

By Senator Sebesta

20-1434-01

1                                   A bill to be entitled  
 2           An act relating to public guardianship;  
 3           creating s. 744.1083, F.S.; providing  
 4           guidelines for the registration of public  
 5           guardians; authorizing rulemaking; amending s.  
 6           744.534, F.S.; revising provisions relating to  
 7           disposition of unclaimed funds; amending s.  
 8           744.703, F.S.; authorizing the establishment of  
 9           public guardian offices; providing for the  
 10          staffing of offices; creating s. 744.7082,  
 11          F.S.; defining the term "direct-support  
 12          organization"; providing for the purposes of a  
 13          direct-support organization; requiring an  
 14          audit; providing an effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18           Section 1. Section 744.1083, Florida Statutes, is  
 19 created to read:

20           744.1083 Professional guardian registration.--

21           (1) A professional guardian must register with the  
 22 Statewide Public Guardianship Office established in part IX of  
 23 this chapter. The Statewide Public Guardianship Office may  
 24 contract with the Florida State Guardianship Association to  
 25 perform the administrative functions associated with  
 26 registering professional guardians.

27           (2) Registration shall be made on forms furnished by  
 28 the Statewide Public Guardianship Office and accompanied by  
 29 the applicable registration fee as determined by rule. Such  
 30 fee may not exceed the administrative costs of registering the  
 31 professional guardian. The Statewide Public Guardianship

1 Office may charge reasonable fees to persons requesting copies  
2 of the certificate of registration. Copies of the certificate  
3 of registration must be made available to a court upon request  
4 and without charge.

5 (3) Registration must include the following:

6 (a) If the professional guardian is a natural person,  
7 the name, address, date of birth, and employer identification  
8 number of the professional guardian.

9 (b) If the professional guardian is a partnership or  
10 association, the name, address, and date of birth of every  
11 member, and the employer identification number of the  
12 partnership or association.

13 (c) If the professional guardian is a corporation, the  
14 name, address and employer identification number of the  
15 corporation; the name, address, and date of birth of each of  
16 its directors and officers; the name of its resident agent;  
17 and the name, address, and date of birth of each person having  
18 at least a 10-percent interest in the corporation.

19 (d) The name, address, date of birth, and employer  
20 identification number, if applicable, of each person employed  
21 or under contract with the professional guardian who is  
22 involved in providing financial or personal guardianship  
23 services for wards.

24 (e) Documentation that the bonding and educational  
25 requirements of s. 744.1085 have been met, and that background  
26 screening has been conducted pursuant to s. 744.3135.

27 (4) The Statewide Public Guardianship Office may adopt  
28 rules necessary to administer this section.

29 Section 2. Paragraph (c) of subsection (2) of section  
30 744.534, Florida Statutes, is amended to read:

31

1           744.534 Disposition of unclaimed funds held by  
2 guardian.--

3           (2)

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

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

20           744.703 Office of public guardian; appointment,  
21 notification.--

22           (1) The executive director of the Statewide Public  
23 Guardianship Office, after consultation with the chief judge  
24 and other circuit judges within the judicial circuit and with  
25 appropriate advocacy groups and individuals and organizations  
26 who are knowledgeable about the needs of incapacitated  
27 persons, may establish, within a county in the judicial  
28 circuit or within the judicial circuit, one or more offices ~~an~~  
29 ~~office~~ of public guardian and if so established, shall create  
30 a list of persons best qualified to serve as the public  
31 guardian, who have been investigated ~~and such qualifications~~

1 ~~shall include review~~ pursuant to s. 744.3135. The public  
2 guardian must have knowledge of the legal process and  
3 knowledge of social services available to meet the needs of  
4 incapacitated persons. The public guardian shall maintain a  
5 staff or contract with professionally qualified individuals to  
6 carry out the guardianship functions, including an attorney  
7 who has experience in probate areas and another person who has  
8 a master's degree in social work, or a gerontologist,  
9 psychologist, registered nurse, or nurse practitioner. A  
10 public guardian that is a nonprofit corporate guardian under  
11 s. 744.309(5) must receive tax-exempt status from the United  
12 States Internal Revenue Service. ~~A nonprofit corporation under~~  
13 ~~s. 744.309(5) may be appointed public guardian only if:~~  
14       ~~(a) It has been granted tax-exempt status from the~~  
15 ~~United States Internal Revenue Service; and~~  
16       ~~(b) It maintains a staff of professionally qualified~~  
17 ~~individuals to carry out the guardianship functions, including~~  
18 ~~a staff attorney who has experience in probate areas and~~  
19 ~~another person who has a master's degree in social work, or a~~  
20 ~~gerontologist, psychologist, registered nurse, or nurse~~  
21 ~~practitioner.~~

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

24           744.7082 Direct-support organization.--

25           (1) As used in this section, the term "direct-support  
26 organization" means a not-for-profit corporation incorporated  
27 under chapter 617 and organized and operated to conduct  
28 programs and activities; initiate developmental projects;  
29 raise funds; request and receive grants, gifts, and bequests  
30 of moneys; acquire, receive, hold, invest, and administer, in  
31 its own name, securities, funds, objects of value, or other

1 property, real or personal; and make expenditures to or for  
2 the direct or indirect benefit of the Statewide Public  
3 Guardianship Office or individual offices of public guardians.

4 (2) The purposes and objectives of the direct-support  
5 organization must be consistent with the priority issues and  
6 objectives of the Statewide Public Guardianship Office and  
7 must be in the best interest of the state.

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

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

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

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27 SENATE SUMMARY

28 Provides for the registration of public guardians.  
29 Revises provisions relating to the disposition of  
30 unclaimed funds. Authorizes the Statewide Public  
31 guardian offices within a county or judicial circuit.  
Provides for direct-support organizations.