

By the Committee on Judicial Oversight and Representative
Crow

1 A bill to be entitled
2 An act relating to public guardianship;
3 amending s. 744.1085, F.S.; requiring
4 professional guardians to register with the
5 Statewide Public Guardianship Office; providing
6 a fee; providing for rulemaking; amending s.
7 744.534, F.S.; reducing the holding period of
8 unclaimed funds held by a guardian from 10
9 years to 5 years for escheat; requiring that
10 escheat funds from guardianships be used solely
11 to fund the Statewide Public Guardianship
12 Office; amending s. 744.703, F.S.; allowing
13 more than one office of the public guardian to
14 be established in a county or judicial circuit;
15 requiring all offices of public guardian to
16 maintain a staff or contract for certain
17 professional services; creating s. 744.7082,
18 F.S.; providing that the Statewide Public
19 Guardianship Office may affiliate with a
20 direct-support organization; providing for
21 audit of a direct-support organization;
22 defining a direct-support organization;
23 providing an effective date.

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

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27 Section 1. Subsection (4) is added to section
28 744.1085, Florida Statutes, to read:
29 744.1085 Regulation of professional guardians;
30 application; bond required; educational requirements.--
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1 (4) A professional guardian must register with the
2 Statewide Public Guardianship Office established in part IX of
3 this chapter.

4 (a) The Statewide Public Guardianship Office may
5 contract with the Florida State Guardianship Association to
6 perform the administrative functions associated with
7 registering professional guardians.

8 (b) Registration shall be made on forms furnished by
9 the Statewide Public Guardianship Office and accompanied by
10 the applicable registration fee as determined by rule. Such
11 fee may not exceed the administrative costs of registering the
12 professional guardian. A copy of the certificate of
13 registration of a professional guardian shall be made
14 available to a court upon request and without charge.

15 (c) Registration shall include the following:

16 1. If the professional guardian is a natural person,
17 the name, address, date of birth, and employer identification
18 number of the professional guardian.

19 2. If the professional guardian is a partnership or
20 association, the name, address, and date of birth of every
21 member, and the employer identification number of the
22 partnership or association.

23 3. If the professional guardian is a corporation or
24 other business entity, the name, address, and employer
25 identification number of the corporation; the name, address,
26 and date of birth of each of its directors and officers; the
27 name of its resident agent; and the name, address, and date of
28 birth of each person having at least a 10 percent interest in
29 the corporation.

30 4. The name, address, date of birth, and employer
31 identification number, if applicable, of each person employed

1 or under contract with the professional guardian who is
2 involved in providing financial or personal guardianship
3 services for wards.

4 5. Documentation that the bonding and educational
5 requirements of this section have been met, and that
6 background screening has been conducted pursuant to s.
7 744.3135.

8 (d) The Statewide Public Guardianship Office may adopt
9 rules to carry out the provisions of this section.

10 Section 2. Paragraph (c) of subsection (2) of section
11 744.534, Florida Statutes, is amended to read:

12 744.534 Disposition of unclaimed funds held by
13 guardian.--

14 (2)

15 (c) Within 5 ~~10~~ years after ~~from~~ the date of deposit
16 with the State Treasurer, on written petition to the court
17 that directed the deposit of the funds and informal notice to
18 the Department of Legal Affairs, and after proof of his or her
19 right to them, any person entitled to the funds, before or
20 after payment to the State Treasurer and deposit as provided
21 for in paragraph (a), may obtain a court order directing the
22 payment of the funds to him or her. All funds deposited with
23 the State Treasurer and not claimed within 5 ~~10~~ years after
24 ~~from~~ the date of deposit shall escheat to the state to be
25 deposited in the Department of Elderly Affairs Trust Fund to
26 be used solely for the benefit of public guardianship as
27 determined by the Statewide Public Guardianship Office
28 established in part IX of this chapter.

