

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; allowing a court
26 to require nonprofessional guardians to undergo
27 credit checks and background screening;
28 amending s. 744.444, F.S.; allowing plenary or
29 limited guardians to employ case managers;
30 permitting reasonable reimbursement of
31 compensation and fees for persons employed by

1 the guardian for services provided to the
2 guardianship estate; allowing plenary or
3 limited guardians to provide certain
4 confidential information to ombudsman council
5 members; requiring that confidentiality be
6 maintained; amending s. 744.534, F.S.;
7 providing for the Secretary of Elderly Affairs
8 to determine the use of certain unclaimed funds
9 held by a guardian; amending s. 744.7021, F.S.;
10 revising the organization of the Statewide
11 Public Guardianship Office within the
12 Department of Elderly Affairs; providing that
13 the Secretary of Elderly Affairs shall appoint
14 or contract with the head of the office to be
15 executive director; providing for rulemaking by
16 the department; amending s. 744.704, F.S.;
17 revising the powers and duties of public
18 guardians; prescribing who may be served by
19 public guardians; creating the Guardianship
20 Task Force within the department; providing
21 purpose; providing for staff, a chairperson,
22 and membership of the task force; providing for
23 organizations that appoint members to pay their
24 expenses; providing duties of the task force;
25 requiring a preliminary and a final report to
26 the Governor and the Legislature; allowing the
27 appointment of auxiliary members; providing a
28 term of service; amending s. 744.108, F.S.;
29 providing that costs and attorney's fees
30 incurred as part of the guardianship
31 administration shall be determined by the

1 court; amending s. 744.3145, F.S.; reducing the
2 educational requirements for a person serving
3 as a guardian for the person's minor child;
4 providing an effective date.
5

6 Be It Enacted by the Legislature of the State of Florida:
7

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

10 744.102 Definitions.--As used in this chapter, the
11 term:

12 (15) "Professional guardian" means any guardian who
13 receives or has at any time received compensation for services
14 rendered to more than two wards as their guardian. A
15 professional guardian may serve as a public guardian pursuant
16 to part IX of this chapter.A person serving as a guardian for
17 two or more relatives as defined in s. 744.309(2) is not
18 considered a professional guardian.

19 Section 2. Section 744.1083, Florida Statutes, is
20 amended to read:

21 744.1083 ~~Professional guardian~~ Registration of of
22 professional and public guardians.--

23 (1) Effective January 1, 2004 ~~2003~~, a professional
24 guardian and a public guardian must register biennially with
25 the Statewide Public Guardianship Office as established in
26 part IX of this chapter. ~~The Statewide Public Guardianship~~
27 ~~Office may contract with the clerk of the court in each county~~
28 ~~to perform the administrative functions associated with~~
29 ~~registering professional guardians.~~

30 (2) The Department of Elderly Affairs may contract
31 with the Florida Guardianship Foundation or another

1 not-for-profit entity to perform other functions associated
2 with the registration, examination, and training of
3 professional and public guardians.

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

8 (3) Registration must include the following:

9 (a) If the professional guardian is a natural person,
10 the name, address, date of birth, and employer identification
11 or social security number of the professional guardian.

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

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

22 (d) The name, address, date of birth, and employer
23 identification number, if applicable, of each person providing
24 guardian-delegated financial or personal guardianship services
25 for wards.

26 (e) Demonstration of compliance with the bonding,
27 educational, testing, credit history, and background screening
28 requirements of ss. 744.1085 and 744.3135.

29
30 Compliance with this subsection constitutes compliance with
31 the attestation requirements of s. 435.04(5).

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

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

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

13 ~~(6)(4)~~ The Department of Elderly Affairs Statewide
14 Public Guardianship Office shall may adopt rules, forms, and
15 procedures necessary to administer this section.

