

By the Committees on Finance and Taxation; Judiciary; and  
Senator Saunders

314-2528-03

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; providing for  
12          voluntary registration as a public guardian of  
13          a state college or university or independent  
14          college or university; providing required  
15          registration information; amending s. 744.1085,  
16          F.S.; revising provisions relating to the  
17          regulation of professional and public  
18          guardians; providing for credit checks and  
19          background screenings; providing for an  
20          examination; providing for waiver of  
21          examination; prohibiting the appointment, after  
22          a specified date, of professional and public  
23          guardians who have not met these requirements;  
24          amending s. 744.3135, F.S., relating to credit  
25          and criminal investigations; deleting  
26          applicability to certain employees; allowing a  
27          court to require nonprofessional guardians to  
28          undergo credit checks and background screening;  
29          amending s. 744.444, F.S.; allowing plenary or  
30          limited guardians to employ case managers;  
31          permitting reasonable reimbursement of

1 compensation and fees for persons employed by  
2 the guardian for services provided to the  
3 guardianship estate; allowing plenary or  
4 limited guardians to provide certain  
5 confidential information to ombudsman council  
6 members; requiring that confidentiality be  
7 maintained; amending s. 744.534, F.S.;  
8 providing for the Secretary of Elderly Affairs  
9 to determine the use of certain unclaimed funds  
10 held by a guardian; amending s. 744.7021, F.S.;  
11 revising the organization of the Statewide  
12 Public Guardianship Office within the  
13 Department of Elderly Affairs; providing that  
14 the Secretary of Elderly Affairs shall appoint  
15 or contract with the head of the office to be  
16 executive director; providing for rulemaking by  
17 the department; amending s. 744.704, F.S.;  
18 revising the powers and duties of public  
19 guardians; prescribing who may be served by  
20 public guardians; amending s. 744.705, F.S.;  
21 repealing a provision for paying the costs of a  
22 public guardian from the budget of the office  
23 of public guardian; creating the Guardianship  
24 Task Force within the department; providing  
25 purpose; providing for staff, a chairperson,  
26 and membership of the task force; providing for  
27 organizations that appoint members to pay their  
28 expenses; providing duties of the task force;  
29 requiring a preliminary and a final report to  
30 the Governor and the Legislature; allowing the  
31 appointment of auxiliary members; providing a

1 term of service; amending s. 744.108, F.S.;

2 providing that costs and attorney's fees

3 incurred as part of the guardianship

4 administration shall be determined by the

5 court; amending s. 744.3145, F.S.; reducing the

6 educational requirements for a person serving

7 as a guardian for the person's minor child;

8 providing an effective date.

9

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

11

12 Section 1. Subsection (15) of section 744.102, Florida

13 Statutes, is amended to read:

14 744.102 Definitions.--As used in this chapter, the

15 term:

16 (15) "Professional guardian" means any guardian who

17 receives or has at any time received compensation for services

18 rendered to more than two wards as their guardian. A

19 professional guardian may serve as a public guardian pursuant

20 to part IX of this chapter.A person serving as a guardian for

21 two or more relatives as defined in s. 744.309(2) is not

22 considered a professional guardian.

23 Section 2. Section 744.1083, Florida Statutes, is

24 amended to read:

25 744.1083 ~~Professional guardian~~ Registration of of

26 professional and public guardians.--

27 (1) Effective January 1, 2004 ~~2003~~, a professional

28 guardian and a public guardian must register biennially with

29 the Statewide Public Guardianship Office as established in

30 part IX of this chapter. ~~The Statewide Public Guardianship~~

31 ~~Office may contract with the clerk of the court in each county~~

1 ~~to perform the administrative functions associated with~~  
2 ~~registering professional guardians.~~

3 (2) The Department of Elderly Affairs shall contract  
4 with the Florida Guardianship Foundation or another  
5 not-for-profit entity to perform other functions associated  
6 with the registration, examination, and training of  
7 professional and public guardians.

8 (3) Guardian registration must include information  
9 sufficient to:

10 (a) Identify accurately the guardian;

11 (b) Distinguish a guardian providing guardianship  
12 services as a public guardian or a professional guardian  
13 either, individually or through a partnership, a corporation,  
14 or any other business organization; and

15 (c) Demonstrate compliance with the bonding,  
16 educational, testing, credit history, and background screening  
17 requirements of ss. 744.1085 and 744.3135.

