 with reasonable skill by reason of illness or use of alcohol,
536 drugs, narcotics, chemicals, or any other type of material or as
537 a result of any mental or physical condition.

538 (q) Failing to post and maintain a blanket fiduciary bond
539 pursuant to the requirements for such bond in s. 744.2003.

540 (r) Failing to maintain all records pertaining to a
541 guardianship for a period of time after the court has closed the
542 guardianship matter.

543 (s) Violating any provision of this chapter or any rules
544 adopted pursuant to this chapter.

545 (4) When the Office of Public and Professional Guardians
546 finds any professional guardian guilty of the grounds set forth

547 in subsection (3), it may enter an order imposing one or more of
548 the following penalties:

549 (a) Refusal to register an applicant for registration as a
550 professional guardian.

551 (b) Suspension or permanent revocation of a professional
552 guardian's registration.

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

554 (d) Requirement that the professional guardian undergo
555 treatment, attend continuing education courses, submit to
556 reexamination, or satisfy any terms which are reasonably
557 tailored to the violations found.

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

562 (f) Requirement that the professional guardian undergo
563 remedial education.

564 (5) In determining which disciplinary action is
565 appropriate, the Office of Public and Professional Guardians
566 must first consider what sanctions are necessary to safeguard
567 wards and protect the public. Only after those sanctions are
568 imposed may the Office of Public and Professional Guardians
569 consider and include in the order requirements designed to
570 mitigate the circumstances and rehabilitate the professional
571 guardian.

572 (6) The Office of Public and Professional Guardians shall

573 adopt by rule and periodically review the disciplinary
574 guidelines applicable to each ground for disciplinary action
575 which may be imposed by the Office of Public and Professional
576 Guardians pursuant to this chapter.

577 (7) The Office of Public and Professional Guardians shall
578 designate by rule possible mitigating and aggravating
579 circumstances, if applicable, and the variation and range of
580 penalties permitted for such circumstances.

581 (a) The administrative law judge, in recommending
582 penalties in any recommended order, must follow the disciplinary
583 guidelines established by the Office of Public and Professional
584 Guardians and must state in writing any mitigating or
585 aggravating circumstances upon which a recommended penalty is
586 based, if such circumstances cause the administrative law judge
587 to recommend a penalty other than that provided in the
588 disciplinary guidelines.

589 (b) A specific finding in the final order of mitigating or
590 aggravating circumstances shall allow the Office of Public and
591 Professional Guardians to impose a penalty other than that
592 provided in the disciplinary guidelines.

593 (8) In addition to, or in lieu of, any other remedy or
594 criminal prosecution, the Office of Public and Professional
595 Guardians may file a proceeding in the name of the state seeking
596 issuance of an injunction or a writ of mandamus against any
597 person who violates this chapter or a provision of law with
598 respect to professional guardians or the rules adopted pursuant

599 thereto.

600 (9) Notwithstanding any provision of chapter 120, if the
 601 Office of Public and Professional Guardians determines that
 602 revocation of a professional guardian's registration is the
 603 appropriate penalty, the revocation shall be permanent.

604 (10) If the Office of Public and Professional Guardians
 605 makes a final determination to suspend or revoke the
 606 professional guardian's registration, it must provide the
 607 determination to the court of competent jurisdiction for any
 608 guardianship case to which the professional guardian is
 609 currently appointed.

610 (11) The Office of Public and Professional Guardians shall
 611 adopt rules to administer the requirements of this section.

612 Section 13. Section 744.344, Florida Statutes, is
 613 transferred, renumbered as section 744.2005, Florida Statutes,
 614 and amended to read:

615 744.2005 ~~744.344~~ Order of appointment.—

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

619 (2) The order appointing a guardian must state the nature
 620 of the guardianship as either plenary or limited. If limited,
 621 the order must state that the guardian may exercise only those
 622 delegable rights which have been removed from the incapacitated
 623 person and specifically delegated to the guardian. The order
 624 shall state the specific powers and duties of the guardian.

625 (3)~~(2)~~ The order appointing a guardian must be consistent
626 with the incapacitated person's welfare and safety, must be the
627 least restrictive appropriate alternative, and must reserve to
628 the incapacitated person the right to make decisions in all
629 matters commensurate with the person's ability to do so.

630 (4)~~(3)~~ If a petition for appointment of a guardian has
631 been filed, an order appointing a guardian must be issued
632 contemporaneously with the order adjudicating the person
633 incapacitated. The order must specify the amount of the bond to
634 be given by the guardian and must state specifically whether the
635 guardian must place all, or part, of the property of the ward in
636 a restricted account in a financial institution designated
637 pursuant to s. 69.031.

