



HB 1891

2003

1 A bill to be entitled

2 An act relating to the protection and delivery of services
3 to persons who are disabled, vulnerable, or elderly;
4 creating s. 393.506, F.S.; allowing administration of
5 medication by certain unlicensed staff for persons with
6 developmental disabilities; providing requirements for
7 such administration; creating s. 400.9685, F.S.; allowing
8 administration of medication by certain unlicensed staff
9 in nursing homes and related health care facilities for
10 persons with developmental disabilities; providing
11 requirements for such administration; amending s. 394.74,
12 F.S.; providing for alternative payment methods for
13 contracts for provision of local substance abuse and
14 mental health programs; amending s. 415.102, F.S.;
15 clarifying definitions; amending s. 765.401, F.S.;
16 providing additional persons which may be given a proxy
17 for the making of health care decisions; amending s.
18 744.102, F.S.; providing that a public guardian shall be
19 considered a professional guardian; amending s. 744.1083,
20 F.S.; requiring additional information for registration;
21 transferring certain rule adoption authority and
22 registration responsibilities from the Statewide Public
23 Guardianship Office to the Department of Elderly Affairs;
24 authorizing the Department of Elderly Affairs to contract
25 with the Florida Guardianship Foundation and the
26 foundation to contract with clerks of court to the
27 registration of professional guardians; amending s.
28 744.1085, F.S.; providing for additional regulation of
29 professional guardians; providing for a professional
30 examination as a condition of registration; providing



HB 1891

2003

31 additional requirements for registration as a professional
 32 guardian; amending s. 744.3135, F.S.; limiting certain
 33 requirements to professional guardians; authorizing the
 34 court to require nonprofessional guardians to submit to
 35 credit history investigations and background screening;
 36 amending s. 744.444, F.S.;, allowing guardians to employ
 37 care managers and disclose confidential information to an
 38 ombudsman without court approval; providing that such
 39 information shall remain confidential; amending ss.
 40 744.534 and 744.7021, F.S.; transferring responsibility
 41 for the Statewide Public Guardianship Office to the
 42 Secretary of the Department of Elderly Affairs; amending
 43 s. 744.704, F.S.; removing a limitation on what wards a
 44 public guardian may serve; creating the Guardianship Task
 45 Force to examine and make recommendations regarding
 46 guardianship in this state; providing for membership;
 47 providing for appointment; providing for term of
 48 existence; providing an effective date.

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

51
 52 Section 1. Section 393.506, Florida Statutes, is created
 53 to read:

54 393.506 Administration of medication.--

55 (1) Notwithstanding the provisions of part I of chapter
 56 464, the Nurse Practice Act, unlicensed staff providing services
 57 to persons with developmental disabilities may administer oral,
 58 transdermal, inhaled, or topical prescription medications as
 59 provided in this section.



HB 1891

2003

60 (a) For noninstitutional community programs, the director
61 of the facility or program shall designate in writing staff who
62 are eligible to be trained to assist in the administration of
63 or to administer medication.

64 (b) For intermediate care facilities for the
65 developmentally disabled licensed pursuant to part XI of chapter
66 400, unlicensed staff designated by the director may provide
67 medication assistance under the general supervision of a
68 registered nurse licensed pursuant to chapter 464.

69 (2) Each facility, institution, or program must include in
70 its policies and procedures a plan for training designated staff
71 to ensure the safe handling, storage, and administration of
72 prescription medication. These policies and procedures must be
73 approved by the department before staff assist with medication.

74 (3) The policies and procedures must include, at a
75 minimum, the following provisions:

76 (a) An expressed and informed consent for each client.

77 (b) The director of the facility, program, or provider
78 must maintain a copy of the written prescription, and that
79 prescription must include the name of the medication, the dosage
80 and administration schedule, the reason for the prescription,
81 and the termination date.

82 (c) Each prescribed medication shall be kept in its
83 original container and in a secure location.

84 (4) The training required in this section shall be
85 conducted by a registered nurse or a physician licensed pursuant
86 to chapter 458 or chapter 459.