18  
19 Compliance with this subsection constitutes compliance with  
20 the attestation requirements of s. 435.04(5).

21 (4) The department may authorize the collection of a  
22 registration fee to cover the actual cost of guardian  
23 registration. Such fee shall be determined by rule but may not  
24 exceed \$100.

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

30 ~~(2) Annual registration shall be made on forms~~  
31 ~~furnished by the Statewide Public Guardianship Office and~~

1 ~~accompanied by the applicable registration fee as determined~~  
2 ~~by rule. Such fee shall not exceed \$25.~~

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

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

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

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

17 ~~(d) The name, address, date of birth, and employer~~  
18 ~~identification number, if applicable, of each person providing~~  
19 ~~guardian-delegated financial or personal guardianship services~~  
20 ~~for wards.~~

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

24 ~~(6)(4) The Statewide Public Guardianship Office shall~~  
25 ~~may adopt rules, forms, and procedures necessary to administer~~  
26 ~~this section.~~

27 ~~(7)(5) A trust company, a state banking corporation or~~  
28 ~~state savings association authorized and qualified to exercise~~  
29 ~~fiduciary powers in this state, or a national banking~~  
30 ~~association or federal savings and loan association authorized~~  
31 ~~and qualified to exercise fiduciary powers in this state, may,~~

1 but shall not be required to, register as a professional  
2 guardian under this section and may serve as a professional  
3 guardian without registration with all of the rights and  
4 privileges of a person registered under this chapter. If a  
5 trust company, state banking corporation, state savings  
6 association, national banking association, or federal savings  
7 and loan association described in this subsection elects to  
8 register as a professional guardian under this subsection, the  
9 requirements of subsection (3) shall not apply and the  
10 registration shall include only the name, address, and  
11 employer identification number of the registrant, the name and  
12 address of its registered agent, if any, ~~and the documentation~~  
13 ~~described in paragraph (3)(e).~~

14 (8) A state college or university or an independent  
15 college or university as described pursuant to s.  
16 1009.98(3)(a) may, but shall not be required to, register as a  
17 public guardian under this section. If a state college or  
18 university or independent college or university elects to  
19 register as a public guardian under this subsection, the  
20 requirements of subsection (3) shall not apply and the  
21 registration shall include only the name, address, and  
22 employer identification number of the registrant.

23 Section 3. Section 744.1085, Florida Statutes, is  
24 amended to read:

25 744.1085 Regulation of professional and public  
26 guardians; application; bond required; educational  
27 requirements.--

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

31

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

28           (3) Each professional guardian defined in s.  
29 744.102(15) and public guardian, ~~on October 1, 1997~~, must  
30 receive a minimum of 40 hours of instruction and training ~~by~~  
31 ~~October 1, 1998, or within 1 year after becoming a~~

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

11 (4) Each professional guardian or public guardian must  
12 allow, at the guardian's expense, an investigation of the  
13 guardian's credit history, conducted in a manner prescribed by  
14 the Department of Elderly Affairs.

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

18 (6) After July 1, 2005, each professional or public  
19 guardian shall demonstrate her or his competency to act as a  
20 professional guardian or public guardian by taking an  
21 examination developed or approved by the entity provided in s.  
22 744.1083(2) and adopted by the Department of Elderly Affairs.  
23 The department shall determine the procedure for administering  
24 the examination and shall charge an examination fee in the  
25 amount of the actual cost of developing and administering the  
26 examination, not to exceed \$500. The department, in  
27 consultation with the entity provided in s. 744.1083(2), may  
28 recognize the passing of a national guardianship examination  
29 in lieu of passing all or part of the state examination,  
30 except that each professional or public guardian must take and  
31



1 pass an approved examination section relating to Florida laws  
2 and procedures.

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

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

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

12 (b) A letter from the chief judge of a judicial  
13 circuit before whom the professional or public guardian  
14 practiced at least 1 year which states that the professional  
15 guardian has demonstrated to the court her or his competency  
16 as a professional or public guardian.

