

By the Committee on Judiciary; and Senator Saunders

308-2386-03

1 A bill to be entitled
2 An act relating to guardianship; amending s.
3 744.102, F.S.; redefining the term
4 "professional guardian"; amending s. 744.1083,
5 F.S.; revising procedures for registration of
6 professional and public guardians; providing
7 for the Department of Elderly Affairs to
8 contract with a not-for-profit entity;
9 providing for prerequisites; providing for a
10 form; providing fees; requiring information to
11 be provided to the courts; amending s.
12 744.1085, F.S.; revising provisions relating to
13 the regulation of professional and public
14 guardians; providing for credit checks and
15 background screenings; providing for an
16 examination; providing for waiver of
17 examination; prohibiting the appointment, after
18 a specified date, of professional and public
19 guardians who have not met these requirements;
20 amending s. 744.3135, F.S., relating to credit
21 and criminal investigations; deleting
22 applicability to certain employees; allowing a
23 court to require nonprofessional guardians to
24 undergo credit checks and background screening;
25 amending s. 744.444, F.S.; allowing plenary or
26 limited guardians to employ case managers;
27 allowing plenary or limited guardians to
28 provide certain confidential information to
29 ombudsman council members; requiring that
30 confidentiality be maintained; amending s.
31 744.534, F.S.; providing for the Secretary of

1 Elderly Affairs to determine the use of certain
2 unclaimed funds held by a guardian; amending s.
3 744.7021, F.S.; revising the organization of
4 the Statewide Public Guardianship Office within
5 the Department of Elderly Affairs; providing
6 that the Secretary of Elderly Affairs shall
7 appoint or contract with the head of the office
8 to be executive director; providing for
9 rulemaking by the department; amending s.
10 744.704, F.S.; revising the powers and duties
11 of public guardians; prescribing who may be
12 served by public guardians; deleting provisions
13 relating to appointment of a successor
14 guardian; amending s. 744.705, F.S.; repealing
15 a provision for paying the costs of a public
16 guardian from the budget of the office of
17 public guardian; creating the Guardianship Task
18 Force within the department; providing purpose;
19 providing for staff, a chairperson, and
20 membership of the task force; providing for
21 organizations that appoint members to pay their
22 expenses; providing duties of the task force;
23 requiring a preliminary and a final report to
24 the Governor and the Legislature; allowing the
25 appointment of auxiliary members; providing a
26 term of service; providing an effective date.

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

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30 Section 1. Subsection (15) of section 744.102, Florida
31 Statutes, is amended to read:

1 744.102 Definitions.--As used in this chapter, the
2 term:

3 (15) "Professional guardian" means any guardian who
4 receives or has at any time received compensation for services
5 rendered to more than two wards as their guardian. A
6 professional guardian may serve as a public guardian pursuant
7 to part IX of this chapter.A person serving as a guardian for
8 two or more relatives as defined in s. 744.309(2) is not
9 considered a professional guardian.

10 Section 2. Section 744.1083, Florida Statutes, is
11 amended to read:

12 744.1083 ~~Professional guardian~~ Registration of
13 professional and public guardians.--

14 (1) Effective January 1, 2004 ~~2003~~, a professional
15 guardian and a public guardian must register biennially with
16 the Statewide Public Guardianship Office as established in
17 part IX of this chapter. ~~The Statewide Public Guardianship~~
18 ~~Office may contract with the clerk of the court in each county~~
19 ~~to perform the administrative functions associated with~~
20 ~~registering professional guardians.~~

21 (2) The Department of Elderly Affairs shall contract
22 with a not-for-profit entity to perform other functions
23 associated with the registration, examination, and training of
24 professional guardians.

25 (3) Guardian registration must include information
26 sufficient to:

27 (a) Identify accurately the guardian;

28 (b) Distinguish a guardian providing guardianship
29 services as a public guardian or a professional guardian
30 either, individually or through a partnership, a corporation,
31 or any other business organization; and

1 (c) Demonstrate compliance with the bonding,
2 educational, testing, credit history, and background screening
3 requirements of ss. 744.1085 and 744.3135.