29 Section 3. Subsection (1) of section 744.703, Florida
30 Statutes, is amended to read:

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1 744.703 Office of public guardian; appointment,
2 notification.--

3 (1) The executive director of the Statewide Public
4 Guardianship Office, after consultation with the chief judge
5 and other circuit judges within the judicial circuit and with
6 appropriate advocacy groups and individuals and organizations
7 who are knowledgeable about the needs of incapacitated
8 persons, may establish, within a county in the judicial
9 circuit or within the judicial circuit, one or more offices ~~an~~
10 ~~office~~ of public guardian and, if so established, shall create
11 a list of persons best qualified to serve as the public
12 guardian, who have been investigated ~~and such qualifications~~
13 ~~shall include review~~ pursuant to s. 744.3135. The public
14 guardian must have knowledge of the legal process and
15 knowledge of social services available to meet the needs of
16 incapacitated persons. The public guardian shall maintain a
17 staff or contract with professionally qualified individuals to
18 carry out the guardianship functions, including an attorney
19 who has experience in probate areas and another person who has
20 a master's degree in social work, or a gerontologist,
21 psychologist, registered nurse, or nurse practitioner. A
22 public guardian that is a nonprofit corporate guardian under
23 s. 744.309(5) must receive tax-exempt status from the United
24 States Internal Revenue Service. ~~A nonprofit corporation under~~
25 ~~s. 744.309(5) may be appointed public guardian only if:~~

26 ~~(a) It has been granted tax-exempt status from the~~
27 ~~United States Internal Revenue Service; and~~

28 ~~(b) It maintains a staff of professionally qualified~~
29 ~~individuals to carry out the guardianship functions, including~~
30 ~~a staff attorney who has experience in probate areas and~~
31 ~~another person who has a master's degree in social work, or a~~

1 ~~gerontologist, psychologist, registered nurse, or nurse~~
2 ~~practitioner.~~

3 Section 4. Section 744.7082, Florida Statutes, is
4 created to read:

5 744.7082 Direct-support organization.--

6 (1) The Statewide Public Guardianship Office may
7 permit, without charge, the appropriate use of property and
8 facilities of the state by a direct-support organization
9 subject to the provisions of this section. Such use must be
10 directly in keeping with the approved purpose of the
11 direct-support organization.

12 (2) The purpose and objectives of the direct-support
13 organization must be consistent with the priority issues and
14 objectives of the Statewide Public Guardianship Office and
15 must be in the best interest of the state.

16 (3) The direct-support organization shall provide for
17 an annual postaudit of its financial accounts to be conducted
18 by an independent certified public accountant. The annual
19 audit report shall include a management letter and shall be
20 submitted to the Auditor General and the Statewide Public
21 Guardianship Office for review. The Statewide Public
22 Guardianship Office and the Auditor General have the authority
23 to require and receive from the organization or from its
24 independent auditor any detail or supplemental data relative
25 to the operation of the organization.

26 (4) For the purpose of this section, "direct-support
27 organization" means a not-for-profit corporation incorporated
28 under the provisions of chapter 617 and organized and operated
29 to conduct programs and activities; initiate developmental
30 projects; raise funds; request and receive grants, gifts, and
31 bequests of moneys; acquire, receive, hold, invest, and

1 administer, in its own name, securities, funds, objects of
2 value, or other property, real or personal; and make
3 expenditures to or for the direct or indirect benefit of the
4 Statewide Public Guardianship Office or individual offices of
5 public guardians.

6 Section 5. This act shall take effect July 1, 2001.

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9 HOUSE SUMMARY

10 Requires professional guardians to register with the
11 Statewide Public Guardianship Office and provides
12 requirements with respect to such registration. Reduces
13 the holding period of unclaimed funds held by a guardian
14 from 10 years to 5 years for escheat purposes. Provides
15 that such escheated funds be used solely to fund the
16 Statewide Public Guardianship Office. Authorizes more
17 than one office of public guardian to be established in a
18 county or judicial circuit. Provides that the Statewide
19 Public Guardianship Office may affiliate with a
20 direct-support organization as defined by this act. See
21 bill for details.
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