

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

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

1 by the court; amending s. 744.3145, F.S.;  
2 reducing the educational requirements for a  
3 person serving as a guardian for the person's  
4 minor child; creating ss. 393.506 and 400.9685,  
5 F.S.; providing for certain unlicensed staff to  
6 assist persons with developmental disabilities  
7 to administer certain prescription medications;  
8 providing the conditions under which staff may  
9 assist with medication; requiring the Agency  
10 for Health Care Administration to provide for  
11 specified aspects of the administration of  
12 medication in rule; amending s. 415.102, F.S.;  
13 redefining the terms "abuse," "neglect," and  
14 "vulnerable adult"; creating s. 415.1046, F.S.;  
15 providing the Department of Children and Family  
16 Services with the authority to contract for  
17 provision of adult protective investigative  
18 services; stipulating the requirements for  
19 sheriffs' offices to be eligible to contract  
20 for provision of adult protective investigative  
21 services; providing for the contracting and  
22 funding for adult protective investigative  
23 services; requiring sheriff's employees to  
24 complete certain training; stipulating minimum  
25 requirements for the sheriffs' offices'  
26 operation of adult protective investigations;  
27 requiring a program performance evaluation;  
28 amending s. 402.310, F.S.; authorizing the  
29 Department of Children and Family Services or a  
30 local licensing agency to deny, suspend, or  
31 revoke the license of a child care facility, a

1 licensed family day care home, or a large  
2 family child care home and to deny, suspend, or  
3 revoke the registration of a family day care  
4 home following a violation of certain laws or  
5 rules; amending s. 402.313, F.S.; abolishing  
6 the authority of the Department of Children and  
7 Family Services or a local licensing agency to  
8 impose an administrative fine for family day  
9 care homes; requiring the department to  
10 establish minimum safety standards for licensed  
11 family day care homes; amending s. 402.3131,  
12 F.S.; abolishing the authority of the  
13 Department of Children and Family Services or a  
14 local licensing agency to impose an  
15 administrative fine for large family child care  
16 homes; amending s. 402.3055, F.S.; requiring a  
17 signed affidavit attesting to the accuracy of  
18 certain information provided by an applicant  
19 for a child care facility license; amending s.  
20 402.310, F.S.; requiring the Department of  
21 Children and Family Services to establish and  
22 impose uniform penalties relating to child care  
23 facility violations; requiring implementation  
24 not contingent upon an appropriation; creating  
25 s. 402.3105, F.S.; requiring the department to  
26 establish a database of information relating to  
27 violations, citations, and penalties imposed  
28 against child care facilities regulated by the  
29 state; requiring the Department of Children and  
30 Family Services to consult and meet the  
31 requirements of the State Technology Office;

1 specifying database capabilities and uses of  
2 information contained therein; requiring  
3 implementation not contingent upon an  
4 appropriation; directing the Department of  
5 Children and Family Services to adopt a rule  
6 defining child care; providing an effective  
7 date.

8  
9 Be It Enacted by the Legislature of the State of Florida:

10

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

13 744.102 Definitions.--As used in this chapter, the  
14 term:

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

22 Section 2. Section 744.1083, Florida Statutes, is  
23 amended to read:

24 744.1083 ~~Professional guardian~~ Registration of of  
25 professional and public guardians.--

26 (1) Effective January 1, 2004 ~~2003~~, a professional  
27 guardian and a public guardian must register biennially with  
28 the Statewide Public Guardianship Office as established in  
29 part IX of this chapter. ~~The Statewide Public Guardianship~~  
30 ~~Office may contract with the clerk of the court in each county~~

31

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

3 (2) The Department of Elderly Affairs may 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 ~~(2) Annual registration shall be made on forms~~  
9 ~~furnished by the Statewide Public Guardianship Office and~~  
10 ~~accompanied by the applicable registration fee as determined~~  
11 ~~by rule. Such fee shall not exceed \$25.~~

12 (3) Registration must include the following:

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

16 (b) If the professional guardian is a partnership or  
17 association, the name, address, and date of birth of every  
18 member, and the employer identification number of the  
19 partnership or association.