4
5 Compliance with this subsection constitutes compliance with
6 the attestation requirements of s. 435.04(5).

7 (4) The department may authorize the collection of a
8 registration fee to cover the actual cost of guardian
9 registration. Such fee shall be determined by rule but may not
10 exceed \$100.

11 (5) Any not-for-profit entity with whom the department
12 has contracted under subsection (2) shall, in accordance with
13 procedures prescribed by the department, provide to the clerk
14 of court and the chief judge of each judicial circuit
15 information relating to guardian registration.

16 ~~(2) Annual registration shall be made on forms~~
17 ~~furnished by the Statewide Public Guardianship Office and~~
18 ~~accompanied by the applicable registration fee as determined~~
19 ~~by rule. Such fee shall not exceed \$25.~~

20 ~~(3) Registration must include the following:~~

21 ~~(a) If the professional guardian is a natural person,~~
22 ~~the name, address, date of birth, and employer identification~~
23 ~~or social security number of the professional guardian.~~

24 ~~(b) If the professional guardian is a partnership or~~
25 ~~association, the name, address, and date of birth of every~~
26 ~~member, and the employer identification number of the~~
27 ~~partnership or association.~~

28 ~~(c) If the professional guardian is a corporation, the~~
29 ~~name, address, and employer identification number of the~~
30 ~~corporation; the name, address, and date of birth of each of~~
31 ~~its directors and officers; the name of its resident agent;~~

1 ~~and the name, address, and date of birth of each person having~~
2 ~~at least a 10-percent interest in the corporation.~~

3 ~~(d) The name, address, date of birth, and employer~~
4 ~~identification number, if applicable, of each person providing~~
5 ~~guardian-delegated financial or personal guardianship services~~
6 ~~for wards.~~

7 ~~(e) Documentation that the bonding and educational~~
8 ~~requirements of s. 744.1085 have been met, and that background~~
9 ~~screening has been conducted pursuant to s. 744.3135.~~

10 (6)(4) The Statewide Public Guardianship Office shall
11 may adopt rules, forms, and procedures necessary to administer
12 this section.

13 (7)(5) A trust company, a state banking corporation or
14 state savings association authorized and qualified to exercise
15 fiduciary powers in this state, or a national banking
16 association or federal savings and loan association authorized
17 and qualified to exercise fiduciary powers in this state, may,
18 but shall not be required to, register as a professional
19 guardian under this section. If a trust company, state banking
20 corporation, state savings association, national banking
21 association, or federal savings and loan association described
22 in this subsection elects to register as a professional
23 guardian under this subsection, the requirements of subsection
24 (3) shall not apply and the registration shall include only
25 the name, address, and employer identification number of the
26 registrant, the name and address of its registered agent, if
27 any, ~~and the documentation described in paragraph (3)(e).~~

28 Section 3. Section 744.1085, Florida Statutes, is
29 amended to read:

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1 744.1085 Regulation of professional and public
2 guardians; application; bond required; educational
3 requirements.--

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

7 (2) Each professional guardian who files a petition
8 for appointment after October 1, 1997, shall post a blanket
9 fiduciary bond with the clerk of the circuit court in the
10 county in which the guardian's primary place of business is
11 located. The guardian shall provide proof of the fiduciary
12 bond to the clerks of each additional circuit court in which
13 he or she is serving as a professional guardian. The bond
14 shall be maintained by the guardian in an amount not less than
15 \$50,000. The bond must cover all wards for whom the guardian
16 has been appointed at any given time. The liability of the
17 provider of the bond is limited to the face amount of the
18 bond, regardless of the number of wards for whom the
19 professional guardian has been appointed. The act or omissions
20 of each employee of a professional guardian who has direct
21 contact with the ward or access to the ward's assets is
22 covered by the terms of such bond. The bond must be payable
23 to the Governor of the State of Florida and his or her
24 successors in office and conditioned on the faithful
25 performance of all duties by the guardian. In form, the bond
26 must be joint and several. The bond is in addition to any
27 bonds required under s. 744.351. This subsection does not
28 apply to any attorney who is licensed to practice law in this
29 state and who is in good standing, to any financial
30 institution as defined in s. 744.309(4), or a public guardian.
31 The expenses incurred to satisfy the bonding requirements

1 prescribed in this section may not be paid with the assets of
2 any ward.