16 ~~(7)(5)~~ A trust company, a state banking corporation or
17 state savings association authorized and qualified to exercise
18 fiduciary powers in this state, or a national banking
19 association or federal savings and loan association authorized
20 and qualified to exercise fiduciary powers in this state, may,
21 but shall not be required to, register as a professional
22 guardian under this section and may serve as a professional
23 guardian without registration with all of the rights and
24 privileges of a person registered under this chapter. If a
25 trust company, state banking corporation, state savings
26 association, national banking association, or federal savings
27 and loan association described in this subsection elects to
28 register as a professional guardian under this subsection, the
29 requirements of subsection (3) shall not apply and the
30 registration shall include only the name, address, and
31 employer identification number of the registrant, the name and

1 address of its registered agent, if any, ~~and the documentation~~
2 ~~described in paragraph (3)(e).~~

3 (8) A state college or university or an independent
4 college or university as described pursuant to s.
5 1009.98(3)(a) may, but shall not be required to, register as a
6 public guardian under this section. If a state college or
7 university or independent college or university elects to
8 register as a public 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.

12 Section 3. Section 744.1085, Florida Statutes, is
13 amended to read:

14 744.1085 Regulation of professional and public
15 guardians; application; bond required; educational
16 requirements.--

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

20 (2) Each professional or public guardian who files a
21 petition for appointment ~~after October 1, 1997~~, shall post a
22 blanket fiduciary bond with the clerk of the circuit court in
23 the county in which the guardian's primary place of business
24 is located. The guardian shall provide proof of the fiduciary
25 bond to the clerks of each additional circuit court in which
26 he or she is serving as a professional guardian. The bond
27 shall be maintained by the guardian in an amount not less than
28 \$50,000. The bond must cover all wards for whom the guardian
29 has been appointed at any given time. The liability of the
30 provider of the bond is limited to the face amount of the
31 bond, regardless of the number of wards for whom the

1 professional guardian has been appointed. The act or omissions
2 of each employee of a professional guardian who has direct
3 contact with the ward or access to the ward's assets is
4 covered by the terms of such bond. The bond must be payable
5 to the Governor of the State of Florida and his or her
6 successors in office and conditioned on the faithful
7 performance of all duties by the guardian. In form, the bond
8 must be joint and several. The bond is in addition to any
9 bonds required under s. 744.351. This subsection does not
10 apply to any attorney who is licensed to practice law in this
11 state and who is in good standing, to any financial
12 institution as defined in s. 744.309(4), or a public guardian.
13 The expenses incurred to satisfy the bonding requirements
14 prescribed in this section may not be paid with the assets of
15 any ward.

16 (3) Each professional guardian defined in s.
17 744.102(15) and public guardian, ~~on October 1, 1997,~~ must
18 receive a minimum of 40 hours of instruction and training ~~by~~
19 ~~October 1, 1998, or within 1 year after becoming a~~
20 ~~professional guardian, whichever occurs later.~~ Each
21 professional guardian must receive a minimum of 16 hours of
22 continuing education every 2 calendar years after the year in
23 which the initial 40-hour educational requirement is met. The
24 instruction and education must be completed through a course
25 approved or offered by the Statewide Public Guardianship
26 Office. The expenses incurred to satisfy the educational
27 requirements prescribed in this section may not be paid with
28 the assets of any ward. This subsection does not apply to any
29 attorney who is licensed to practice law in this state.

30 (4) Each professional guardian or public guardian must
31 allow, at the guardian's expense, an investigation of the

1 guardian's credit history, conducted in a manner prescribed by
2 the Department of Elderly Affairs.

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

6 (6) After July 1, 2005, each professional or public
7 guardian shall demonstrate her or his competency to act as a
8 professional guardian or public guardian by taking an
9 examination developed or approved by the entity provided in s.
10 744.1083(2) and adopted by the Department of Elderly Affairs.
11 The department shall determine the procedure for administering
12 the examination and shall charge an examination fee in the
13 amount of the actual cost of developing and administering the
14 examination, not to exceed \$500. The department, in
15 consultation with the entity provided in s. 744.1083(2), may
16 recognize the passing of a national guardianship examination
17 in lieu of passing all or part of the state examination,
18 except that each professional or public guardian must take and
19 pass an approved examination section relating to Florida laws
20 and procedures.