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

26 (d) The name, address, date of birth, and employer  
27 identification number, if applicable, of each person providing  
28 guardian-delegated financial or personal guardianship services  
29 for wards.

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

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

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

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

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

19           ~~(6)(4) The Department of Elderly Affairs Statewide~~  
20 ~~Public Guardianship Office shall may adopt rules, forms, and~~  
21 ~~procedures necessary to administer this section.~~

22           ~~(7)(5) A trust company, a state banking corporation or~~  
23 ~~state savings association authorized and qualified to exercise~~  
24 ~~fiduciary powers in this state, or a national banking~~  
25 ~~association or federal savings and loan association authorized~~  
26 ~~and qualified to exercise fiduciary powers in this state, may,~~  
27 ~~but shall not be required to, register as a professional~~  
28 ~~guardian under this section and may serve as a professional~~  
29 ~~guardian without registration with all of the rights and~~  
30 ~~privileges of a person registered under this chapter. If a~~  
31 ~~trust company, state banking corporation, state savings~~

1 association, national banking association, or federal savings  
2 and loan association described in this subsection elects to  
3 register as a professional guardian under this subsection, the  
4 requirements of subsection (3) shall not apply and the  
5 registration shall include only the name, address, and  
6 employer identification number of the registrant, the name and  
7 address of its registered agent, if any, ~~and the documentation~~  
8 ~~described in paragraph (3)(e).~~

9 (8) A state college or university or an independent  
10 college or university as described pursuant to s.  
11 1009.98(3)(a) may, but shall not be required to, register as a  
12 public guardian under this section. If a state college or  
13 university or independent college or university elects to  
14 register as a public guardian under this subsection, the  
15 requirements of subsection (3) shall not apply and the  
16 registration shall include only the name, address, and  
17 employer identification number of the registrant.

18 Section 3. Section 744.1085, Florida Statutes, is  
19 amended to read:

20 744.1085 Regulation of professional and public  
21 guardians; application; bond required; educational  
22 requirements.--

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

26 (2) Each professional or public guardian who files a  
27 petition for appointment ~~after October 1, 1997~~, shall post a  
28 blanket fiduciary bond with the clerk of the circuit court in  
29 the county in which the guardian's primary place of business  
30 is located. The guardian shall provide proof of the fiduciary  
31 bond to the clerks of each additional circuit court in which



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

22 (3) Each professional guardian defined in s.  
23 744.102(15) and public guardian, ~~on October 1, 1997,~~ must  
24 receive a minimum of 40 hours of instruction and training ~~by~~  
25 ~~October 1, 1998, or within 1 year after becoming a~~  
26 ~~professional guardian, whichever occurs later.~~ Each  
27 professional guardian must receive a minimum of 16 hours of  
28 continuing education every 2 calendar years after the year in  
29 which the initial 40-hour educational requirement is met. The  
30 instruction and education must be completed through a course  
31 approved or offered by the Statewide Public Guardianship

1 Office. The expenses incurred to satisfy the educational  
2 requirements prescribed in this section may not be paid with  
3 the assets of any ward. This subsection does not apply to any  
4 attorney who is licensed to practice law in this state.

5 (4) Each professional guardian or public guardian must  
6 allow, at the guardian's expense, an investigation of the  
7 guardian's credit history, conducted in a manner prescribed by  
8 the Department of Elderly Affairs.

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

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

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

31

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

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

6           (b) A letter from the chief judge of a judicial  
7 circuit before whom the professional or public guardian  
8 practiced at least 1 year which states that the professional  
9 guardian has demonstrated to the court her or his competency  
10 as a professional or public guardian.