638 (5)~~(4)~~ If a petition for the appointment of a guardian has
639 not been filed or ruled upon at the time of the hearing on the
640 petition to determine capacity, the court may appoint an
641 emergency temporary guardian in the manner and for the purposes
642 specified in s. 744.3031.

643 (6)~~(5)~~ A plenary guardian shall exercise all delegable
644 rights and powers of the incapacitated person.

645 (7)~~(6)~~ A person for whom a limited guardian has been
646 appointed retains all legal rights except those that ~~which~~ have
647 been specifically granted to the guardian in the court's written
648 order.

649 Section 14. Section 744.703, Florida Statutes, is
650 renumbered as section 744.2006, Florida Statutes, and

651 subsections (1) and (6) of that section are amended, to read:

652 744.2006 ~~744.703~~ Office of Public and Professional
 653 Guardians ~~guardian~~; appointment, notification.—

654 (1) The executive director of the ~~Statewide Public~~
 655 ~~Guardianship~~ Office of Public and Professional Guardians, after
 656 consultation with the chief judge and other circuit judges
 657 within the judicial circuit and with appropriate advocacy groups
 658 and individuals and organizations who are knowledgeable about
 659 the needs of incapacitated persons, may establish, within a
 660 county in the judicial circuit or within the judicial circuit,
 661 one or more offices of public guardian and if so established,
 662 shall create a list of persons best qualified to serve as the
 663 public guardian, who have been investigated pursuant to s.
 664 744.3135. The public guardian must have knowledge of the legal
 665 process and knowledge of social services available to meet the
 666 needs of incapacitated persons. The public guardian shall
 667 maintain a staff or contract with professionally qualified
 668 individuals to carry out the guardianship functions, including
 669 an attorney who has experience in probate areas and another
 670 person who has a master's degree in social work, or a
 671 gerontologist, psychologist, registered nurse, or nurse
 672 practitioner. A public guardian that is a nonprofit corporate
 673 guardian under s. 744.309(5) must receive tax-exempt status from
 674 the United States Internal Revenue Service.

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

677 to this section may continue in their positions until the
678 expiration of their term pursuant to their agreement. However,
679 oversight of all public guardians shall transfer to the
680 ~~Statewide Public Guardianship~~ Office of Public and Professional
681 Guardians upon the effective date of this act. The executive
682 director of the ~~Statewide Public Guardianship~~ Office of Public
683 and Professional Guardians shall be responsible for all future
684 appointments of public guardians pursuant to this act.

685 Section 15. Section 744.704, Florida Statutes, is
686 renumbered as section 744.2007, Florida Statutes.

687 Section 16. Section 744.705, Florida Statutes, is
688 renumbered as section 744.2008, Florida Statutes.

689 Section 17. Section 744.706, Florida Statutes, is
690 renumbered as section 744.2009, Florida Statutes, and amended to
691 read:

692 744.2009 ~~744.706~~ Preparation of budget.—Each public
693 guardian, whether funded in whole or in part by money raised
694 through local efforts, grants, or any other source or whether
695 funded in whole or in part by the state, shall prepare a budget
696 for the operation of the office of public guardian to be
697 submitted to the ~~Statewide Public Guardianship~~ Office of Public
698 and Professional Guardians. As appropriate, the ~~Statewide Public~~
699 ~~Guardianship~~ Office of Public and Professional Guardians will
700 include such budgetary information in the Department of Elderly
701 Affairs' legislative budget request. The office of public
702 guardian shall be operated within the limitations of the General

703 Appropriations Act and any other funds appropriated by the
 704 Legislature to that particular judicial circuit, subject to the
 705 provisions of chapter 216. The Department of Elderly Affairs
 706 shall make a separate and distinct request for an appropriation
 707 for the ~~Statewide Public Guardianship~~ Office of Public and
 708 Professional Guardians. However, this section may ~~shall~~ not be
 709 construed to preclude the financing of any operations of the
 710 office of ~~the~~ public guardian by moneys raised through local
 711 effort or through the efforts of the ~~Statewide Public~~
 712 ~~Guardianship~~ Office of Public and Professional Guardians.

713 Section 18. Section 744.707, Florida Statutes, is
 714 renumbered as section 744.2101, Florida Statutes, and amended to
 715 read:

716 744.2101 ~~744.707~~ Procedures and rules.—The public
 717 guardian, subject to the oversight of the ~~Statewide Public~~
 718 ~~Guardianship~~ Office of Public and Professional Guardians, is
 719 authorized to:

720 (1) Formulate and adopt necessary procedures to assure the
 721 efficient conduct of the affairs of the ward and general
 722 administration of the office and staff.

723 (2) Contract for services necessary to discharge the
 724 duties of the office.

725 (3) Accept the services of volunteer persons or
 726 organizations and provide reimbursement for proper and necessary
 727 expenses.