3 (3) Each professional guardian defined in s.
4 744.102(15), on October 1, 1997, must receive a minimum of 40
5 hours of instruction and training by October 1, 1998, or
6 within 1 year after becoming a professional guardian,
7 whichever occurs later. Each professional guardian must
8 receive a minimum of 16 hours of continuing education every 2
9 calendar years after the year in which the initial 40-hour
10 educational requirement is met. The instruction and education
11 must be completed through a course approved or offered by the
12 Statewide Public Guardianship Office. The expenses incurred to
13 satisfy the educational requirements prescribed in this
14 section may not be paid with the assets of any ward. This
15 subsection does not apply to any attorney who is licensed to
16 practice law in this state.

17 (4) Each professional guardian or public guardian must
18 allow, at the guardian's expense, an investigation of the
19 guardian's credit history, conducted in a manner prescribed by
20 the Department of Elderly Affairs.

21 (5) As required in s. 744.3135, each professional or
22 public guardian must allow a level 2 background screening of
23 the guardian in accordance with s. 435.04.

24 (6) After July 1, 2005, each professional or public
25 guardian shall demonstrate her or his competency to act as a
26 professional guardian or public guardian by taking an
27 examination developed or approved by the entity provided in s.
28 744.1083(2) and adopted by the Department of Elderly Affairs.
29 The department, in consultation with such entity, shall
30 determine the minimum examination score necessary to pass the
31 guardianship examination. The department shall determine the

1 procedure for administering the examination and shall charge
2 an examination fee in the amount of the actual cost of
3 developing and administering the examination, not to exceed
4 \$500. The department, in consultation with the entity provided
5 in s. 744.1083(2), may recognize the passing of a national
6 guardianship examination in lieu of passing all or part of the
7 state examination, except that each professional or public
8 guardian must take and pass an approved examination section
9 relating to Florida laws and procedures.

10 (7) The Department of Elderly Affairs, in consultation
11 with the entity provided in s. 744.1083(2), shall set the
12 minimum score necessary to demonstrate competency to become a
13 professional or public guardian.

14 (8) The department shall waive the examination
15 requirement set under subsection (6) if a professional or
16 public guardian provides:

17 (a) Proof that the guardian has actively acted as a
18 professional or public guardian for 5 years or more; and

19 (b) A letter from the chief judge of a judicial
20 circuit before whom the professional or public guardian
21 practiced at least 1 year which states that the professional
22 guardian has demonstrated to the court her or his competency
23 as a professional or public guardian.

24 (9) Beginning July 1, 2004, the court may not appoint
25 as a professional or public guardian any person who has not
26 met the requirements of this section and s. 744.1083.

27 (10) This section does not apply to a professional
28 guardian or the employees of a professional guardian, that is
29 a trust company, a state banking corporation, state savings
30 association authorized and qualified to exercise fiduciary
31 powers in this state, or a national banking association or

1 federal savings and loan association authorized and qualified
2 to exercise fiduciary powers in this state.