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

14           (10) This section does not apply to a professional  
15 guardian or the employees of a professional guardian, that is  
16 a trust company, a state banking corporation, state savings  
17 association authorized and qualified to exercise fiduciary  
18 powers in this state, or a national banking association or  
19 federal savings and loan association authorized and qualified  
20 to exercise fiduciary powers in this state.

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

23           744.3135 Credit and criminal investigation.--The court  
24 may require a nonprofessional guardian and shall require a  
25 professional or public guardian, and all employees of a  
26 professional guardian who have a fiduciary responsibility to a  
27 ward, to submit, at their own expense, to an investigation of  
28 the guardian's credit history and to undergo level 2  
29 background screening as required under s. 435.04. The clerk of  
30 the court shall obtain fingerprint cards from the Federal  
31 Bureau of Investigation and make them available to guardians.

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

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

1           744.444 Power of guardian without court  
2 approval.--Without obtaining court approval, a plenary  
3 guardian of the property, or a limited guardian of the  
4 property within the powers granted by the order appointing the  
5 guardian or an approved annual or amended guardianship report,  
6 may:

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

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

17           (17) Provide confidential information of a ward which  
18 is related to an investigation arising under part I of chapter  
19 400 to a local or state ombudsman council member who is  
20 conducting the investigation. Such information must be  
21 provided within 7 days after the initial written request. Any  
22 such ombudsman must maintain the confidentiality of such  
23 information.

24           Section 6. Paragraph (c) of subsection (2) of section  
25 744.534, Florida Statutes, is amended to read:

26           744.534 Disposition of unclaimed funds held by  
27 guardian.--

28           (2)

29           (c) Within 5 years from the date of deposit with the  
30 State Treasurer, on written petition to the court that  
31 directed the deposit of the funds and informal notice to the

1 Department of Legal Affairs, and after proof of his or her  
2 right to them, any person entitled to the funds, before or  
3 after payment to the State Treasurer and deposit as provided  
4 for in paragraph (a), may obtain a court order directing the  
5 payment of the funds to him or her. All funds deposited with  
6 the State Treasurer and not claimed within 5 years from the  
7 date of deposit shall escheat to the state to be deposited in  
8 the Department of Elderly Affairs Administrative Trust Fund to  
9 be used solely for the benefit of public guardianship as  
10 determined by the Secretary of Elderly Affairs Statewide  
11 ~~Public Guardianship Office established in part IX of this~~  
12 ~~chapter.~~

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

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

30 (1) The Secretary of Elderly Affairs shall appoint or  
31 contract with the executive director of the office, who shall

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

13 (2) The executive director ~~Statewide Public~~  
14 ~~Guardianship Office~~ shall, directly or through contract with  
15 the Department of Elderly Affairs, and within available  
16 resources, have oversight responsibilities for all public and  
17 professional guardians.

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

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

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

30 (d) No later than October 1, 2000, the office shall  
31 submit to the Governor, the President of the Senate, the

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

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

23 (f) The executive director, in consultation with the  
24 entity provided in s. 744.1083 ~~office~~ shall develop a  
25 guardianship training program curriculum that. ~~The training~~  
26 ~~program~~ may be offered to all guardians whether public or  
27 private. ~~The office shall establish a curriculum committee to~~  
28 ~~develop the training program specified in this part. The~~  
29 ~~curriculum committee shall include, but not be limited to,~~  
30 ~~probate judges. A fee may be charged to private guardians in~~  
31 ~~order to defray the cost of providing the training. In~~



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

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

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

20       Section 8. Subsections (1), (2), and (3) of section  
21 744.704, Florida Statutes, are amended to read:

22       744.704 Powers and duties.--

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

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

28       ~~(b) If the assets of the ward do not exceed the asset~~  
29 ~~level for Medicaid eligibility, exclusive of homestead and~~  
30 ~~exempt property as defined in s. 4, Art. X of the State~~  
31 ~~Constitution, and the ward's income, from all sources, is less~~