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

20 (10) This section does not apply to a professional  
21 guardian or the employees of a professional guardian, that is  
22 a trust company, a state banking corporation, state savings  
23 association authorized and qualified to exercise fiduciary  
24 powers in this state, or a national banking association or  
25 federal savings and loan association authorized and qualified  
26 to exercise fiduciary powers in this state.

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

29 744.3135 Credit and criminal investigation.--The court  
30 may require a nonprofessional guardian and shall require a  
31 professional or public guardian, ~~and all employees of a~~

1 ~~professional guardian who have a fiduciary responsibility to a~~  
2 ~~ward,~~to submit, at their own expense, to an investigation of  
3 the guardian's credit history and to undergo level 2  
4 background screening as required under s. 435.04. The clerk of  
5 the court shall obtain fingerprint cards from the Federal  
6 Bureau of Investigation and make them available to guardians.  
7 Any guardian who is so required shall have his or her  
8 fingerprints taken and forward the proper fingerprint card  
9 along with the necessary fee to the Florida Department of Law  
10 Enforcement for processing. The professional guardian shall  
11 pay to the clerk of the court a fee of \$5 for handling and  
12 processing professional guardian files. The results of the  
13 fingerprint checks shall be forwarded to the clerk of court  
14 who shall maintain the results in a guardian file and shall  
15 make the results available to the court. If credit or criminal  
16 investigations are required, the court must consider the  
17 results of the investigations in appointing a guardian.  
18 Professional and public guardians ~~and all employees of a~~  
19 ~~professional guardian who have a fiduciary responsibility to a~~  
20 ~~ward,~~so appointed,must resubmit, at their own expense, to an  
21 investigation of credit history, and undergo level 1  
22 background screening as required under s. 435.03, at least  
23 every 2 years after the date of their appointment. At any  
24 time, the court may require a guardian to submit to an  
25 investigation of his or her credit history and undergo level 1  
26 background screening as required under s. 435.03.The court  
27 must consider the results of these investigations in  
28 reappointing a guardian. This section shall not apply to a  
29 professional guardian, or to the employees of a professional  
30 guardian, that is a trust company, a state banking corporation  
31 or state savings association authorized and qualified to

1 exercise fiduciary powers in this state, or a national banking  
2 association or federal savings and loan association authorized  
3 and qualified to exercise fiduciary powers in this state.

4 Section 5. Subsection (13) of section 744.444, Florida  
5 Statutes, is amended, and subsections (16) and (17) are added  
6 to that section, to read:

7 744.444 Power of guardian without court  
8 approval.--Without obtaining court approval, a plenary  
9 guardian of the property, or a limited guardian of the  
10 property within the powers granted by the order appointing the  
11 guardian or an approved annual or amended guardianship report,  
12 may:

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

18 (16) Pay or reimburse costs incurred and reasonable  
19 fees or compensation to persons, including attorneys, employed  
20 by the guardian pursuant to subsection (13) from the assets of  
21 the guardianship estate, subject to obtaining court approval  
22 of the annual accounting.

23 (17) Provide confidential information of a ward which  
24 is related to an investigation arising under part I of chapter  
25 400 to a local or state ombudsman council member who is  
26 conducting the investigation. Such information must be  
27 provided within 7 days after the initial written request. Any  
28 such ombudsman must maintain the confidentiality of such  
29 information.

30 Section 6. Paragraph (c) of subsection (2) of section  
31 744.534, Florida Statutes, is amended to read:

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

3           (2)

4           (c) Within 5 years from the date of deposit with the  
5 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 years from the  
13 date of deposit shall escheat to the state to be deposited in  
14 the Department of Elderly Affairs Administrative Trust Fund to  
15 be used solely for the benefit of public guardianship as  
16 determined by the Secretary of Elderly Affairs Statewide  
17 ~~Public Guardianship Office established in part IX of this~~  
18 ~~chapter.~~

19           Section 7. Section 744.7021, Florida Statutes, is  
20 amended to read:

21           744.7021 Statewide Public Guardianship Office.--There  
22 is hereby created the Statewide Public Guardianship Office  
23 within the Department of Elderly Affairs. ~~The Department of~~  
24 ~~Elderly Affairs shall provide administrative support and~~  
25 ~~service to the office to the extent requested by the executive~~  
26 ~~director within the available resources of the department. The~~  
27 ~~Statewide Public Guardianship Office may request the~~  
28 ~~assistance of the Inspector General of the Department of~~  
29 ~~Elderly Affairs in providing auditing services, and the Office~~  
30 ~~of General Counsel of the department may provide assistance in~~  
31 ~~rulemaking and other matters as needed to assist the Statewide~~