728 Section 19. Section 744.709, Florida Statutes, is

729 renumbered as section 744.2102, Florida Statutes.

730 Section 20. Section 744.708, Florida Statutes, is
731 renumbered as section 744.2103, Florida Statutes, and
732 subsections (3), (4), (5), and (7) of that section are amended,
733 to read:

734 744.2103 ~~744.708~~ Reports and standards.—

735 (3) A public guardian shall file an annual report on the
736 operations of the office of public guardian, in writing, by
737 September 1 for the preceding fiscal year with the ~~Statewide~~
738 ~~Public Guardianship~~ Office of Public and Professional Guardians,
739 which shall have responsibility for supervision of the
740 operations of the office of public guardian.

741 (4) Within 6 months of his or her appointment as guardian
742 of a ward, the public guardian shall submit to the clerk of the
743 court for placement in the ward's guardianship file and to the
744 executive director of the ~~Statewide Public Guardianship~~ Office
745 of Public and Professional Guardians a report on his or her
746 efforts to locate a family member or friend, other person, bank,
747 or corporation to act as guardian of the ward and a report on
748 the ward's potential to be restored to capacity.

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

754 (b) In addition to regular monitoring activities, the

755 ~~Statewide Public Guardianship~~ Office of Public and Professional
756 Guardians shall conduct an investigation into the practices of
757 each office of public guardian related to the managing of each
758 ward's personal affairs and property. If feasible, the
759 investigation shall be conducted in conjunction with the
760 financial audit of each office of public guardian under
761 paragraph (a).

762 (7) The ratio for professional staff to wards shall be 1
763 professional to 40 wards. The ~~Statewide Public Guardianship~~
764 Office of Public and Professional Guardians may increase or
765 decrease the ratio after consultation with the local public
766 guardian and the chief judge of the circuit court. The basis for
767 the decision to increase or decrease the prescribed ratio must
768 be included in the annual report to the secretary.

769 Section 21. Section 744.7081, Florida Statutes, is
770 renumbered as section 744.2104, Florida Statutes, and amended to
771 read:

772 744.2104 ~~744.7081~~ Access to records by the Statewide
773 ~~Public Guardianship~~ Office of Public and Professional Guardians;
774 confidentiality.-

775 (1) Notwithstanding any other provision of law to the
776 contrary, any medical, financial, or mental health records held
777 by an agency, or the court and its agencies, or financial audits
778 prepared by the clerk of the court pursuant to s. 744.368 and
779 held by the court, which are necessary as part of an
780 investigation of a guardian as a result of a complaint filed

781 with the Office of Public and Professional Guardians to evaluate
782 the public guardianship system, to assess the need for
783 additional public guardianship, or to develop required reports,
784 shall be provided to the ~~Statewide Public Guardianship~~ Office of
785 Public and Professional Guardians upon that office's request.
786 Any confidential or exempt information provided to the ~~Statewide~~
787 ~~Public Guardianship~~ Office of Public and Professional Guardians
788 shall continue to be held confidential or exempt as otherwise
789 provided by law.

790 (2) All records held by the ~~Statewide Public Guardianship~~
791 Office of Public and Professional Guardians relating to the
792 medical, financial, or mental health of vulnerable adults as
793 defined in chapter 415, persons with a developmental disability
794 as defined in chapter 393, or persons with a mental illness as
795 defined in chapter 394, shall be confidential and exempt from s.
796 119.07(1) and s. 24(a), Art. I of the State Constitution.

797 Section 22. Section 744.7082, Florida Statutes, is
798 renumbered as section 744.2105, Florida Statutes, and
799 subsections (1) through (5) and (8) of that section are amended,
800 to read:

801 744.2105 ~~744.7082~~ Direct-support organization; definition;
802 use of property; board of directors; audit; dissolution.—

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

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

809 (b) Organized and operated to conduct programs and
810 activities; to raise funds; to request and receive grants,
811 gifts, and bequests of moneys; to acquire, receive, hold,
812 invest, and administer, in its own name, securities, funds,
813 objects of value, or other property, real or personal; and to
814 make expenditures to or for the direct or indirect benefit of
815 the ~~Statewide Public Guardianship~~ Office of Public and
816 Professional Guardians; and

817 (c) Determined by the ~~Statewide Public Guardianship~~ Office
818 of Public and Professional Guardians to be consistent with the
819 goals of the office, in the best interests of the state, and in
820 accordance with the adopted goals and mission of the Department
821 of Elderly Affairs and the ~~Statewide Public Guardianship~~ Office
822 of Public and Professional Guardians.