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

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

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

30 (b) A letter from the chief judge of a judicial
31 circuit before whom the professional or public guardian

1 practiced at least 1 year which states that the professional
2 guardian has demonstrated to the court her or his competency
3 as a professional or public guardian.

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

7 (10) This section does not apply to a professional
8 guardian or the employees of a professional guardian, that is
9 a trust company, a state banking corporation, state savings
10 association authorized and qualified to exercise fiduciary
11 powers in this state, or a national banking association or
12 federal savings and loan association authorized and qualified
13 to exercise fiduciary powers in this state.

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

16 744.3135 Credit and criminal investigation.--The court
17 may require a nonprofessional guardian and shall require a
18 professional or public guardian, and all employees of a
19 professional guardian who have a fiduciary responsibility to a
20 ward, to submit, at their own expense, to an investigation of
21 the guardian's credit history and to undergo level 2
22 background screening as required under s. 435.04. The clerk of
23 the court shall obtain fingerprint cards from the Federal
24 Bureau of Investigation and make them available to guardians.
25 Any guardian who is so required shall have his or her
26 fingerprints taken and forward the proper fingerprint card
27 along with the necessary fee to the Florida Department of Law
28 Enforcement for processing. The professional guardian shall
29 pay to the clerk of the court a fee of \$5 for handling and
30 processing professional guardian files. The results of the
31 fingerprint checks shall be forwarded to the clerk of court

1 who shall maintain the results in a guardian file and shall
2 make the results available to the court. If credit or criminal
3 investigations are required, the court must consider the
4 results of the investigations in appointing a guardian.
5 Professional and public guardians and all employees of a
6 professional guardian who have a fiduciary responsibility to a
7 ward, so appointed, must resubmit, at their own expense, to an
8 investigation of credit history, and undergo level 1
9 background screening as required under s. 435.03, at least
10 every 2 years after the date of their appointment. At any
11 time, the court may require a guardian to submit to an
12 investigation of his or her credit history and undergo level 1
13 background screening as required under s. 435.03.The court
14 must consider the results of these investigations in
15 reappointing a guardian. This section shall not apply to a
16 professional guardian, or to the employees of a professional
17 guardian, that is a trust company, a state banking corporation
18 or state savings association authorized and qualified to
19 exercise fiduciary powers in this state, or a national banking
20 association or federal savings and loan association authorized
21 and qualified to exercise fiduciary powers in this state.

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

25 744.444 Power of guardian without court
26 approval.--Without obtaining court approval, a plenary
27 guardian of the property, or a limited guardian of the
28 property within the powers granted by the order appointing the
29 guardian or an approved annual or amended guardianship report,
30 may:

31

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

6 (16) Pay or reimburse costs incurred and reasonable
7 fees or compensation to persons, including attorneys, employed
8 by the guardian pursuant to subsection (13) from the assets of
9 the guardianship estate, subject to obtaining court approval
10 of the annual accounting.

11 (17) Provide confidential information of a ward which
12 is related to an investigation arising under part I of chapter
13 400 to a local or state ombudsman council member who is
14 conducting the investigation. Such information must be
15 provided within 7 days after the initial written request. Any
16 such ombudsman must maintain the confidentiality of such
17 information.

18 Section 6. Paragraph (c) of subsection (2) of section
19 744.534, Florida Statutes, is amended to read:

20 744.534 Disposition of unclaimed funds held by
21 guardian.--

22 (2)

23 (c) Within 5 years from the date of deposit with the
24 State Treasurer, on written petition to the court that
25 directed the deposit of the funds and informal notice to the
26 Department of Legal Affairs, and after proof of his or her
27 right to them, any person entitled to the funds, before or
28 after payment to the State Treasurer and deposit as provided
29 for in paragraph (a), may obtain a court order directing the
30 payment of the funds to him or her. All funds deposited with
31 the State Treasurer and not claimed within 5 years from the

1 date of deposit shall escheat to the state to be deposited in
2 the Department of Elderly Affairs Administrative Trust Fund to
3 be used solely for the benefit of public guardianship as
4 determined by the Secretary of Elderly Affairs Statewide
5 ~~Public Guardianship Office established in part IX of this~~
6 ~~chapter.~~