3 Section 4. Section 744.3135, Florida Statutes, is
4 amended to read:

5 744.3135 Credit and criminal investigation.--The court
6 may require a nonprofessional guardian and shall require a
7 professional or public guardian, ~~and all employees of a~~
8 ~~professional guardian who have a fiduciary responsibility to a~~
9 ~~ward,~~ to submit, at their own expense, to an investigation of
10 the guardian's credit history and to undergo level 2
11 background screening as required under s. 435.04. The clerk of
12 the court shall obtain fingerprint cards from the Federal
13 Bureau of Investigation and make them available to guardians.
14 Any guardian who is so required shall have his or her
15 fingerprints taken and forward the proper fingerprint card
16 along with the necessary fee to the Florida Department of Law
17 Enforcement for processing. The professional guardian shall
18 pay to the clerk of the court a fee of \$5 for handling and
19 processing professional guardian files. The results of the
20 fingerprint checks shall be forwarded to the clerk of court
21 who shall maintain the results in a guardian file and shall
22 make the results available to the court. If credit or criminal
23 investigations are required, the court must consider the
24 results of the investigations in appointing a guardian.
25 Professional and public guardians ~~and all employees of a~~
26 ~~professional guardian who have a fiduciary responsibility to a~~
27 ~~ward, so appointed,~~ must resubmit, at their own expense, to an
28 investigation of credit history, and undergo level 1
29 background screening as required under s. 435.03, at least
30 every 2 years after the date of their appointment. At any
31 time, the court may require a nonprofessional guardian to

1 submit to an investigation of his or her credit history and
2 undergo level 1 background screening as required under s.
3 435.03.The court must consider the results of these
4 investigations in reappointing a guardian. This section shall
5 not apply to a professional guardian, or to the employees of a
6 professional guardian, that is a trust company, a state
7 banking corporation or state savings association authorized
8 and qualified to exercise fiduciary powers in this state, or a
9 national banking association or federal savings and loan
10 association authorized and qualified to exercise fiduciary
11 powers in this state.

12 Section 5. Subsection (13) of section 744.444, Florida
13 Statutes, is amended, and subsection (16) is added to that
14 section, to read:

15 744.444 Power of guardian without court
16 approval.--Without obtaining court approval, a plenary
17 guardian of the property, or a limited guardian of the
18 property within the powers granted by the order appointing the
19 guardian or an approved annual or amended guardianship report,
20 may:

21 (13) When reasonably necessary, employ persons,
22 including attorneys, auditors, investment advisers, case
23 managers, or agents, even if they are associated with the
24 guardian, to advise or assist the guardian in the performance
25 of his or her duties.

26 (16) Provide confidential information of a ward which
27 is related to an investigation arising under part I of chapter
28 400 to a local or state ombudsman council member who is
29 conducting the investigation. Such information must be
30 provided within 7 days after the initial written request. Any
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1 such ombudsman must maintain the confidentiality of such
2 information.

3 Section 6. Paragraph (c) of subsection (2) of section
4 744.534, Florida Statutes, is amended to read:

5 744.534 Disposition of unclaimed funds held by
6 guardian.--

7 (2)

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

23 Section 7. Section 744.7021, Florida Statutes, is
24 amended to read:

25 744.7021 Statewide Public Guardianship Office.--There
26 is hereby created the Statewide Public Guardianship Office
27 within the Department of Elderly Affairs. ~~The Department of~~
28 ~~Elderly Affairs shall provide administrative support and~~
29 ~~service to the office to the extent requested by the executive~~
30 ~~director within the available resources of the department. The~~
31 ~~Statewide Public Guardianship Office may request the~~

1 ~~assistance of the Inspector General of the Department of~~
2 ~~Elderly Affairs in providing auditing services, and the Office~~
3 ~~of General Counsel of the department may provide assistance in~~
4 ~~rulemaking and other matters as needed to assist the Statewide~~
5 ~~Public Guardianship Office. The Statewide Public Guardianship~~
6 ~~Office shall not be subject to control, supervision, or~~
7 ~~direction by the Department of Elderly Affairs in the~~
8 ~~performance of its duties.~~

