

1 A bill to be entitled
2 An act relating to adult protective services;
3 amending s. 415.1045, F.S.; requiring the
4 Department of Children and Family Services to
5 enter into certain working agreements with
6 local law enforcement agencies; requiring the
7 Office of Program Policy Analysis and
8 Government Accountability to review and report
9 to the Legislature; amending s. 415.1102, F.S.;
10 defining the term "multidisciplinary adult
11 protection team"; providing for composition of
12 such teams; requiring the department to report
13 to the Legislature on the status of compliance
14 with certain recommendations relating to the
15 Adult Services Program and to analyze and
16 provide a plan for the implementation of
17 multidisciplinary adult protection teams;
18 creating the Guardianship Task Force within the
19 department; providing purpose; providing for
20 staff, a chairperson, and membership of the
21 task force; providing for organizations that
22 appoint members to pay their expenses;
23 providing duties of the task force; requiring a
24 preliminary and a final report to the Governor
25 and the Legislature; allowing the appointment
26 of auxiliary members; providing a term of
27 service; amending s. 744.7021, F.S.; providing
28 that the executive director of the Statewide
29 Public Guardianship Office shall be appointed
30 by the Secretary of Elderly Affairs, rather
31 than by the Governor; transferring certain

1 responsibilities from the Statewide Public
2 Guardianship Office to the Department of
3 Elderly Affairs; providing an effective date.

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

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7 Section 1. Subsection (6) of section 415.1045, Florida
8 Statutes, is amended to read:

9 415.1045 Photographs, videotapes, and medical
10 examinations; abrogation of privileged communications;
11 confidential records and documents.--

12 (6) WORKING AGREEMENTS.--By March 1, 2004, the
13 department shall enter into working agreements with the
14 jurisdictionally responsible county sheriffs' office or local
15 police department that will be the lead agency when conducting
16 any criminal investigation arising from an allegation of
17 abuse, neglect, or exploitation of a vulnerable adult. The
18 working agreement must specify how the requirements of this
19 chapter will be met. The Office of Program Policy Analysis and
20 Government Accountability shall conduct a review of the
21 efficacy of the agreements and report its findings to the
22 Legislature by March 1, 2005.For the purposes of such
23 agreement, the jurisdictionally responsible law enforcement
24 entity is authorized to share Florida criminal history and
25 local criminal history information that is not otherwise
26 exempt from s. 119.07(1) with the district personnel. A law
27 enforcement entity entering into such agreement must comply
28 with s. 943.0525. Criminal justice information provided by
29 such law enforcement entity shall be used only for the
30 purposes specified in the agreement and shall be provided at
31 no charge. Notwithstanding any other provision of law, the

1 Department of Law Enforcement shall provide to the department
2 electronic access to Florida criminal justice information
3 which is lawfully available and not exempt from s. 119.07(1),
4 only for the purpose of protective investigations and
5 emergency placement. As a condition of access to such
6 information, the department shall be required to execute an
7 appropriate user agreement addressing the access, use,
8 dissemination, and destruction of such information and to
9 comply with all applicable laws and rules of the Department of
10 Law Enforcement.

11 Section 2. Section 415.1102, Florida Statutes, is
12 amended to read:

13 415.1102 Adult protection teams.--

14 (1) Subject to an appropriation, the department may
15 develop, maintain, and coordinate the services of one or more
16 multidisciplinary adult protection teams in each of the
17 districts of the department. As used in this section, the term
18 "multidisciplinary adult protection team" means a team of two
19 or more persons who are trained in the prevention,
20 identification, and treatment of abuse of elderly persons, as
21 defined in s. 430.602, or of dependent persons and who are
22 qualified to provide a broad range of services related to
23 abuse of elderly or dependent persons.

24 (2) Such teams may be composed of, but need not be
25 limited to:

26 (a) Psychiatrists, psychologists, or other trained
27 counseling personnel;

28 (b) Police officers or other law enforcement officers;

29 (c) Medical personnel who have sufficient training to
30 provide health services;

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1 (d) Social workers who have experience or training in
2 preventing the abuse of elderly or dependent persons; and

3 (e) Public guardians as described in part IX of
4 chapter 744., ~~representatives of appropriate health, mental~~
5 ~~health, social service, legal service, and law enforcement~~
6 ~~agencies.~~

7 (3) The department shall utilize and convene the teams
8 to supplement the protective services activities of the
9 protective services program of the department.

10 (4) This section does not prevent a person from
11 reporting under s. 415.1034 all suspected or known cases of
12 abuse, neglect, or exploitation of a vulnerable adult. The
13 role of the teams is to support activities of the protective
14 services program and to provide services deemed by the teams
15 to be necessary and appropriate to abused, neglected, and
16 exploited vulnerable adults upon referral. Services must be
17 provided with the consent of the vulnerable adult or that
18 person's guardian, or through court order.

19 (5) ~~If in all instances in which~~ an adult protection
20 team is providing certain services to abused, neglected, or
21 exploited vulnerable adults, other offices and units of the
22 department shall avoid duplicating ~~the provisions of those~~
23 services.

24 Section 3. Given the serious and growing problem of
25 elder abuse, by December 1, 2003, the Department of Children
26 and Family Services shall report to the Legislature on the
27 status of its compliance with all of the recommendations for
28 improvement of the Adult Services Program included in Report
29 No. 03-08 from the Office of Program Planning and Government
30 Accountability. The department shall also analyze and include
31 as part of this report a plan for implementing at least one

1 multidisciplinary adult protection team, as defined in section
2 415.1102, Florida Statutes, in each of its districts.