1 ~~than \$4,000 per year. Income from public welfare programs,~~  
2 ~~supplemental security income, optional state supplement, a~~  
3 ~~disability pension, or a social security pension shall be~~  
4 ~~excluded in such computation. However, a ward whose total~~  
5 ~~income, counting excludable income, exceeds \$30,000 a year may~~  
6 ~~not be served.~~

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

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

26 Section 9. Guardianship Task Force; creation;  
27 membership, duties.--

28 (1) There is created within the Department of Elderly  
29 Affairs a Guardianship Task Force. The purpose of the task  
30 force is to examine guardianship and incapacity and make  
31 recommendations to the Governor and the Legislature for the

1 improvement of guardianship and incapacity practice. The  
2 department shall staff the task force. The Secretary of  
3 Elderly Affairs shall appoint the chair of the task force.  
4 Members of the task force shall serve without compensation.  
5 Unless specified otherwise, task force members shall be  
6 appointed by the respective organizations that they represent.

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

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

21 (4) The Guardianship Task Force shall consist of 10  
22 members as follows: a judge who has experience sitting in  
23 guardianship proceedings appointed by the Florida Conference  
24 of Circuit Judges, a representative of the Association of  
25 Clerks of Court, a professor of law who has experience in  
26 elder issues appointed by the Secretary of Elderly Affairs, a  
27 representative of the Florida State Guardianship Association,  
28 a representative of the Florida Guardianship Foundation, a  
29 representative of the Real Property and Probate Section of The  
30 Florida Bar, a representative of the Elder Law Section of The  
31 Florida Bar, a professional who has experience in examining

1 and determining incapacity, a representative of the Florida  
2 Bankers' Association and a citizen/consumer appointed by the  
3 Florida AARP (American Association of Retired Persons).

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

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

8 Section 10. Subsection (8) is added to section  
9 744.108, Florida Statutes, to read:

10 744.108 Guardian's and attorney's fees and expenses.--

11 (8) When court proceedings are instituted to review or  
12 determine a guardian's or an attorney's fees under subsection  
13 (2), such proceedings are part of the guardianship  
14 administration process and the costs, including fees for the  
15 guardian's attorney, shall be determined by the court and paid  
16 from the assets of the guardianship estate unless the court  
17 finds the requested compensation under subsection (2) to be  
18 substantially unreasonable.

19 Section 11. Section 744.3145, Florida Statutes, is  
20 amended to read:

21 744.3145 Guardian education requirements.--

22 (1) Each ward is entitled to a guardian competent to  
23 perform the duties of a guardian necessary to protect the  
24 interests of the ward.

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

29 (a) The legal duties and responsibilities of the  
30 guardian;

31 (b) The rights of the ward;

1 (c) The availability of local resources to aid the  
2 ward; and

3 (d) The preparation of habilitation plans and annual  
4 guardianship reports, including financial accounting for the  
5 ward's property.

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

10 (a) The legal duties and responsibilities of the  
11 guardian of the property;

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

14 (c) Use of guardianship assets.

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

24 ~~(5)(4)~~ Expenses incurred by the guardian to satisfy  
25 the education requirement may be paid from the ward's estate,  
26 unless the court directs that such expenses be paid by the  
27 guardian individually.

28 ~~(6)(5)~~ The court may, in its discretion, waive some or  
29 all of the requirements of this section or impose additional  
30 requirements. The court shall make its decision on a  
31 case-by-case basis and, in making its decision, shall consider

1 the experience and education of the guardian, the duties  
2 assigned to the guardian, and the needs of the ward.

3 ~~(7)(6)~~ The provisions of this section do not apply to  
4 professional guardians.

5 Section 12. Section 393.506, Florida Statutes, is  
6 created to read:

7 393.506 Administration of medication.--

8 (1) Notwithstanding the provisions of part I of  
9 chapter 464, the Nurse Practice Act, unlicensed direct care  
10 service staff providing services to persons with developmental  
11 disabilities may administer oral, transdermal, inhaled, or  
12 topical prescription medications as provided in this section.