9 (1) The Secretary of Elderly Affairs shall appoint or
10 contract with the executive director of the office, who shall
11 be the head of the Statewide Public Guardianship Office ~~is the~~
12 ~~executive director, who shall be appointed by the Governor.~~
13 The executive director must be a member of The Florida Bar in
14 good standing ~~licensed attorney~~ with a background in
15 guardianship law and knowledge of social services available to
16 meet the needs of incapacitated persons, ~~shall serve on a~~
17 ~~full-time basis,~~ and shall personally, or through
18 representatives of the office, carry out the purposes and
19 functions of the Statewide Public Guardianship Office in
20 accordance with state and federal law. The executive director
21 shall serve at the pleasure of and report to the secretary
22 ~~Governor.~~

23 (2) The executive director ~~Statewide Public~~
24 ~~Guardianship Office~~ shall, directly or through contract with
25 the Department of Elderly Affairs, and within available
26 resources, have oversight responsibilities for all public
27 guardians.

28 (a) The executive director ~~office~~ shall review the
29 current public guardian programs in Florida and other states.
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1 (b) The executive director ~~office~~, in consultation
2 with local guardianship offices, shall develop statewide
3 performance measures and standards.

4 (c) The executive director ~~office~~ shall review the
5 various methods of funding guardianship programs, the kinds of
6 services being provided by such programs, and the demographics
7 of the wards. In addition, the executive director ~~office~~ shall
8 review and make recommendations regarding the feasibility of
9 recovering a portion or all of the costs of providing public
10 guardianship services from the assets or income of the wards.

11 (d) No later than October 1, 2000, the office shall
12 submit to the Governor, the President of the Senate, the
13 Speaker of the House of Representatives, and the Chief Justice
14 of the Supreme Court an interim report describing the progress
15 of the office in meeting the goals as described in this
16 section. No later than October 1, 2001, the office shall
17 submit to the Governor, the President of the Senate, the
18 Speaker of the House of Representatives, and the Chief Justice
19 of the Supreme Court a proposed public guardianship plan
20 including alternatives for meeting the state's guardianship
21 needs. This plan may include recommendations for less than the
22 entire state, may include a phase-in system, and shall include
23 estimates of the cost of each of the alternatives. Each year
24 thereafter, the executive director ~~office~~ shall provide a
25 status report and provide to the secretary further
26 recommendations that ~~to~~ address the need for public
27 guardianship services and related issues.

28 (e) The executive director ~~office~~ may provide
29 assistance to local governments or entities in pursuing grant
30 opportunities. The executive director ~~office~~ shall review and
31 make recommendations in the annual report on the availability

1 and efficacy of seeking Medicaid matching funds. The executive
2 director office shall diligently seek ways to use existing
3 programs and services to meet the needs of public wards.

4 (f) The executive director, in consultation with the
5 entity provided in s. 744.1083 office shall develop a
6 guardianship training program curriculum that. ~~The training~~
7 ~~program~~ may be offered to all guardians whether public or
8 private. ~~The office shall establish a curriculum committee to~~
9 ~~develop the training program specified in this part. The~~
10 ~~curriculum committee shall include, but not be limited to,~~
11 ~~probate judges. A fee may be charged to private guardians in~~
12 ~~order to defray the cost of providing the training. In~~
13 ~~addition, a fee may be charged to any training provider for up~~
14 ~~to the actual cost of the review and approval of their~~
15 ~~curriculum. Any fees collected pursuant to this paragraph~~
16 ~~shall be deposited in the Department of Elderly Affairs~~
17 ~~Administrative Trust Fund to be used for the guardianship~~
18 ~~training program.~~

19 (3) The executive director office may conduct or
20 contract for demonstration projects authorized by the
21 Department of Elderly Affairs, within funds appropriated or
22 through gifts, grants, or contributions for such purposes, to
23 determine the feasibility or desirability of new concepts of
24 organization, administration, financing, or service delivery
25 designed to preserve the civil and constitutional rights of
26 persons of marginal or diminished capacity. Any gifts, grants,
27 or contributions for such purposes shall be deposited in the
28 Department of Elderly Affairs Administrative Trust Fund.