87 Section 2. Section 400.9685, Florida Statutes, is created
88 to read:

89 400.9685 Administration of medication.--



HB 1891

2003

90 (1) Notwithstanding the provisions of the Nurse Practice
91 Act, part I of chapter 464, unlicensed staff providing services
92 to persons with developmental disabilities may administer oral,
93 transdermal, inhaled, or topical medications under the general
94 supervision of a registered nurse as provided in this section.

95 (2) Each facility must include in its policies and
96 procedures a plan for training designated staff to ensure the
97 safe handling, storage, and administration of prescription
98 medication. These policies and procedures must be approved by
99 the department before staff assist with medication.

100 (3) The policies and procedures must include, at a
101 minimum, the following provisions:

102 (a) An expressed and informed consent for each client.

103 (b) The director of the facility, program, or provider
104 must maintain a copy of the written prescription, and that
105 prescription must include the name of the medication, the dosage
106 and administration schedule, the reason for the prescription,
107 and the termination date.

108 (c) Each prescribed medication shall be kept in its
109 original container and in a secure location.

110 (4) The training required in this section shall be
111 conducted by a registered nurse licensed pursuant to chapter
112 464, or a physician licensed pursuant to chapter 458 or chapter
113 459.

114 Section 3. Subsection (2) of section 394.74, Florida
115 Statutes, is amended, and subsection (6) is added to said
116 section, to read:

117 394.74 Contracts for provision of local substance abuse
118 and mental health programs.--



HB 1891

2003

119 (2)(a) Contracts for service shall be consistent with the
 120 approved district plan.

121 (b) Notwithstanding s. 394.76(3)(a) and (c), the
 122 department may use unit cost methods of payment in contracts for
 123 purchasing mental health and substance abuse services. The unit
 124 cost contracting system must account for those patient fees that
 125 are paid on behalf of a specific client and those that are
 126 earned and used by the provider for those services funded in
 127 whole or in part by the department. The department may also use
 128 a fee-for-service arrangement, case rates, or a capitation
 129 arrangement in order to account for those services.

130 (c) The department may reimburse actual expenditures for
 131 startup contracts and fixed capital outlay contracts in
 132 accordance with contract specifications.

133 (6) The department may use a fee-for-service arrangement,
 134 case rates, or capitation in order to account for mental health
 135 and substance abuse services.

136 Section 4. Subsections (1), (7), and (26) of section
 137 415.102, Florida Statutes, are amended to read:

138 415.102 Definitions of terms used in ss. 415.101-
 139 415.113.--As used in ss. 415.101-415.113, the term:

140 (1) "Abuse" means any willful act or threatened act by a
 141 caregiver that causes or is likely to cause significant
 142 impairment to a vulnerable adult's physical, mental, or
 143 emotional health. Abuse includes acts and omissions.

144 (7)(a) "Exploitation" means a caregiver ~~person~~ who:

145 1. Stands in a position of trust and confidence with a
 146 vulnerable adult and knowingly, by deception or intimidation,
 147 obtains or uses, or endeavors to obtain or use, a vulnerable
 148 adult's funds, assets, or property with the intent to



HB 1891

2003

149 temporarily or permanently deprive a vulnerable adult of the
150 use, benefit, or possession of the funds, assets, or property
151 for the benefit of someone other than the vulnerable adult; or

152 2. Knows or should know that the vulnerable adult lacks
153 the capacity to consent, and obtains or uses, or endeavors to
154 obtain or use, the vulnerable adult's funds, assets, or property
155 with the intent to temporarily or permanently deprive the
156 vulnerable adult of the use, benefit, or possession of the
157 funds, assets, or property for the benefit of someone other than
158 the vulnerable adult.

159 (b) "Exploitation" may include, but is not limited to:

160 1. Breaches of fiduciary relationships, such as the misuse
161 of a power of attorney or the abuse of guardianship duties,
162 resulting in the unauthorized appropriation, sale, or transfer
163 of property;

164 2. Unauthorized taking of personal assets;

165 3. Misappropriation, misuse, or transfer of moneys
166 belonging to a vulnerable adult from a personal or joint
167 account; or

168 4. Intentional or negligent failure to effectively use a
169 vulnerable adult's income and assets for the necessities
170 required for that person's support and maintenance.