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

9 744.7021 Statewide Public Guardianship Office.--There
10 is hereby created the Statewide Public Guardianship Office
11 within the Department of Elderly Affairs. ~~The Department of~~
12 ~~Elderly Affairs shall provide administrative support and~~
13 ~~service to the office to the extent requested by the executive~~
14 ~~director within the available resources of the department. The~~
15 ~~Statewide Public Guardianship Office may request the~~
16 ~~assistance of the Inspector General of the Department of~~
17 ~~Elderly Affairs in providing auditing services, and the Office~~
18 ~~of General Counsel of the department may provide assistance in~~
19 ~~rulemaking and other matters as needed to assist the Statewide~~
20 ~~Public Guardianship Office. The Statewide Public Guardianship~~
21 ~~Office shall not be subject to control, supervision, or~~
22 ~~direction by the Department of Elderly Affairs in the~~
23 ~~performance of its duties.~~

24 (1) The Secretary of Elderly Affairs shall appoint or
25 contract with the executive director of the office, who shall
26 be the head of the Statewide Public Guardianship Office ~~is the~~
27 ~~executive director, who shall be appointed by the Governor.~~
28 The executive director must be a member of The Florida Bar in
29 good standing ~~licensed attorney~~ with a background in
30 guardianship law and knowledge of social services available to
31 meet the needs of incapacitated persons, ~~shall serve on a~~

1 ~~full-time basis~~, and shall personally, or through
2 representatives of the office, carry out the purposes and
3 functions of the Statewide Public Guardianship Office in
4 accordance with state and federal law. The executive director
5 shall serve at the pleasure of and report to the secretary
6 ~~Governor~~.

7 (2) The executive director ~~Statewide Public~~
8 ~~Guardianship Office~~ shall, directly or through contract with
9 the Department of Elderly Affairs, and within available
10 resources, have oversight responsibilities for all public and
11 professional guardians.

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

14 (b) The executive director ~~office~~, in consultation
15 with local guardianship offices, shall develop statewide
16 performance measures and standards.

17 (c) The executive director ~~office~~ shall review the
18 various methods of funding guardianship programs, the kinds of
19 services being provided by such programs, and the demographics
20 of the wards. In addition, the executive director ~~office~~ shall
21 review and make recommendations regarding the feasibility of
22 recovering a portion or all of the costs of providing public
23 guardianship services from the assets or income of the wards.

24 (d) No later than October 1, 2000, the office shall
25 submit to the Governor, the President of the Senate, the
26 Speaker of the House of Representatives, and the Chief Justice
27 of the Supreme Court an interim report describing the progress
28 of the office in meeting the goals as described in this
29 section. No later than October 1, 2001, the office shall
30 submit to the Governor, the President of the Senate, the
31 Speaker of the House of Representatives, and the Chief Justice

1 of the Supreme Court a proposed public guardianship plan
2 including alternatives for meeting the state's guardianship
3 needs. This plan may include recommendations for less than the
4 entire state, may include a phase-in system, and shall include
5 estimates of the cost of each of the alternatives. Each year
6 thereafter, the executive director ~~office~~ shall provide a
7 status report and provide to the secretary further
8 recommendations that ~~to~~ address the need for public
9 guardianship services and related issues.

10 (e) The executive director ~~office~~ may provide
11 assistance to local governments or entities in pursuing grant
12 opportunities. The executive director ~~office~~ shall review and
13 make recommendations in the annual report on the availability
14 and efficacy of seeking Medicaid matching funds. The executive
15 director ~~office~~ shall diligently seek ways to use existing
16 programs and services to meet the needs of public wards.