13 (a) For day programs, as defined in s. 393.063, the  
14 director of the facility or program shall designate in writing  
15 unlicensed direct care services staff who are eligible to be  
16 trained to assist in the administration of or to administer  
17 medication.

18 (b) For intermediate care facilities for the  
19 developmentally disabled licensed pursuant to part XI of  
20 chapter 400, unlicensed staff designated by the director may  
21 provide medication assistance under the general supervision of  
22 a registered nurse licensed pursuant to chapter 464.

23 (2) Each facility, institution, or program must  
24 include in its policies and procedures a plan for training  
25 designated staff to ensure the safe handling, storage, and  
26 administration of prescription medication. These policies and  
27 procedures must be approved by the department before  
28 unlicensed direct care services staff assist with medication.

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

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

1           (b) The director of the facility, program, or provider  
2 must maintain a copy of the written prescription, and that  
3 prescription must include the name of the medication, the  
4 dosage and administration schedule, the reason for the  
5 prescription, and the termination date.

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

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

11           Section 13. Section 400.9685, Florida Statutes, is  
12 created to read:

13           400.9685 Administration of medication.--

14           (1) Notwithstanding the provisions of the Nurse  
15 Practice Act, part I of chapter 464, unlicensed direct care  
16 services staff who are providing services to clients in  
17 Intermediate Care Facilities for the Developmentally Disabled,  
18 licensed pursuant to this part, may administer prescribed,  
19 prepackaged, pre-measured medications under the general  
20 supervision of a registered nurse as provided in this section  
21 and applicable rules. Training required by this section and  
22 applicable rules must be conducted by a registered nurse  
23 licensed pursuant to chapter 464, or a physician licensed  
24 pursuant to chapter 458 or chapter 459.

25           (2) Each facility that allows unlicensed direct care  
26 service staff to administer medications pursuant to this  
27 section must:

28           (a) Develop and implement policies and procedures that  
29 include a plan to ensure the safe handling, storage, and  
30 administration of prescription medication.

31

1           (b) Maintain written evidence of the expressed and  
2 informed consent for each client.

3           (c) Maintain a copy of the written prescription  
4 including the name of the medication, the dosage, and  
5 administration schedule.

6           (d) Maintain documentation regarding the prescription  
7 including the name, dosage, and administration schedule,  
8 reason for prescription, and the termination date; and

9           (e) Maintain documentation of compliance with required  
10 training.

11           (3) Agency rules shall specify the following as it  
12 relates to the administration of medications by unlicensed  
13 staff:

14           (a) Medications authorized and packaging required.

15           (b) Acceptable methods of administration.

16           (c) A definition of "general supervision".

17           (d) Minimum educational requirements of staff.

18           (e) Criteria of required training and competency that  
19 must be demonstrated prior to the administration of  
20 medications by unlicensed staff including in-service training.

21           (f) Requirements for safe handling, storage, and  
22 administration of medications.

23           Section 14. Subsections (1), (15), and (26) of section  
24 415.102, Florida Statutes, are amended to read:

25           415.102 Definitions of terms used in ss.

26 415.101-415.113.--As used in ss. 415.101-415.113, the term:

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

31



1           (15) "Neglect" means the failure or omission on the  
2 part of the caregiver or vulnerable adult to provide the care,  
3 supervision, and services necessary to maintain the physical  
4 and mental health of the vulnerable adult, including, but not  
5 limited to, food, clothing, medicine, shelter, supervision,  
6 and medical services, that a prudent person would consider  
7 essential for the well-being of a vulnerable adult. The term  
8 "neglect" also means the failure of a caregiver or vulnerable  
9 adult to make a reasonable effort to protect a vulnerable  
10 adult from abuse, neglect, or exploitation by others.  
11 "Neglect" is repeated conduct or a single incident of  
12 carelessness which produces or could reasonably be expected to  
13 result in serious physical or psychological injury or a  
14 substantial risk of death.