171 (26) "Vulnerable adult" means a person 18 years of age or
172 older whose ability to perform the normal activities of daily
173 living or to provide for his or her own care or protection is
174 impaired due to a mental, emotional, physical, or developmental
175 disability or dysfunctioning, or brain damage, or the
176 infirmities of aging. "Vulnerable adult" does not include an
177 individual who is hospitalized and whose impairment is temporary
178 due to acute illness or injury.



HB 1891

2003

179 Section 5. Paragraph (h) is added to subsection (1) of
180 section 765.401, Florida Statutes, to read:

181 765.401 The proxy.--

182 (1) If an incapacitated or developmentally disabled
183 patient has not executed an advance directive, or designated a
184 surrogate to execute an advance directive, or the designated or
185 alternate surrogate is no longer available to make health care
186 decisions, health care decisions may be made for the patient by
187 any of the following individuals, in the following order of
188 priority, if no individual in a prior class is reasonably
189 available, willing, or competent to act:

190 (h) A clinical social worker licensed pursuant to chapter
191 491, or a graduate of a court-approved guardianship program.
192 Such a proxy must be selected by the provider's bioethics
193 committee and must not be employed by the provider. If the
194 provider does not have a bioethics committee, then such a proxy
195 may be chosen through an arrangement with the bioethics
196 committee of another provider. The provider shall make available
197 a second physician, not involved in the patient's care, upon the
198 proxy's request, to assist the proxy in evaluating treatment.

199 Section 6. Subsection (15) of section 744.102, Florida
200 Statutes, is amended to read:

201 744.102 Definitions.--As used in this chapter, the term:

202 (15) "Professional guardian" means any guardian who
203 receives or has at any time received compensation for services
204 rendered to more than two wards as their guardian. A person
205 serving as a guardian for two or more relatives as defined in s.
206 744.309(2) is not considered a professional guardian. A public
207 guardian shall be considered a professional guardian.



HB 1891

2003

208 Section 7. Section 744.1083, Florida Statutes, is amended
209 to read:

210 744.1083 Professional guardian registration.--

211 (1) Effective January 1, 2003, a professional guardian
212 must register with the Statewide Public Guardianship Office
213 established in part IX of this chapter. ~~The Statewide Public~~
214 ~~Guardianship Office may contract with the clerk of the court in~~
215 ~~each county to perform the administrative functions associated~~
216 ~~with registering professional guardians.~~

217 (2) Annual registration shall be made on forms furnished
218 by the Statewide Public Guardianship Office and accompanied by
219 the applicable registration fee as determined by rule. Such fee
220 shall not exceed \$100 ~~\$25~~.

221 (3) Registration must include the following:

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

225 (b) If the professional guardian is a partnership or
226 association, the name, address, and date of birth of every
227 member, and the employer identification number of the
228 partnership or association.

229 (c) If the professional guardian is a corporation, the
230 name, address, and employer identification number of the
231 corporation; the name, address, and date of birth of each of its
232 directors and officers; the name of its resident agent; and the
233 name, address, and date of birth of each person having at least
234 a 10-percent interest in the corporation.

235 (d) The name, address, date of birth, and employer
236 identification number, if applicable, of each person providing



HB 1891

2003

237 guardian-delegated financial or personal guardianship services
 238 for wards.

239 (e) Documentation that the bonding and educational
 240 requirements of s. 744.1085 have been met, and that background
 241 screening has been conducted pursuant to s. 744.3135. Compliance
 242 with this section shall constitute compliance with the
 243 attestation requirement of s. 435.04(5).

244 (f) Sufficient information to distinguish a guardian
 245 providing guardianship services as a public guardian,
 246 individually, through partnership, corporation, or any other
 247 business organization.

248 (4) The Department of Elderly Affairs ~~Statewide Public~~
 249 ~~Guardianship Office~~ may adopt rules necessary to administer this
 250 section.

251 (5) A trust company, a state banking corporation or state
 252 savings association authorized and qualified to exercise
 253 fiduciary powers in this state, or a national banking
 254 association or federal savings and loan association authorized
 255 and qualified to exercise fiduciary powers in this state, may,
 256 but shall not be required to, register as a professional
 257 guardian under this section. If a trust company, state banking
 258 corporation, state savings association, national banking
 259 association, or federal savings and loan association described
 260 in this subsection elects to register as a professional guardian
 261 under this subsection, the requirements of subsection (3) shall
 262 not apply and the registration shall include only the name,
 263 address, and employer identification number of the registrant,
 264 the name and address of its registered agent, if any, and the
 265 documentation described in paragraph (3)(e).