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

827 (a) Certification by the ~~Statewide Public Guardianship~~
828 Office of Public and Professional Guardians that the direct-
829 support organization is complying with the terms of the contract
830 and is doing so consistent with the goals and purposes of the
831 office and in the best interests of the state. This
832 certification must be made annually and reported in the official

833 minutes of a meeting of the direct-support organization.

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

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

839 2. To the ~~Statewide Public Guardianship~~ Office of Public
840 and Professional Guardians if the direct-support organization
841 ceases to exist;

842 3. To the Department of Elderly Affairs if the ~~Statewide~~
843 ~~Public Guardianship~~ Office of Public and Professional Guardians
844 ceases to exist; or

845 4. To the state if the Department of Elderly Affairs
846 ceases to exist.

847

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

850 (c) The disclosure of the material provisions of the
851 contract, and the distinction between the ~~Statewide Public~~
852 ~~Guardianship~~ Office of Public and Professional Guardians and the
853 direct-support organization, to donors of gifts, contributions,
854 or bequests, including such disclosure on all promotional and
855 fundraising publications.

856 (3) BOARD OF DIRECTORS.—The Secretary of Elderly Affairs
857 shall appoint a board of directors for the direct-support
858 organization from a list of nominees submitted by the executive

859 director of the ~~Statewide Public Guardianship~~ Office of Public
860 and Professional Guardians.

861 (4) USE OF PROPERTY.—The Department of Elderly Affairs may
862 permit, without charge, appropriate use of fixed property and
863 facilities of the department or the ~~Statewide Public~~
864 ~~Guardianship~~ Office of Public and Professional Guardians by the
865 direct-support organization. The department may prescribe any
866 condition with which the direct-support organization must comply
867 in order to use fixed property or facilities of the department
868 or the ~~Statewide Public Guardianship~~ Office of Public and
869 Professional Guardians.

870 (5) MONEYS.—Any moneys may be held in a separate
871 depository account in the name of the direct-support
872 organization and subject to the provisions of the written
873 contract with the ~~Statewide Public Guardianship~~ Office of Public
874 and Professional Guardians. Expenditures of the direct-support
875 organization shall be expressly used to support the ~~Statewide~~
876 ~~Public Guardianship~~ Office of Public and Professional Guardians.
877 The expenditures of the direct-support organization may not be
878 used for the purpose of lobbying as defined in s. 11.045.

879 (8) DISSOLUTION.—A ~~After July 1, 2004,~~ any not-for-profit
880 corporation incorporated under chapter 617 that is determined by
881 a circuit court to be representing itself as a direct-support
882 organization created under this section, but that does not have
883 a written contract with the ~~Statewide Public Guardianship~~ Office
884 of Public and Professional Guardians in compliance with this

885 section, is considered to meet the grounds for a judicial
886 dissolution described in s. 617.1430(1)(a). The ~~Statewide Public~~
887 ~~Guardianship~~ Office of Public and Professional Guardians shall
888 be the recipient for all assets held by the dissolved
889 corporation which accrued during the period that the dissolved
890 corporation represented itself as a direct-support organization
891 created under this section.

892 Section 23. Section 744.712, Florida Statutes, is
893 renumbered as section 744.2106, Florida Statutes, and amended to
894 read:

895 744.2106 ~~744.712~~ Joining Forces for Public Guardianship
896 grant program; purpose.—The Legislature establishes the Joining
897 Forces for Public Guardianship matching grant program for the
898 purpose of assisting counties to establish and fund community-
899 supported public guardianship programs. The Joining Forces for
900 Public Guardianship matching grant program shall be established
901 and administered by the ~~Statewide Public Guardianship~~ Office of
902 Public and Professional Guardians within the Department of
903 Elderly Affairs. The purpose of the program is to provide
904 startup funding to encourage communities to develop and
905 administer locally funded and supported public guardianship
906 programs to address the needs of indigent and incapacitated
907 residents.

908 (1) The ~~Statewide Public Guardianship~~ Office of Public and
909 Professional Guardians may distribute the grant funds as
910 follows:

911 (a) As initial startup funding to encourage counties that
912 have no office of public guardian to establish an office, or as
913 initial startup funding to open an additional office of public
914 guardian within a county whose public guardianship needs require
915 more than one office of public guardian.

916 (b) As support funding to operational offices of public
917 guardian that demonstrate a necessity for funds to meet the
918 public guardianship needs of a particular geographic area in the
919 state which the office serves.

920 (c) To assist counties that have an operating public
921 guardianship program but that propose to expand the geographic
922 area or population of persons they serve, or to develop and
923 administer innovative programs to increase access to public
924 guardianship in this state.