15           (26) "Vulnerable adult" means a person 18 years of age  
16 or older whose ability to perform the normal activities of  
17 daily living or to provide for his or her own care or  
18 protection is impaired due to a mental, emotional, long-term  
19 physical, or developmental disability or dysfunctioning, or  
20 brain damage, or the infirmities of aging.

21           Section 15. Section 415.1046, Florida Statutes, is  
22 created to read:

23           415.1046 Department authorization to contract for the  
24 provision of adult protective investigative services;  
25 procedures; funding.--

26           (1) As described in this section, the department may  
27 contract for the performance of adult protective  
28 investigations of alleged acts of exploitation with a  
29 sheriff's office that is deemed eligible as stipulated in  
30 subsection (2). The department and eligible sheriffs' offices  
31 may enter into a contract for the provision of adult

1 protective investigation services of adult exploitation that  
2 is alleged to have occurred in the county of the respective  
3 sheriff. Such contracts may not include adult abuse and  
4 neglect cases.

5 (2) A sheriff's office is eligible to contract with  
6 the department for the provision of adult protective  
7 investigation services if:

8 (a) The sheriff's office has been responsible for the  
9 provision of child protective investigation services, pursuant  
10 to s. 39.3065, for a minimum of 2 years; and

11 (b) The annual program performance evaluation  
12 conducted pursuant to s. 39.3065(3)(d), has determined that  
13 the sheriff's office is satisfactorily performing child  
14 protective investigations.

15 (3) During the first year in which a sheriff's office  
16 contracts with the department for provision of adult  
17 protective investigation services, the funding associated with  
18 the provision of the services to be furnished, including, but  
19 not limited to, funding for appropriate investigative,  
20 supervisory, and clerical positions; training; associated  
21 equipment; furnishings; and other fixed capital items, must be  
22 transferred from the department's budget to the sheriff's  
23 office. In subsequent years, funding for providing the adult  
24 protective investigative services must be identified for each  
25 sheriff's office entering into a contract in the annual  
26 appropriation made to the department, and the department shall  
27 contract with each respective sheriff's office for the full  
28 amount identified. Notwithstanding ss. 216.181(16)(b) and  
29 216.351, the department may advance payments to the sheriffs'  
30 offices for adult protective investigation services. Funds  
31 for the adult protective investigations may not be integrated

1 into the sheriffs' regular budgets. Budgetary data and other  
2 data relating to the performance of adult protective  
3 investigations must be maintained separately from all other  
4 records of the sheriffs' offices and reported to the  
5 department as specified in the contract.

6 (4) Each employee of the sheriffs' offices who  
7 provides these services must complete the training provided to  
8 and required of the adult protective investigators employed by  
9 the department.

10 (5) The sheriffs' offices under contract with the  
11 department shall operate, at a minimum, in accordance with the  
12 performance standards and outcome measures established by the  
13 Legislature for adult protective investigations conducted by  
14 the department.

15 (6) A program performance evaluation shall be  
16 conducted of the adult protective investigations performed by  
17 each of the sheriffs' offices entering into contract with the  
18 department. This program performance evaluation shall be  
19 conducted in the same manner as the program performance  
20 evaluation for child protective investigations stipulated in  
21 s. 39.3065(3)(d), and shall be incorporated into the annual  
22 report required pursuant to s. 39.3065(3)(d).

23 Section 16. Section 402.310, Florida Statutes, is  
24 amended to read:

25 402.310 Disciplinary actions; hearings upon denial,  
26 suspension, or revocation of license; administrative fines.--

27 (1)(a) The department or local licensing agency may  
28 deny, suspend, or revoke a license of a child care facility, a  
29 licensed family day care home, or a large family child care  
30 home or the registration of a family day care home, or may  
31 impose an administrative fine not to exceed \$100 per

1 violation, per day, for the violation of any provision of ss.  
2 402.301-402.319 or rules adopted thereunder. However, where  
3 the violation could or does cause death or serious harm, the  
4 department or local licensing agency may impose an  
5 administrative fine, not to exceed \$500 per violation per day.