266 (6) The Department of Elderly Affairs may contract with



HB 1891

2003

267 the Florida Guardianship Foundation to register professional
268 guardians. The foundation may contract with the clerk of the
269 court in each county to perform the administrative functions
270 associated with registering professional guardians.

271 (7) The department shall ensure that the clerks of the
272 court and the Chief Judge of each judicial circuit receive
273 information about each registered professional guardian.

274 Section 8. Subsections (4) through (9) are added to
275 section 744.1085, Florida Statutes, to read:

276 744.1085 Regulation of professional guardians;
277 application; bond required; educational requirements.--

278 (4) Each professional guardian must allow, at the
279 guardian's expense, an investigation of the guardian's credit
280 history, and the credit history of employees of the guardian, in
281 a manner prescribed by the Department of Elderly Affairs.

282 (5) As required in s. 744.3135, each professional guardian
283 shall allow a level 2 background screening of the guardian and
284 employees of the guardian in accordance with the provisions of
285 s. 435.04.

286 (6) After July 1, 2005, each professional guardian shall
287 be required to demonstrate competency to act as a professional
288 guardian by taking an examination developed or approved by the
289 Florida Guardianship Foundation and the Department of Elderly
290 Affairs.

291 (a) The Department of Elderly Affairs, in consultation
292 with the Florida Guardianship Foundation, shall determine the
293 minimum examination score necessary for passage of guardianship
294 examinations.

295 (b) The Department of Elderly Affairs shall determine the
296 procedure for administration of the examination.



HB 1891

2003

297 (c) The Florida Guardianship Foundation shall charge an
298 examination fee for the actual costs of the development and the
299 administration of the examination, not to exceed \$500.

300 (d) The Department of Elderly Affairs, in consultation
301 with the Florida Guardianship Foundation, may recognize passage
302 of a national guardianship examination in lieu of all or part of
303 the examination developed or approved by the foundation, except
304 that all professional guardians must take and pass an approved
305 examination section related to Florida law and procedure.

306 (7) The Department of Elderly Affairs, in consultation
307 with the Florida Guardianship Foundation, shall set the minimum
308 score necessary to demonstrate professional guardianship
309 competency.

310 (8) The Department of Elderly Affairs shall waive the
311 examination requirement in paragraph (6) if a professional
312 guardian can provide:

313 (a) Proof that the guardian has actively acted as a
314 professional guardian for 5 years or more; and

315 (b) A letter from a circuit judge before whom the
316 professional guardian practiced at least 1 year which states
317 that the professional guardian had demonstrated to the court her
318 or his competency as a professional guardian.

319 (9) After July 1, 2004, the court shall not appoint any
320 professional guardian who has not met the requirements of this
321 section and s. 744.1083.

322 Section 9. Section 744.3135, Florida Statutes, is amended
323 to read:

324 744.3135 Credit and criminal investigation.--The court may
325 require a nonprofessional guardian and shall require a
326 professional or public guardian, and all employees of a



HB 1891

2003

327 professional guardian who have a fiduciary responsibility to a
328 ward, to submit, at their own expense, to an investigation of
329 the guardian's credit history and to undergo level 2 background
330 screening as required under s. 435.04. The clerk of the court
331 shall obtain fingerprint cards from the Federal Bureau of
332 Investigation and make them available to guardians. Any guardian
333 who is so required shall have his or her fingerprints taken and
334 forward the proper fingerprint card along with the necessary fee
335 to the Florida Department of Law Enforcement for processing. The
336 professional guardian shall pay to the clerk of the court a fee
337 of \$5 for handling and processing professional guardian files.
338 The results of the fingerprint checks shall be forwarded to the
339 clerk of court who shall maintain the results in a guardian file
340 and shall make the results available to the court. If credit or
341 criminal investigations are required, the court must consider
342 the results of the investigations in appointing a guardian.
343 Professional guardians and all employees of a professional
344 guardian who have a fiduciary responsibility to a ward, so
345 appointed, must resubmit, at their own expense, to an
346 investigation of credit history, and undergo level 1 background
347 screening as required under s. 435.03, at least every 2 years
348 after the date of their appointment. At any time, the court may
349 require nonprofessional guardians to submit to an investigation
350 of credit history and undergo level 1 background screening as
351 required under s. 435.03. The court must consider the results of
352 these investigations in reappointing a guardian. This section
353 shall not apply to a professional guardian, or to the employees
354 of a professional guardian, that is a trust company, a state
355 banking corporation or state savings association authorized and
356 qualified to exercise fiduciary powers in this state, or a