29 (4) The Department of Elderly Affairs office has
30 authority to adopt rules pursuant to ss. 120.536(1) and 120.54
31 to carry out the provisions of this section.

1 Section 8. Section 744.704, Florida Statutes, is
2 amended to read:

3 744.704 Powers and duties.--

4 (1) A public guardian may serve as a guardian of a
5 person adjudicated incapacitated under this chapter.†

6 ~~(a) If there is no family member or friend, other~~
7 ~~person, bank, or corporation willing and qualified to serve as~~
8 ~~guardian† and~~

9 ~~(b) If the assets of the ward do not exceed the asset~~
10 ~~level for Medicaid eligibility, exclusive of homestead and~~
11 ~~exempt property as defined in s. 4, Art. X of the State~~
12 ~~Constitution, and the ward's income, from all sources, is less~~
13 ~~than \$4,000 per year. Income from public welfare programs,~~
14 ~~supplemental security income, optional state supplement, a~~
15 ~~disability pension, or a social security pension shall be~~
16 ~~excluded in such computation. However, a ward whose total~~
17 ~~income, counting excludable income, exceeds \$30,000 a year may~~
18 ~~not be served.~~

19 (2) The public guardian shall be vested with all the
20 powers and duties of a guardian under this chapter, except as
21 otherwise provided by law.

22 (3) The public guardian shall primarily serve
23 incapacitated persons who are of limited financial means, as
24 defined by contract or rule of the Department of Elderly
25 Affairs. The public guardian may serve incapacitated persons
26 of greater financial means to the extent that the Department
27 of Elderly Affairs determines to be appropriate.~~if the public~~
28 ~~guardian finds that the assets or the income of the ward~~
29 ~~exceeds the amounts set forth in paragraph (1)(b), the public~~
30 ~~guardian shall submit a resignation and petition the court for~~
31 ~~appointment of a successor guardian. The public guardian~~

1 ~~shall not be dismissed until such time that a private guardian~~
2 ~~is appointed. If a qualified successor guardian is not~~
3 ~~available, the public guardian may remain as guardian,~~
4 ~~provided the guardian makes reasonable efforts to find a~~
5 ~~successor and reports to the court every 6 months on efforts~~
6 ~~to obtain a successor.~~

7 (4) The public guardian shall be authorized to employ
8 sufficient staff to carry out the duties of his or her office.

9 (5) The public guardian may delegate to assistants and
10 other members of his or her staff the powers and duties of the
11 office of public guardian, except as otherwise limited by law.
12 The public guardian shall retain ultimate responsibility for
13 the discharge of his or her duties and responsibilities.

14 ~~(6) The public guardian, when appointed guardian of an~~
15 ~~incapacitated person, shall seek a family member or friend,~~
16 ~~other person, bank, or corporation who is qualified and~~
17 ~~willing to serve as guardian. Upon determining that there is~~
18 ~~someone qualified and willing to serve as guardian, either the~~
19 ~~public guardian or the qualified person shall petition the~~
20 ~~court for appointment of a successor guardian.~~

21 (6)(7) A public guardian shall not commit a ward to a
22 mental health treatment facility, as defined in s.
23 394.455(30), without an involuntary placement proceeding as
24 provided by law.

25 (7)(8) When a person is appointed successor public
26 guardian, he or she immediately succeeds to all rights,
27 duties, responsibilities, and powers of the preceding public
28 guardian.

29 (8)(9) When the position of public guardian is vacant,
30 subordinate personnel employed under subsection (4) shall
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1 continue to act as if the position of public guardian were
2 filled.

3 Section 9. Section 744.705, Florida Statutes, is
4 amended to read:

5 744.705 Costs of public guardian.--

6 ~~(1) All costs of administration, including filing~~
7 ~~fees, shall be paid from the budget of the office of public~~
8 ~~guardian. No costs of administration, including filing fees,~~
9 ~~shall be recovered from the assets or the income of the ward.~~

10 ~~(2)~~ In any proceeding for appointment of a public
11 guardian, or in any proceeding involving the estate of a ward
12 for whom a public guardian has been appointed guardian, the
13 court may waive any court costs or filing fees.