1 ~~Public Guardianship Office. The Statewide Public Guardianship~~  
2 ~~Office shall not be subject to control, supervision, or~~  
3 ~~direction by the Department of Elderly Affairs in the~~  
4 ~~performance of its duties.~~

5 (1) The Secretary of Elderly Affairs shall appoint or  
6 contract with the executive director of the office, who shall  
7 be the head of the Statewide Public Guardianship Office ~~is the~~  
8 ~~executive director, who shall be appointed by the Governor.~~

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

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

24 (a) The executive director ~~office~~ shall review the  
25 current public guardian programs in Florida and other states.

26 (b) The executive director ~~office~~, in consultation  
27 with local guardianship offices, shall develop statewide  
28 performance measures and standards.

29 (c) The executive director ~~office~~ shall review the  
30 various methods of funding guardianship programs, the kinds of  
31 services being provided by such programs, and the demographics

1 of the wards. In addition, the executive director ~~office~~ shall  
2 review and make recommendations regarding the feasibility of  
3 recovering a portion or all of the costs of providing public  
4 guardianship services from the assets or income of the wards.

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

22 (e) The executive director ~~office~~ may provide  
23 assistance to local governments or entities in pursuing grant  
24 opportunities. The executive director ~~office~~ shall review and  
25 make recommendations in the annual report on the availability  
26 and efficacy of seeking Medicaid matching funds. The executive  
27 director ~~office~~ shall diligently seek ways to use existing  
28 programs and services to meet the needs of public wards.

29 (f) The executive director, in consultation with the  
30 entity provided in s. 744.1083 ~~office~~ shall develop a  
31 guardianship training program curriculum that. ~~The training~~

1 ~~program~~ may be offered to all guardians whether public or  
2 private. ~~The office shall establish a curriculum committee to~~  
3 ~~develop the training program specified in this part. The~~  
4 ~~curriculum committee shall include, but not be limited to,~~  
5 ~~probate judges. A fee may be charged to private guardians in~~  
6 ~~order to defray the cost of providing the training. In~~  
7 ~~addition, a fee may be charged to any training provider for up~~  
8 ~~to the actual cost of the review and approval of their~~  
9 ~~curriculum. Any fees collected pursuant to this paragraph~~  
10 ~~shall be deposited in the Department of Elderly Affairs~~  
11 ~~Administrative Trust Fund to be used for the guardianship~~  
12 ~~training program.~~

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

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

26           Section 8. Subsections (1), (2), and (3) of section  
27 744.704, Florida Statutes, are amended to read:

28           744.704 Powers and duties.--

29           (1) A public guardian may serve as a guardian of a  
30 person adjudicated incapacitated under this chapter.+

31

1           ~~(a) If there is no family member or friend, other~~  
2 ~~person, bank, or corporation willing and qualified to serve as~~  
3 ~~guardian; and~~

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

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

17           (3) The public guardian shall primarily serve  
18 incapacitated persons who are of limited financial means, as  
19 defined by contract or rule of the Department of Elderly  
20 Affairs. The public guardian may serve incapacitated persons  
21 of greater financial means to the extent that the Department  
22 of Elderly Affairs determines to be appropriate.~~If the public~~  
23 ~~guardian finds that the assets or the income of the ward~~  
24 ~~exceeds the amounts set forth in paragraph (1)(b), the public~~  
25 ~~guardian shall submit a resignation and petition the court for~~  
26 ~~appointment of a successor guardian. The public guardian~~  
27 ~~shall not be dismissed until such time that a private guardian~~  
28 ~~is appointed. If a qualified successor guardian is not~~  
29 ~~available, the public guardian may remain as guardian,~~  
30 ~~provided the guardian makes reasonable efforts to find a~~



1 ~~successor and reports to the court every 6 months on efforts~~  
2 ~~to obtain a successor.~~

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.