HB 1891

2003

357 national banking association or federal savings and loan
358 association authorized and qualified to exercise fiduciary
359 powers in this state.

360 Section 10. Subsection (13) of section 744.444, Florida
361 Statutes, is amended, and subsection (16) is added to said
362 section to read:

363 744.444 Power of guardian without court approval.--Without
364 obtaining court approval, a plenary guardian of the property, or
365 a limited guardian of the property within the powers granted by
366 the order appointing the guardian or an approved annual or
367 amended guardianship report, may:

368 (13) When reasonably necessary, employ persons, including
369 attorneys, auditors, investment advisers, care managers, or
370 agents, even if they are associated with the guardian, to advise
371 or assist the guardian in the performance of his or her duties.

372 (16) Provide confidential information about a ward that is
373 related to an investigation arising under part I of chapter 400
374 to a local or state ombudsman council member conducting such an
375 investigation. Any such ombudsman shall have a duty to maintain
376 the confidentiality of such information.

377 Section 11. Paragraph (c) of subsection (2) of section
378 744.534, Florida Statutes, is amended to read:

379 744.534 Disposition of unclaimed funds held by guardian.--

380 (2)

381 (c) Within 5 years from the date of deposit with the State
382 Treasurer, on written petition to the court that directed the
383 deposit of the funds and informal notice to the Department of
384 Legal Affairs, and after proof of his or her right to them, any
385 person entitled to the funds, before or after payment to the
386 State Treasurer and deposit as provided for in paragraph (a),



HB 1891

2003

387 may obtain a court order directing the payment of the funds to
388 him or her. All funds deposited with the State Treasurer and not
389 claimed within 5 years from the date of deposit shall escheat to
390 the state to be deposited in the Department of Elderly Affairs
391 Administrative Trust Fund to be used solely for the benefit of
392 public guardianship as determined by the Secretary of the
393 Department of Elderly Affairs ~~Statewide Public Guardianship~~
394 ~~Office established in part IX of this chapter.~~

395 Section 12. Section 744.7021, Florida Statutes, is amended
396 to read:

397 744.7021 Statewide Public Guardianship Office.--There is
398 hereby created the Statewide Public Guardianship Office within
399 the Department of Elderly Affairs. ~~The Department of Elderly~~
400 ~~Affairs shall provide administrative support and service to the~~
401 ~~office to the extent requested by the executive director within~~
402 ~~the available resources of the department. The Statewide Public~~
403 ~~Guardianship Office may request the assistance of the Inspector~~
404 ~~General of the Department of Elderly Affairs in providing~~
405 ~~auditing services, and the Office of General Counsel of the~~
406 ~~department may provide assistance in rulemaking and other~~
407 ~~matters as needed to assist the Statewide Public Guardianship~~
408 ~~Office. The Statewide Public Guardianship Office shall not be~~
409 ~~subject to control, supervision, or direction by the Department~~
410 ~~of Elderly Affairs in the performance of its duties.~~

411 (1) The Secretary of the Department of Elderly Affairs
412 shall appoint the executive director, who shall be the head of
413 the Statewide Public Guardianship Office ~~is the executive~~
414 ~~director, who shall be appointed by the Governor. The executive~~
415 ~~director must be a~~ member of The Florida Bar, knowledgeable of
416 ~~licensed attorney with a background in guardianship law and~~



HB 1891

2003

417 ~~knowledge~~ of the social services available to meet the needs of
418 incapacitated persons, shall serve on a full-time basis, and
419 shall personally, or through representatives of the office,
420 carry out the purposes and functions of the Statewide Public
421 Guardianship Office in accordance with state and federal law.
422 The executive director shall serve at the pleasure of and report
423 to the Secretary ~~Governor~~.