925
926 Notwithstanding this subsection, the executive director of the
927 office may award emergency grants if he or she determines that
928 the award is in the best interests of public guardianship in
929 this state. Before making an emergency grant, the executive
930 director must obtain the written approval of the Secretary of
931 Elderly Affairs. Subsections (2), (3), and (4) do not apply to
932 the distribution of emergency grant funds.

933 (2) One or more grants may be awarded within a county.
934 However, a county may not receive an award that equals, or
935 multiple awards that cumulatively equal, more than 20 percent of
936 the total amount of grant funds appropriated during any fiscal

937 year.

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

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

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

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

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

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

962

963 The ~~Statewide Public Guardianship~~ Office of Public and
 964 Professional Guardians may not award grant funds to any
 965 applicant within a county that has received grant funds for more
 966 than 6 years.

967 (4) Grant funds shall be used only to provide direct
 968 services to indigent wards, except that up to 10 percent of the
 969 grant funds may be retained by the awardee for administrative
 970 expenses.

971 (5) Implementation of the program is subject to a specific
 972 appropriation by the Legislature in the General Appropriations
 973 Act.

974 Section 24. Section 744.713, Florida Statutes, is
 975 renumbered as section 744.2107, Florida Statutes, and amended to
 976 read:

977 744.2107 ~~744.713~~ Program administration; duties of the
 978 ~~Statewide Public Guardianship~~ Office of Public and Professional
 979 Guardians.—The ~~Statewide Public Guardianship~~ Office of Public
 980 and Professional Guardians shall administer the grant program.

981 The office shall:

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

984 (2) Establish an application process for submitting a
 985 grant proposal.

986 (3) Request, receive, and review proposals from applicants
 987 seeking grant funds.

988 (4) Determine the amount of grant funds each awardee may

989 receive and award grant funds to applicants.

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

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

995 Section 25. Section 744.714, Florida Statutes, is
 996 renumbered as section 744.2108, Florida Statutes, and paragraph
 997 (b) of subsection (1) and paragraph (b) of subsection (2) of
 998 that section are amended, to read:

999 744.2108 ~~744.714~~ Eligibility.—

1000 (1) Any person or organization that has not been awarded a
 1001 grant must meet all of the following conditions to be eligible
 1002 to receive a grant:

1003 (b) The applicant must have already been appointed by, or
 1004 is pending appointment by, the ~~Statewide Public Guardianship~~
 1005 Office of Public and Professional Guardians to become an office
 1006 of public guardian in this state.

1007 (2) Any person or organization that has been awarded a
 1008 grant must meet all of the following conditions to be eligible
 1009 to receive another grant:

1010 (b) The applicant must have been appointed by, or is
 1011 pending reappointment by, the ~~Statewide Public Guardianship~~
 1012 Office of Public and Professional Guardians to be an office of
 1013 public guardian in this state.

1014 Section 26. Section 744.715, Florida Statutes, is

1015 | renumbered as section 744.2109, Florida Statutes, and amended to
 1016 | read:

1017 | 744.2109 ~~744.715~~ Grant application requirements; review
 1018 | criteria; awards process.—Grant applications must be submitted
 1019 | to the ~~Statewide Public Guardianship~~ Office of Public and
 1020 | Professional Guardians for review and approval.

1021 | (1) A grant application must contain:

1022 | (a) The specific amount of funds being requested.

1023 | (b) The proposed annual budget for the office of public
 1024 | guardian for which the applicant is applying on behalf of,
 1025 | including all sources of funding, and a detailed report of
 1026 | proposed expenditures, including administrative costs.

1027 | (c) The total number of wards the applicant intends to
 1028 | serve during the grant period.

1029 | (d) Evidence that the applicant has:

1030 | 1. Attempted to procure funds and has exhausted all
 1031 | possible other sources of funding; or

1032 | 2. Procured funds from local sources, but the total amount
 1033 | of the funds collected or pledged is not sufficient to meet the
 1034 | need for public guardianship in the geographic area that the
 1035 | applicant intends to serve.

1036 | (e) An agreement or confirmation from a local funding
 1037 | source, such as a county, municipality, or any other public or
 1038 | private organization, that the local funding source will
 1039 | contribute matching funds to the public guardianship program
 1040 | totaling not less than \$1 for every \$1 of grant funds awarded.

1041 For purposes of this section, an applicant may provide evidence
 1042 of agreements or confirmations from multiple local funding
 1043 sources showing that the local funding sources will pool their
 1044 contributed matching funds to the public guardianship program
 1045 for a combined total of not less than \$1 for every \$1 of grant
 1046 funds awarded. In-kind contributions, such as materials,
 1047 commodities, office space, or other types of facilities,
 1048 personnel services, or other items as determined by rule shall
 1049 be considered by the office and may be counted as part or all of
 1050 the local matching funds.

1051 (f) A detailed plan describing how the office of public
 1052 guardian for which the applicant is applying on behalf of will
 1053 be funded in future years.