31

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. Subsection (8) is added to section  
29 744.108, Florida Statutes, to read:

30           744.108 Guardian's and attorney's fees and expenses.--

31

1           (8) When court proceedings are instituted to review or  
2 determine a guardian's or an attorney's fees under subsection  
3 (2), such proceedings are part of the guardianship  
4 administration process and the costs, including fees for the  
5 guardian's attorney, shall be determined by the court and paid  
6 from the assets of the guardianship estate unless the court  
7 finds the requested compensation under subsection (2) to be  
8 substantially unreasonable.

9           Section 12. Section 744.3145, Florida Statutes, is  
10 amended to read:

11           744.3145 Guardian education requirements.--

12           (1) Each ward is entitled to a guardian competent to  
13 perform the duties of a guardian necessary to protect the  
14 interests of the ward.

15           (2) Each person appointed by the court to be a  
16 guardian, other than a parent who is the guardian of the  
17 property of a minor child, must receive a minimum of 8 hours  
18 of instruction and training which covers:

19           (a) The legal duties and responsibilities of the  
20 guardian;

21           (b) The rights of the ward;

22           (c) The availability of local resources to aid the  
23 ward; and

24           (d) The preparation of habilitation plans and annual  
25 guardianship reports, including financial accounting for the  
26 ward's property.

27           (3) Each person appointed by the court to be the  
28 guardian of the property of his or her minor child must  
29 receive a minimum of 4 hours of instruction and training that  
30 covers:

31

1           (a) The legal duties and responsibilities of the  
2 guardian of the property;

3           (b) The preparation of the initial inventory and  
4 annual guardianship accountings for the ward's property; and

5           (c) Use of guardianship assets.

6           ~~(4)(3)~~ Each person appointed by the court to be a  
7 guardian must complete the required number of 8 hours of  
8 instruction and education within 1 year after his or her  
9 appointment as guardian. The instruction and education must  
10 be completed through a course approved by the chief judge of  
11 the circuit court and taught by a court-approved organization.  
12 Court-approved organizations may include, but are not limited  
13 to, community or junior colleges, guardianship organizations,  
14 and the local bar association or The Florida Bar.

15           ~~(5)(4)~~ Expenses incurred by the guardian to satisfy  
16 the education requirement may be paid from the ward's estate,  
17 unless the court directs that such expenses be paid by the  
18 guardian individually.

19           ~~(6)(5)~~ The court may, in its discretion, waive some or  
20 all of the requirements of this section or impose additional  
21 requirements. The court shall make its decision on a  
22 case-by-case basis and, in making its decision, shall consider  
23 the experience and education of the guardian, the duties  
24 assigned to the guardian, and the needs of the ward.

25           ~~(7)(6)~~ The provisions of this section do not apply to  
26 professional guardians.

27           Section 13. This act shall take effect July 1, 2003.

28  
29  
30  
31

1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3                                   CS/SB 1782

4   The committee substitute requires the Department of Elderly  
5   Affairs to contract with the Florida Guardianship Foundation  
6   or another not-for-profit entity to perform functions  
7   associated with the registration, examination and training of  
8   professional guardians.

9   The committee substitute provides that when court proceedings  
10  are instituted to review or determine a guardian's or an  
11  attorney's fees, such proceedings are part of the guardianship  
12  administration process and the costs, including fees for the  
13  guardian's attorney, shall be determined by the court and paid  
14  from the assets of the guardianship estate, unless the court  
15  finds the requested compensation unreasonable.

16  The committee substitute reduces the educational requirements  
17  for a person serving as a guardian for his or her own minor  
18  child from 8 hours to 4 hours.

19  The committee substitute provides that a financial institution  
20  may register as a professional guardian, but does not have to  
21  in order to serve as a professional guardian with all of the  
22  rights and privileges of a registered guardian.

23  The committee substitute provides that a state college or  
24  university or an independent college or university as  
25  described pursuant to s. 1009.98(3)(a), F.S., may, but shall  
26  not be required to, register as a public guardian.

27  The committee substitute requires guardians to obtain court  
28  approval of the annual accounting in order to pay or reimburse  
29  costs incurred and reasonable fees or compensation to persons,  
30  including attorneys, employed by the guardian, from assets of  
31  the guardianship estate.