17 (f) The executive director, in consultation with the
18 entity provided in s. 744.1083 ~~office~~ shall develop a
19 guardianship training program curriculum that. ~~The training~~
20 ~~program~~ may be offered to all guardians whether public or
21 private. ~~The office shall establish a curriculum committee to~~
22 ~~develop the training program specified in this part. The~~
23 ~~curriculum committee shall include, but not be limited to,~~
24 ~~probate judges. A fee may be charged to private guardians in~~
25 ~~order to defray the cost of providing the training. In~~
26 ~~addition, a fee may be charged to any training provider for up~~
27 ~~to the actual cost of the review and approval of their~~
28 ~~curriculum. Any fees collected pursuant to this paragraph~~
29 ~~shall be deposited in the Department of Elderly Affairs~~
30 ~~Administrative Trust Fund to be used for the guardianship~~
31 ~~training program.~~

1 (3) The executive director office may conduct or
2 contract for demonstration projects authorized by the
3 Department of Elderly Affairs, within funds appropriated or
4 through gifts, grants, or contributions for such purposes, to
5 determine the feasibility or desirability of new concepts of
6 organization, administration, financing, or service delivery
7 designed to preserve the civil and constitutional rights of
8 persons of marginal or diminished capacity. Any gifts, grants,
9 or contributions for such purposes shall be deposited in the
10 Department of Elderly Affairs Administrative Trust Fund.

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

14 Section 8. Subsections (1), (2), and (3) of section
15 744.704, Florida Statutes, are amended to read:

16 744.704 Powers and duties.--

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

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

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

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

4 (3) The public guardian shall primarily serve
5 incapacitated persons who are of limited financial means, as
6 defined by contract or rule of the Department of Elderly
7 Affairs. The public guardian may serve incapacitated persons
8 of greater financial means to the extent that the Department
9 of Elderly Affairs determines to be appropriate.~~If the public~~
10 ~~guardian finds that the assets or the income of the ward~~
11 ~~exceeds the amounts set forth in paragraph (1)(b), the public~~
12 ~~guardian shall submit a resignation and petition the court for~~
13 ~~appointment of a successor guardian. The public guardian~~
14 ~~shall not be dismissed until such time that a private guardian~~
15 ~~is appointed. If a qualified successor guardian is not~~
16 ~~available, the public guardian may remain as guardian,~~
17 ~~provided the guardian makes reasonable efforts to find a~~
18 ~~successor and reports to the court every 6 months on efforts~~
19 ~~to obtain a successor.~~

20 Section 9. Guardianship Task Force; creation;
21 membership, duties.--

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

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

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

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

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

1 (6) The task force is terminated May 6, 2005.
2 Section 10. Subsection (8) is added to section
3 744.108, Florida Statutes, to read:
4 744.108 Guardian's and attorney's fees and expenses.--
5 (8) When court proceedings are instituted to review or
6 determine a guardian's or an attorney's fees under subsection
7 (2), such proceedings are part of the guardianship
8 administration process and the costs, including fees for the
9 guardian's attorney, shall be determined by the court and paid
10 from the assets of the guardianship estate unless the court
11 finds the requested compensation under subsection (2) to be
12 substantially unreasonable.
13 Section 11. Section 744.3145, Florida Statutes, is
14 amended to read:
15 744.3145 Guardian education requirements.--
16 (1) Each ward is entitled to a guardian competent to
17 perform the duties of a guardian necessary to protect the
18 interests of the ward.
19 (2) Each person appointed by the court to be a
20 guardian, other than a parent who is the guardian of the
21 property of a minor child, must receive a minimum of 8 hours
22 of instruction and training which covers:
23 (a) The legal duties and responsibilities of the
24 guardian;
25 (b) The rights of the ward;
26 (c) The availability of local resources to aid the
27 ward; and
28 (d) The preparation of habilitation plans and annual
29 guardianship reports, including financial accounting for the
30 ward's property.
31

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

5 (a) The legal duties and responsibilities of the
6 guardian of the property;

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

9 (c) Use of guardianship assets.

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

19 ~~(5)(4)~~ Expenses incurred by the guardian to satisfy
20 the education requirement may be paid from the ward's estate,
21 unless the court directs that such expenses be paid by the
22 guardian individually.

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

29 ~~(7)(6)~~ The provisions of this section do not apply to
30 professional guardians.

31 Section 12. This act shall take effect July 1, 2003.