1054 (g) Any other information determined by rule as necessary
 1055 to assist in evaluating grant applicants.

1056 (2) If the ~~Statewide Public Guardianship~~ Office of Public
 1057 and Professional Guardians determines that an applicant meets
 1058 the requirements for an award of grant funds, the office may
 1059 award the applicant any amount of grant funds the executive
 1060 director deems appropriate, if the amount awarded meets the
 1061 requirements of this act. The office may adopt a rule allocating
 1062 the maximum allowable amount of grant funds which may be
 1063 expended on any ward.

1064 (3) A grant awardee must submit a new grant application
 1065 for each year of additional funding.

1066 (4) (a) In the first year of the Joining Forces for Public

1067 Guardianship program's existence, the ~~Statewide Public~~
 1068 ~~Guardianship~~ Office of Public and Professional Guardians shall
 1069 give priority in awarding grant funds to those entities that:
 1070 1. Are operating as appointed offices of public guardians
 1071 in this state;
 1072 2. Meet all of the requirements for being awarded a grant
 1073 under this act; and
 1074 3. Demonstrate a need for grant funds during the current
 1075 fiscal year due to a loss of local funding formerly raised
 1076 through court filing fees.
 1077 (b) In each fiscal year after the first year that grant
 1078 funds are distributed, the ~~Statewide Public Guardianship~~ Office
 1079 of Public and Professional Guardians may give priority to
 1080 awarding grant funds to those entities that:
 1081 1. Meet all of the requirements of this section and ss.
 1082 744.2106, 744.2107, and 744.2108 ~~this act~~ for being awarded
 1083 grant funds; and
 1084 2. Submit with their application an agreement or
 1085 confirmation from a local funding source, such as a county,
 1086 municipality, or any other public or private organization, that
 1087 the local funding source will contribute matching funds totaling
 1088 an amount equal to or exceeding \$2 for every \$1 of grant funds
 1089 awarded by the office. An entity may submit with its application
 1090 agreements or confirmations from multiple local funding sources
 1091 showing that the local funding sources will pool their
 1092 contributed matching funds to the public guardianship program

1093 for a combined total of not less than \$2 for every \$1 of grant
 1094 funds awarded. In-kind contributions allowable under this
 1095 section shall be evaluated by the ~~Statewide Public Guardianship~~
 1096 Office of Public and Professional Guardians and may be counted
 1097 as part or all of the local matching funds.

1098 Section 27. Subsection (3), paragraph (c) of subsection
 1099 (4), and subsections (5) and (6) of section 744.3135, Florida
 1100 Statutes, are amended to read:

1101 744.3135 Credit and criminal investigation.—

1102 (3) For professional guardians, the court and the
 1103 ~~Statewide Public Guardianship~~ Office of Public and Professional
 1104 Guardians shall accept the satisfactory completion of a criminal
 1105 history record check by any method described in this subsection.
 1106 A professional guardian satisfies the requirements of this
 1107 section by undergoing an electronic fingerprint criminal history
 1108 record check. A professional guardian may use any electronic
 1109 fingerprinting equipment used for criminal history record
 1110 checks. By October 1, 2016, the ~~Statewide Public Guardianship~~
 1111 Office of Public and Professional Guardians shall adopt a rule
 1112 detailing the acceptable methods for completing an electronic
 1113 fingerprint criminal history record check under this section.
 1114 The professional guardian shall pay the actual costs incurred by
 1115 the Federal Bureau of Investigation and the Department of Law
 1116 Enforcement for the criminal history record check. The entity
 1117 completing the record check must immediately send the results of
 1118 the criminal history record check to the clerk of the court and

1119 the ~~Statewide Public Guardianship~~ Office of Public and
1120 Professional Guardians. The clerk of the court shall maintain
1121 the results in the professional guardian's file and shall make
1122 the results available to the court.

1123 (4)

1124 (c) The Department of Law Enforcement shall search all
1125 arrest fingerprints received under s. 943.051 against the
1126 fingerprints retained in the statewide automated biometric
1127 identification system under paragraph (b). Any arrest record
1128 that is identified with the fingerprints of a person described
1129 in this paragraph must be reported to the clerk of court. The
1130 clerk of court must forward any arrest record received for a
1131 professional guardian to the ~~Statewide Public Guardianship~~
1132 Office of Public and Professional Guardians within 5 days. Each
1133 professional guardian who elects to submit fingerprint
1134 information electronically shall participate in this search
1135 process by paying an annual fee to the ~~Statewide Public~~
1136 ~~Guardianship~~ Office of Public and Professional Guardians of the
1137 Department of Elderly Affairs and by informing the clerk of
1138 court and the ~~Statewide Public Guardianship~~ Office of Public and
1139 Professional Guardians of any change in the status of his or her
1140 guardianship appointment. The amount of the annual fee to be
1141 imposed for performing these searches and the procedures for the
1142 retention of professional guardian fingerprints and the
1143 dissemination of search results shall be established by rule of
1144 the Department of Law Enforcement. At least once every 5 years,

1145 the ~~Statewide Public Guardianship~~ Office of Public and
1146 Professional Guardians must request that the Department of Law
1147 Enforcement forward the fingerprints maintained under this
1148 section to the Federal Bureau of Investigation.