6 (b) In determining the appropriate disciplinary action  
7 to be taken for a violation as provided in paragraph (a), the  
8 following factors shall be considered:

9 1. The severity of the violation, including the  
10 probability that death or serious harm to the health or safety  
11 of any person will result or has resulted, the severity of the  
12 actual or potential harm, and the extent to which the  
13 provisions of ss. 402.301-402.319 have been violated.

14 2. Actions taken by the licensee or registrant to  
15 correct the violation or to remedy complaints.

16 3. Any previous violations of the licensee.

17 (2) When the department has reasonable cause to  
18 believe that grounds for the denial, suspension, or revocation  
19 of a license or registration or imposition of an  
20 administrative fine exist, it shall determine the matter in  
21 accordance with procedures prescribed in chapter 120. When  
22 the local licensing agency has reasonable cause to believe  
23 that grounds for the denial, suspension, or revocation of a  
24 license or registration or imposition of an administrative  
25 fine exist, it shall notify the applicant, registrant, or  
26 licensee in writing, stating the grounds upon which the  
27 license or registration is being denied, suspended, or revoked  
28 or an administrative fine is being imposed. If the applicant,  
29 registrant, or licensee makes no written request for a hearing  
30 to the local licensing agency within 15 days after ~~from~~  
31 receipt of such notice, the license or registration shall be

1 deemed denied, suspended, or revoked or an administrative fine  
2 shall be imposed.

3 (3) If a request for a hearing is made to the local  
4 licensing agency, a hearing shall be held within 30 days and  
5 shall be conducted by an individual designated by the county  
6 commission.

7 (4) An applicant, registrant, or licensee shall have  
8 the right to appeal a decision of the local licensing agency  
9 to a representative of the department. Any required hearing  
10 shall be held in the county in which the child care facility  
11 is being operated or is to be established. The hearing shall  
12 be conducted in accordance with the provisions of chapter 120.

13 Section 17. Paragraph (b) of subsection (1) of section  
14 402.313, Florida Statutes is repealed, present paragraphs (c)  
15 and (d) of that subsection are redesignated as paragraphs (b)  
16 and (c), respectively, and subsection (10) of that section is  
17 amended, to read:

18 402.313 Family day care homes.--

19 (1) Family day care homes shall be licensed under this  
20 act if they are presently being licensed under an existing  
21 county licensing ordinance, if they are participating in the  
22 subsidized child care program, or if the board of county  
23 commissioners passes a resolution that family day care homes  
24 be licensed. If no county authority exists for the licensing  
25 of a family day care home, the department shall have the  
26 authority to license family day care homes under contract for  
27 the purchase-of-service system in the subsidized child care  
28 program.

29 ~~(b) The department or local licensing agency may~~  
30 ~~impose an administrative fine, not to exceed \$100, for failure~~  
31 ~~to comply with licensure or registration requirements.~~

1           (10) The department shall, by rule, establish minimum  
2 standards for family day care homes that are required to be  
3 licensed by county licensing ordinance or county licensing  
4 resolution or that voluntarily choose to be licensed. The  
5 standards should include requirements for staffing, training,  
6 maintenance of immunization records, minimum health and safety  
7 standards, reduced standards for the regulation of child care  
8 during evening hours ~~by municipalities and counties~~, and  
9 enforcement of standards.

10           Section 18. Paragraph (a) of subsection (1) of section  
11 402.3131, Florida Statutes, is repealed, and present  
12 paragraphs (b) and (c) of that section are redesignated as  
13 paragraphs (a) and (b), respectively, to read:

14           402.3131 Large family child care homes.--

15           (1) Large family child care homes shall be licensed  
16 under this section.

