

1 A bill to be entitled
2 An act relating to guardians; creating s.
3 744.1085, F.S.; providing for the regulation of
4 professional guardians; providing for a bond;
5 providing educational requirements; authorizing
6 issuance of a blanket fiduciary bond; amending
7 s. 744.3135, F.S.; requiring criminal history
8 and credit check; providing for waiver;
9 amending s. 744.3145, F.S.; excluding
10 professional guardians from certain educational
11 requirements; amending s. 744.3675, F.S.;
12 revising language with respect to the annual
13 guardianship plan; amending s. 744.454, F.S.;
14 forbidding professional guardian from
15 purchasing property or borrowing money from his
16 ward; providing an effective date.

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

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20 Section 1. Section 744.1085, Florida Statutes, is
21 created to read:

22 744.1085 Regulation of professional guardians;
23 application; bond required; educational requirements;
24 audits.--

25 (1) The provisions of this section are in addition to
26 and supplemental to any other provision of the Florida
27 Guardianship Law, except s. 744.3145.

28 (2) Each professional guardian who files a petition
29 for appointment after October 1, 1997, shall post a blanket
30 fiduciary bond with the clerk of the circuit court in the
31 county in which the guardian's primary place of business is

1 located. The guardian shall provide proof of the fiduciary
2 bond to the clerks of each additional circuit court in which
3 he or she is serving as a professional guardian. The bond
4 shall be maintained by the guardian in an amount not less than
5 \$50,000. The bond must cover all wards for whom the guardian
6 has been appointed at any given time. The liability of the
7 provider of the bond is limited to the face amount of the
8 bond, regardless of the number of wards for whom the
9 professional guardian has been appointed. The act or
10 omissions of each employee of a professional guardian who has
11 direct contact with the ward or access to the ward's assets is
12 covered by the terms of such bond. The bond must be payable
13 to the Governor of the State of Florida and his or her
14 successors in office and conditioned on the faithful
15 performance of all duties by the guardian. In form, the bond
16 must be joint and several. The bond is in addition to any
17 bonds required under s. 744.351. This subsection does not
18 apply to any attorney who is licensed to practice law in this
19 state and who is in good standing, to any financial
20 institution as defined in s. 744.309(4), or a public guardian.
21 The expenses incurred to satisfy the bonding requirements
22 prescribed in this section may not be paid with the assets of
23 any ward.

24 (3) Each professional guardian defined in s.
25 744.102(15), on October 1, 1997, must receive a minimum of 40
26 hours of instruction and training by October 1, 1998, or
27 within 1 year after becoming a professional guardian,
28 whichever occurs later. Each professional guardian must
29 receive a minimum of 16 hours of continuing education every 2
30 calendar years after the year in which the initial 40-hour
31 educational requirement is met. The instruction and education

1 must be completed through a course approved by the chief judge
2 of the circuit court and taught by a court-approved
3 organization. The expenses incurred to satisfy the
4 educational requirements prescribed in this section may not be
5 paid with the assets of any ward. This subsection does not
6 apply to any attorney who is licensed to practice law in this
7 state.

8 Section 2. Section 744.3135, Florida Statutes, is
9 amended to read:

10 744.3135 Credit and criminal investigation.--The court
11 may require a prospective guardian and shall require a
12 professional guardian,to submit, at his or her own expense,
13 to an investigation of the prospective guardian's credit
14 history and ~~or~~ an investigatory check by the National Crime
15 Information Center and the Florida Crime Information Center
16 systems by means of fingerprint checks by the Department of
17 Law Enforcement and the Federal Bureau of Investigation ~~or~~
18 ~~both. The court may order these investigations if it deems it~~
19 ~~necessary.~~ The court shall waive the credit and criminal
20 investigation for a guardian who is the spouse or child of the
21 ward.

22 Section 3. Subsection (6) is added to section
23 744.3145, Florida Statutes, to read:

24 744.3145 Guardian education requirements.--

25 (6) The provisions of this section do not apply to
26 professional guardians.

27 Section 4. Paragraph (b) of subsection (1) of section
28 744.3675, Florida Statutes, 1996 Supplement, is amended to
29 read:

30 744.3675 Annual guardianship plan.--Each guardian of
31 the person must file with the court an annual guardianship

1 plan which updates information about the condition of the
2 ward. The annual plan must specify the current needs of the
3 ward and how those needs are proposed to be met in the coming
4 year.

5 (1) Each plan must, if applicable, include:

6 (b) Information concerning the medical condition and
7 needs of the ward, including:

8 1. A resume of any professional medical treatment
9 given to the ward during the preceding year;

10 2. The report of a physician who examined the ward no
11 more than 90 days before the beginning ~~end~~ of the applicable
12 reporting ~~report~~ period. Such report must contain an
13 evaluation of the ward's condition and a statement of the
14 current level of capacity of the ward; and

15 3. The plan for provision of medical, mental health,
16 and rehabilitative services in the coming year.

17 Section 5. Section 744.454, Florida Statutes, 1996
18 Supplement, is amended to read:

19 744.454 Guardian forbidden to borrow or purchase;
20 exceptions.--A professional guardian may not purchase property
21 or borrow money from his or her ward. ~~unless~~ A guardian who is
22 not a professional guardian may do so if:

23 (1) A court by written order authorizes the sale or
24 loan after a hearing to which interested persons were given
25 notice; or

26 (2) The property is sold at public sale and the
27 guardian is a spouse, parent, child, brother, or sister of the
28 ward or a cotenant of the ward in the property to be sold.

29 Section 6. This act shall take effect October 1, 1997.
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