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

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

429 (b) The executive director ~~office~~, in consultation with
430 local guardianship offices, shall develop statewide performance
431 measures and standards.

432 (c) The executive director ~~office~~ shall review the various
433 methods of funding guardianship programs, the kinds of services
434 being provided by such programs, and the demographics of the
435 wards. In addition, the executive director ~~office~~ shall review
436 and make recommendations regarding the feasibility of recovering
437 a portion or all of the costs of providing public guardianship
438 services from the assets or income of the wards.

439 (d) No later than October 1, 2000, the office shall submit
440 to the Governor, the President of the Senate, the Speaker of the
441 House of Representatives, and the Chief Justice of the Supreme
442 Court an interim report describing the progress of the office in
443 meeting the goals as described in this section. No later than
444 October 1, 2001, the office shall submit to the Governor, the
445 President of the Senate, the Speaker of the House of
446 Representatives, and the Chief Justice of the Supreme Court a



HB 1891

2003

447 proposed public guardianship plan including alternatives for
448 meeting the state's guardianship needs. This plan may include
449 recommendations for less than the entire state, may include a
450 phase-in system, and shall include estimates of the cost of each
451 of the alternatives. Each year thereafter, the executive
452 director ~~office~~ shall provide a status report and provide
453 further recommendations to the Secretary that address the need
454 for public guardianship services and related issues.

455 (e) The executive director ~~office~~ may provide assistance
456 to local governments or entities in pursuing grant
457 opportunities. The executive director ~~office~~ shall review and
458 make recommendations in the annual report on the availability
459 and efficacy of seeking Medicaid matching funds. The executive
460 director ~~office~~ shall diligently seek ways to use existing
461 programs and services to meet the needs of public wards.

462 (f) The executive director, in consultation with the
463 Florida Guardianship Foundation, office shall develop a
464 guardianship training program curriculum that. ~~The training~~
465 ~~program~~ may be offered to all guardians whether public or
466 private. ~~The office shall establish a curriculum committee to~~
467 ~~develop the training program specified in this part. The~~
468 ~~curriculum committee shall include, but not be limited to,~~
469 ~~probate judges. A fee may be charged to private guardians in~~
470 ~~order to defray the cost of providing the training. In addition,~~
471 ~~a fee may be charged to any training provider for up to the~~
472 ~~actual cost of the review and approval of their curriculum. Any~~
473 ~~fees collected pursuant to this paragraph shall be deposited in~~
474 ~~the Department of Elderly Affairs Administrative Trust Fund to~~
475 ~~be used for the guardianship training program.~~



HB 1891

2003

476 (3) The executive director ~~office~~ may conduct or contract
 477 for demonstration projects authorized by the Department of
 478 Elderly Affairs, within funds appropriated or through gifts,
 479 grants, or contributions for such purposes, to determine the
 480 feasibility or desirability of new concepts of organization,
 481 administration, financing, or service delivery designed to
 482 preserve the civil and constitutional rights of persons of
 483 marginal or diminished capacity. Any gifts, grants, or
 484 contributions for such purposes shall be deposited in the
 485 Department of Elderly Affairs Administrative Trust Fund.

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

489 Section 13. Section 744.704, Florida Statutes, is amended
 490 to read:

491 744.704 Powers and duties.--

492 (1) A public guardian may serve as a guardian of a person
 493 adjudicated incapacitated under this chapter:

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

497 ~~(b) If the assets of the ward do not exceed the asset~~
 498 ~~level for Medicaid eligibility, exclusive of homestead and~~
 499 ~~exempt property as defined in s. 4, Art. X of the State~~
 500 ~~Constitution, and the ward's income, from all sources, is less~~
 501 ~~than \$4,000 per year. Income from public welfare programs,~~
 502 ~~supplemental security income, optional state supplement, a~~
 503 ~~disability pension, or a social security pension shall be~~
 504 ~~excluded in such computation. However, a ward whose total~~



HB 1891

2003

505 ~~income, counting excludable income, exceeds \$30,000 a year may~~
506 ~~not be served.~~