17           ~~(a) The department or local licensing agency may~~  
18 ~~impose an administrative fine, not to exceed \$1,000, for~~  
19 ~~failure to comply with licensure requirements.~~

20           Section 19. Paragraph (a) of subsection (1) of section  
21 402.3055, Florida Statutes, is amended to read:

22           402.3055 Child care personnel requirements.--

23           (1) REQUIREMENTS FOR CHILD CARE PERSONNEL.--

24           (a) The department or local licensing agency shall  
25 require that the application for a child care license contain  
26 a question that specifically asks the applicant, owner, or  
27 operator if he or she has ever had a license denied, revoked,  
28 or suspended in any state or jurisdiction or has been the  
29 subject of a disciplinary action or been fined while employed  
30 in a child care facility. The applicant, owner, or operator  
31

1 shall sign an affidavit attesting ~~attest~~ to the accuracy of  
2 the information requested under penalty of perjury.

3       1. If the applicant, owner, or operator admits that he  
4 or she has been a party in such action, the department or  
5 local licensing agency shall review the nature of the  
6 suspension, revocation, disciplinary action, or fine before  
7 granting the applicant a license to operate a child care  
8 facility.

9       2. If the department or local licensing agency  
10 determines as the result of such review that it is not in the  
11 best interest of the state or local jurisdiction for the  
12 applicant to be licensed, a license shall not be granted.

13       Section 20. Paragraph (c) is added to subsection (1)  
14 of section 402.310, Florida Statutes, to read:

15       402.310 Disciplinary actions; hearings upon denial,  
16 suspension, or revocation of license; administrative fines.--

17       (1)

18       (c) The department shall establish and impose uniform  
19 penalties for violations of ss. 402.301-402.319 and the rules  
20 adopted thereunder. The department shall implement this  
21 paragraph beginning on the effective date of this act, and  
22 such implementation shall not be contingent upon a specific  
23 appropriation therefor.

24       Section 21. Section 402.3105, Florida Statutes, is  
25 created to read:

26       402.3105 Central database on violations, citations,  
27 and penalties imposed against child care facilities.--

28       (1) The Department of Children and Family Services  
29 shall establish and maintain a central database to record and  
30 compile all district information relating to violations,  
31

1 citations, and penalties imposed against child care facilities  
2 regulated by the department.

3 (2) The database shall be operated in a manner that  
4 enables the department to identify and locate such information  
5 for purposes of monitoring and evaluating the uniformity and  
6 effectiveness of district investigations and enforcement, in  
7 order to ensure compliance of child care facilities with state  
8 regulatory requirements. The database shall further maintain  
9 and produce aggregate statistical reports monitoring patterns  
10 of violations, citations, and penalties, including the classes  
11 and types of violations and any actions taken to suspend or  
12 revoke the license of a child care facility.

13 (3) The information in the database shall serve as a  
14 resource for the evaluation of child care facilities for  
15 license renewal but may not be used for employment screening.  
16 The information in the database shall be made available to the  
17 public upon request pursuant to chapter 119, relating to  
18 public records.

19 (4) In consultation with the State Technology Office,  
20 the Department of Children and Family Services shall establish  
21 and maintain a central database to record and compile all  
22 district information relating to violations, citations, and  
23 penalties imposed against child care facilities regulated by  
24 the department. This system shall be developed pursuant to  
25 chapter 282, and the department shall implement, operate, and  
26 maintain the system in accordance with the policies and  
27 procedures established by the State Technology Office.

28 (5) The Department of Children and Family Services  
29 shall implement this section beginning on the effective date  
30 of this act, and such implementation shall not be contingent  
31 upon a specific appropriation therefor.



1           Section 22. The Department of Children and Family  
2 Services shall establish by rule a definition for child care  
3 which distinguishes between child care programs that require  
4 child care licensure and after-school programs that do not  
5 require licensure.

6           Section 23. This act shall take effect July 1, 2003.

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