1149 (5) (a) A professional guardian, and each employee of a
1150 professional guardian who has a fiduciary responsibility to a
1151 ward, must complete, at his or her own expense, an investigation
1152 of his or her credit history before and at least once every 2
1153 years after the date of the guardian's registration with the
1154 ~~Statewide Public Guardianship~~ Office of Public and Professional
1155 Guardians.

1156 (b) By October 1, 2016, the ~~Statewide Public Guardianship~~
1157 Office of Public and Professional Guardians shall adopt a rule
1158 detailing the acceptable methods for completing a credit
1159 investigation under this section. If appropriate, the ~~Statewide~~
1160 ~~Public Guardianship~~ Office of Public and Professional Guardians
1161 may administer credit investigations. If the office chooses to
1162 administer the credit investigation, the office may adopt a rule
1163 setting a fee, not to exceed \$25, to reimburse the costs
1164 associated with the administration of a credit investigation.

1165 (6) The ~~Statewide Public Guardianship~~ Office of Public and
1166 Professional Guardians may inspect at any time the results of
1167 any credit or criminal history record check of a public or
1168 professional guardian conducted under this section. The office
1169 shall maintain copies of the credit or criminal history record
1170 check results in the guardian's registration file. If the

1171 results of a credit or criminal investigation of a public or
1172 professional guardian have not been forwarded to the ~~Statewide~~
1173 ~~Public Guardianship~~ Office of Public and Professional Guardians
1174 by the investigating agency, the clerk of the court shall
1175 forward copies of the results of the investigations to the
1176 office upon receiving them.

1177 Section 28. Section 744.701, Florida Statutes, is
1178 repealed.

1179 Section 29. Section 744.702, Florida Statutes, is
1180 repealed.

1181 Section 30. Section 744.7101, Florida Statutes, is
1182 repealed.

1183 Section 31. Section 744.711, Florida Statutes, is
1184 repealed.

1185 Section 32. Subsection (5) of section 400.148, Florida
1186 Statutes, is amended to read:

1187 400.148 Medicaid "Up-or-Out" Quality of Care Contract
1188 Management Program.—

1189 (5) The agency shall, jointly with the ~~Statewide Public~~
1190 ~~Guardianship~~ Office of Public and Professional Guardians,
1191 develop a system in the pilot project areas to identify Medicaid
1192 recipients who are residents of a participating nursing home or
1193 assisted living facility who have diminished ability to make
1194 their own decisions and who do not have relatives or family
1195 available to act as guardians in nursing homes listed on the
1196 Nursing Home Guide Watch List. The agency and the ~~Statewide~~

1197 ~~Public Guardianship~~ Office of Public and Professional Guardians
 1198 shall give such residents priority for publicly funded
 1199 guardianship services.

1200 Section 33. Paragraph (d) of subsection (3) of section
 1201 744.331, Florida Statutes, is amended to read:

1202 744.331 Procedures to determine incapacity.—

1203 (3) EXAMINING COMMITTEE.—

1204 (d) A member of an examining committee must complete a
 1205 minimum of 4 hours of initial training. The person must complete
 1206 2 hours of continuing education during each 2-year period after
 1207 the initial training. The initial training and continuing
 1208 education program must be developed under the supervision of the
 1209 ~~Statewide Public Guardianship~~ Office of Public and Professional
 1210 Guardians, in consultation with the Florida Conference of
 1211 Circuit Court Judges; the Elder Law and the Real Property,
 1212 Probate and Trust Law sections of The Florida Bar; and the
 1213 Florida State Guardianship Association; ~~and the Florida~~
 1214 ~~Guardianship Foundation~~. The court may waive the initial
 1215 training requirement for a person who has served for not less
 1216 than 5 years on examining committees. If a person wishes to
 1217 obtain his or her continuing education on the Internet or by
 1218 watching a video course, the person must first obtain the
 1219 approval of the chief judge before taking an Internet or video
 1220 course.

1221 Section 34. Paragraph (a) of subsection (1) of section
 1222 20.415, Florida Statutes, is amended to read:

1223 20.415 Department of Elderly Affairs; trust funds.—The
 1224 following trust funds shall be administered by the Department of
 1225 Elderly Affairs:

1226 (1) Administrative Trust Fund.