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

510 (3) The public guardian shall primarily serve
511 incapacitated persons who are of limited financial means, as
512 defined by contract or rule of the Department of Elderly
513 Affairs. The public guardian may serve incapacitated persons of
514 greater financial means to the extent the Department of Elderly
515 Affairs determines to be appropriate ~~If the public guardian~~
516 ~~finds that the assets or the income of the ward exceeds the~~
517 ~~amounts set forth in paragraph (1)(b), the public guardian shall~~
518 ~~submit a resignation and petition the court for appointment of a~~
519 ~~successor guardian. The public guardian shall not be dismissed~~
520 ~~until such time that a private guardian is appointed. If a~~
521 ~~qualified successor guardian is not available, the public~~
522 ~~guardian may remain as guardian, provided the guardian makes~~
523 ~~reasonable efforts to find a successor and reports to the court~~
524 ~~every 6 months on efforts to obtain a successor.~~

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

527 (5) The public guardian may delegate to assistants and
528 other members of his or her staff the powers and duties of the
529 office of public guardian, except as otherwise limited by law.
530 The public guardian shall retain ultimate responsibility for the
531 discharge of his or her duties and responsibilities.

532 ~~(6) The public guardian, when appointed guardian of an~~
533 ~~incapacitated person, shall seek a family member or friend,~~
534 ~~other person, bank, or corporation who is qualified and willing~~



HB 1891

2003

535 ~~to serve as guardian. Upon determining that there is someone~~
536 ~~qualified and willing to serve as guardian, either the public~~
537 ~~guardian or the qualified person shall petition the court for~~
538 ~~appointment of a successor guardian.~~

539 ~~(6)(7)~~ A public guardian shall not commit a ward to a
540 mental health treatment facility, as defined in s. 394.455(30),
541 without an involuntary placement proceeding as provided by law.

542 ~~(7)(8)~~ When a person is appointed successor public
543 guardian, he or she immediately succeeds to all rights, duties,
544 responsibilities, and powers of the preceding public guardian.

545 ~~(8)(9)~~ When the position of public guardian is vacant,
546 subordinate personnel employed under subsection (4) shall
547 continue to act as if the position of public guardian were
548 filled.

549 Section 14. (1) There is created within the Department of
550 Elderly Affairs a Guardianship Task Force for the purpose of
551 examining guardianship and incapacity and making recommendations
552 to the Governor and the Legislature for the improvement of
553 processes and procedures related to guardianship and incapacity.
554 The department shall staff the task force, and the Secretary of
555 Elderly Affairs shall appoint the chair from among the task
556 force membership. The members of the task force shall serve
557 without compensation. Unless specified otherwise, task force
558 members shall be appointed by the organizations they represent,
559 and the cost of members' participation shall be borne by their
560 appointing organization.

561 (2) The Guardianship Task Force shall identify the
562 characteristics of Florida guardianship practice. It shall also
563 identify best practices and recommend specific statutory and
564 other changes for achieving such best practices and for



HB 1891

2003

565 achieving citizen access to quality guardianship services. The
566 task force shall make a preliminary report to the Secretary of
567 the Department of Elderly Affairs no later than January 1, 2004,
568 and its final report to the Secretary shall be made no later
569 than January 1, 2005.

570 (3) The Guardianship Task Force shall consist of nine
571 members, including a judge with experience in guardianship
572 proceedings who is appointed by the Florida Conference of
573 Circuit Judges, a representative of the Association of Clerks of
574 Court, a professor of law with experience in elder issues
575 appointed by the Secretary of the Department of Elderly Affairs,
576 a representative of the Florida State Guardianship Association,
577 a representative of the Florida Guardianship Foundation, a
578 representative of the Real Property and Probate Section of The
579 Florida Bar, a representative of the Elder Law Section of The
580 Florida Bar, a professional with experience performing
581 examinations and determining incapacity, and a citizen or
582 consumer appointed by the Executive Director of the Florida
583 office of the American Association of Retired Persons.

584 (4) The Guardianship Task Force may appoint ex officio
585 members who possess needed expertise to assist the task force in
586 its work. The task force will cease to exist May 6, 2005.

587 Section 15. This act shall take effect upon becoming a
588 law.