3 Section 4. Guardianship Task Force; creation;
4 membership, duties.--

5 (1) There is created within the Department of Elderly
6 Affairs a Guardianship Task Force. The purpose of the task
7 force is to examine guardianship and incapacity and make
8 recommendations to the Governor and the Legislature for the
9 improvement of guardianship and incapacity practice. The
10 department shall staff the task force. The Secretary of
11 Elderly Affairs shall appoint the chair of the task force.
12 Members of the task force shall serve without compensation.
13 Unless specified otherwise, task force members shall be
14 appointed by the respective organizations that they represent.

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

20 (3) The Guardianship Task Force shall identify the
21 characteristics of Florida guardianship practice. It shall
22 also identify guardianship best practices and recommend
23 specific statutory and other changes for achieving such best
24 practices and for achieving citizen access to quality
25 guardianship services. The task force shall submit a
26 preliminary report to the Governor, the Secretary of Elderly
27 Affairs and the Legislature no later than January 1, 2004, and
28 shall submit a final report no later than January 1, 2005.

29 (4) The Guardianship Task Force shall consist of 10
30 members as follows: a judge who has experience sitting in
31 guardianship proceedings appointed by the Florida Conference

1 of Circuit Judges, a representative of the Association of
2 Clerks of Court, a professor of law who has experience in
3 elder issues appointed by the Secretary of Elderly Affairs, a
4 representative of the Florida State Guardianship Association,
5 a representative of the Florida Guardianship Foundation, a
6 representative of the Real Property and Probate Section of The
7 Florida Bar, a representative of the Elder Law Section of The
8 Florida Bar, a professional who has experience in examining
9 and determining incapacity, a representative of the Florida
10 Bankers' Association and a citizen/consumer appointed by the
11 Florida AARP (American Association of Retired Persons).

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

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

16 Section 5. Section 744.7021, Florida Statutes, is
17 amended to read:

18 744.7021 Statewide Public Guardianship Office.--There
19 is hereby created the Statewide Public Guardianship Office
20 within the Department of Elderly Affairs. ~~The Department of~~
21 ~~Elderly Affairs shall provide administrative support and~~
22 ~~service to the office to the extent requested by the executive~~
23 ~~director within the available resources of the department. The~~
24 ~~Statewide Public Guardianship Office may request the~~
25 ~~assistance of the Inspector General of the Department of~~
26 ~~Elderly Affairs in providing auditing services, and the Office~~
27 ~~of General Counsel of the department may provide assistance in~~
28 ~~rulemaking and other matters as needed to assist the Statewide~~
29 ~~Public Guardianship Office. The Statewide Public Guardianship~~
30 ~~Office shall not be subject to control, supervision, or~~
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1 ~~direction by the Department of Elderly Affairs in the~~
2 ~~performance of its duties.~~

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

16 (2) The executive director ~~Statewide Public~~
17 ~~Guardianship~~ Office shall, within available resources, have
18 oversight responsibilities for all public guardians.

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

21 (b) The executive director ~~office~~, in consultation
22 with local guardianship offices, shall develop statewide
23 performance measures and standards.

24 (c) The executive director ~~office~~ shall review the
25 various methods of funding guardianship programs, the kinds of
26 services being provided by such programs, and the demographics
27 of the wards. In addition, the executive director ~~office~~ shall
28 review and make recommendations regarding the feasibility of
29 recovering a portion or all of the costs of providing public
30 guardianship services from the assets or income of the wards.

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1 ~~(d) No later than October 1, 2000, the office shall~~
2 ~~submit to the Governor, the President of the Senate, the~~
3 ~~Speaker of the House of Representatives, and the Chief Justice~~
4 ~~of the Supreme Court an interim report describing the progress~~
5 ~~of the office in meeting the goals as described in this~~
6 ~~section. No later than October 1, 2001, the office shall~~
7 ~~submit to the Governor, the President of the Senate, the~~
8 ~~Speaker of the House of Representatives, and the Chief Justice~~
9 ~~of the Supreme Court a proposed public guardianship plan~~
10 ~~including alternatives for meeting the state's guardianship~~
11 ~~needs. This plan may include recommendations for less than the~~
12 ~~entire state, may include a phase-in system, and shall include~~
13 ~~estimates of the cost of each of the alternatives.~~By January
14 1, 2004, and by January 1 of each year thereafter, the
15 executive director office shall provide a status report and
16 provide further recommendations to the Secretary that address
17 the need for public guardianship services and related issues.

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

25 (f) The executive director, in consultation with the
26 Florida Guardianship Foundation office shall develop a
27 guardianship training program curriculum that. ~~The training~~
28 ~~program~~ may be offered to all guardians whether public or
29 private. ~~The office shall establish a curriculum committee to~~
30 ~~develop the training program specified in this part. The~~
31 ~~curriculum committee shall include, but not be limited to,~~

1 ~~probate judges. A fee may be charged to private guardians in~~
2 ~~order to defray the cost of providing the training. In~~
3 ~~addition, a fee may be charged to any training provider for up~~
4 ~~to the actual cost of the review and approval of their~~
5 ~~curriculum. Any fees collected pursuant to this paragraph~~
6 ~~shall be deposited in the Department of Elderly Affairs~~
7 ~~Administrative Trust Fund to be used for the guardianship~~
8 ~~training program.~~

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

19 (4) The Department of Elderly Affairs ~~office~~ has
20 authority to adopt rules pursuant to ss. 120.536(1) and 120.54
21 to carry out the provisions of this section.

22 Section 6. This act shall take effect July 1, 2003.
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