1227 (a) Funds to be credited to and uses of the trust fund
 1228 shall be administered in accordance with ss. 215.32, 744.534,
 1229 and 744.2001 ~~744.7021~~.

1230 Section 35. Paragraph (e) of subsection (2) of section
 1231 415.1102, Florida Statutes, is amended to read:

1232 415.1102 Adult protection teams.—

1233 (2) Such teams may be composed of, but need not be limited
 1234 to:

1235 (e) Public and professional guardians as described in part
 1236 II ~~IX~~ of chapter 744.

1237 Section 36. Paragraph (a) of subsection (7) of section
 1238 744.309, Florida Statutes, is amended to read:

1239 744.309 Who may be appointed guardian of a resident ward.—

1240 (7) FOR-PROFIT CORPORATE GUARDIAN.—A for-profit corporate
 1241 guardian existing under the laws of this state is qualified to
 1242 act as guardian of a ward if the entity is qualified to do
 1243 business in the state, is wholly owned by the person who is the
 1244 circuit's public guardian in the circuit where the corporate
 1245 guardian is appointed, has met the registration requirements of
 1246 s. 744.2002 ~~s. 744.1083~~, and posts and maintains a bond or
 1247 insurance policy under paragraph (a).

1248 (a) The for-profit corporate guardian must meet one of the

1249 following requirements:

1250 1. Post and maintain a blanket fiduciary bond of at least
1251 \$250,000 with the clerk of the circuit court in the county in
1252 which the corporate guardian has its principal place of
1253 business. The corporate guardian shall provide proof of the
1254 fiduciary bond to the clerks of each additional circuit court in
1255 which he or she is serving as a guardian. The bond must cover
1256 all wards for whom the corporation has been appointed as a
1257 guardian at any given time. The liability of the provider of the
1258 bond is limited to the face value of the bond, regardless of the
1259 number of wards for whom the corporation is acting as a
1260 guardian. The terms of the bond must cover the acts or omissions
1261 of each agent or employee of the corporation who has direct
1262 contact with the ward or access to the assets of the
1263 guardianship. The bond must be payable to the Governor and his
1264 or her successors in office and be conditioned on the faithful
1265 performance of all duties of a guardian under this chapter. The
1266 bond is in lieu of and not in addition to the bond required
1267 under s. 744.2003 ~~s. 744.1085~~ but is in addition to any bonds
1268 required under s. 744.351. The expenses incurred to satisfy the
1269 bonding requirements of this section may not be paid with the
1270 assets of any ward; or

1271 2. Maintain a liability insurance policy that covers any
1272 losses sustained by the guardianship caused by errors,
1273 omissions, or any intentional misconduct committed by the
1274 corporation's officers or agents. The policy must cover all

1275 wards for whom the corporation is acting as a guardian for
1276 losses up to \$250,000. The terms of the policy must cover acts
1277 or omissions of each agent or employee of the corporation who
1278 has direct contact with the ward or access to the assets of the
1279 guardianship. The corporate guardian shall provide proof of the
1280 policy to the clerk of each circuit court in which he or she is
1281 serving as a guardian.

1282 Section 37. Section 744.524, Florida Statutes, is amended
1283 to read:

1284 744.524 Termination of guardianship on change of domicile
1285 of resident ward.—When the domicile of a resident ward has
1286 changed as provided in s. 744.1098 ~~s. 744.2025~~, and the foreign
1287 court having jurisdiction over the ward at the ward's new
1288 domicile has appointed a guardian and that guardian has
1289 qualified and posted a bond in an amount required by the foreign
1290 court, the guardian in this state may file her or his final
1291 report and close the guardianship in this state. The guardian of
1292 the property in this state shall cause a notice to be published
1293 once a week for 2 consecutive weeks, in a newspaper of general
1294 circulation published in the county, that she or he has filed
1295 her or his accounting and will apply for discharge on a day
1296 certain and that jurisdiction of the ward will be transferred to
1297 the state of foreign jurisdiction. If an objection is filed to
1298 the termination of the guardianship in this state, the court
1299 shall hear the objection and enter an order either sustaining or
1300 overruling the objection. Upon the disposition of all objections

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1301 | filed, or if no objection is filed, final settlement shall be
1302 | made by the Florida guardian. On proof that the remaining
1303 | property in the guardianship has been received by the foreign
1304 | guardian, the guardian of the property in this state shall be
1305 | discharged. The entry of the order terminating the guardianship
1306 | in this state shall not exonerate the guardian or the guardian's
1307 | surety from any liability previously incurred.

1308 | Section 38. This act shall take effect upon becoming a
1309 | law.