14 Section 10. Guardianship Task Force; creation;
15 membership, duties.--

16 (1) There is created within the Department of Elderly
17 Affairs a Guardianship Task Force. The purpose of the task
18 force is to examine guardianship and incapacity and make
19 recommendations to the Governor and the Legislature for the
20 improvement of guardianship and incapacity practice. The
21 department shall staff the task force. The Secretary of
22 Elderly Affairs shall appoint the chair of the task force.
23 Members of the task force shall serve without compensation.
24 Unless specified otherwise, task force members shall be
25 appointed by the respective organizations that they represent.

26 (2) Members shall serve without compensation. Any
27 member of the committee who is a public employee is entitled
28 to reimbursement for per diem and travel expenses by his or
29 her employer, and the cost of each member's participation must
30 be borne by the organization that appointed the member.

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1 (3) The Guardianship Task Force shall identify the
2 characteristics of Florida guardianship practice. It shall
3 also identify guardianship best practices and recommend
4 specific statutory and other changes for achieving such best
5 practices and for achieving citizen access to quality
6 guardianship services. The task force shall submit a
7 preliminary report to the Governor, the Secretary of Elderly
8 Affairs and the Legislature no later than January 1, 2004, and
9 shall submit a final report no later than January 1, 2005.

10 (4) The Guardianship Task Force shall consist of 10
11 members as follows: a judge who has experience sitting in
12 guardianship proceedings appointed by the Florida Conference
13 of Circuit Judges, a representative of the Association of
14 Clerks of Court, a professor of law who has experience in
15 elder issues appointed by the Secretary of Elderly Affairs, a
16 representative of the Florida State Guardianship Association,
17 a representative of the Florida Guardianship Foundation, a
18 representative of the Real Property and Probate Section of The
19 Florida Bar, a representative of the Elder Law Section of The
20 Florida Bar, a professional who has experience in examining
21 and determining incapacity, a representative of the Florida
22 Bankers' Association and a citizen/consumer appointed by the
23 Florida AARP (American Association of Retired Persons).

24 (5) The Guardianship Task Force may appoint auxiliary
25 members based on their expertise to assist the task force in
26 carrying out its duties.

27 (6) The task force is terminated May 6, 2005.

28 Section 11. This act shall take effect July 1, 2003.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill SB 1782

4 Replaces all the original provisions of the bill with the
5 following provisions:

6 - Places the Statewide Public Guardianship Office under the
7 direct auspice and control of the Department of Elderly
8 Affairs and the Secretary of Elderly Affairs.

9 - Requires the Department of Elderly Affairs to contract with
10 a not-for-profit entity to statutory perform functions
11 associated with the registration, examination and training of
12 professional guardians.

13 - Revises provisions for statewide registration of
14 professional guardians and expands the registry requirement to
15 public guardian.

16 - Requires professional and public guardians to undergo
17 revised credit and criminal background screenings and to take
18 a state competency exam as a prerequisite to appointment.

19 - Allows plenary and limited guardians to employ case managers
20 and to provide confidential ward information under specified
21 terms to local ombudsman council members for investigative
22 purposes related to complaints in nursing homes or long-term
23 care facilities.

24 - Revises the powers and duties of the public guardian.

25 - Allows a professional guardian to serve as a public
26 guardian.

27 - Eliminates a provision that requires a public guardian's
28 administrative costs to be paid from the Statewide Public
29 Guardianship Office' s budget.

30 - Creates a 10-member Guardianship Task Force and sets forth
31 its duties including the submission of a preliminary and final
report to the Governor and the Legislature regarding the
status of the guardianship delivery system and recommendations
for improvements.