

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Children, Families &
 2 Seniors Subcommittee
 3 Representative Ahern offered the following:

Amendment

Remove lines 158-376 and insert:

7 tool to be used for periodic monitoring activities of
 8 professional guardians related to the management of their wards.
 9 This monitoring may not include a financial audit as required by
 10 the clerk of the circuit court under s. 744.368.

11 (b) The development of procedures, in consultation with
 12 professional guardianship associations, for the review of an
 13 allegation that a professional guardian has violated an
 14 applicable statute, fiduciary duty, standard of practice, rule,
 15 regulation, or other requirement governing the conduct of
 16 professional guardians.

Amendment No.

17 (c) The establishment of disciplinary proceedings,
18 including the authority to conduct investigations and take
19 appropriate administrative action pursuant to chapter 120.

20 (d) Assist the chief judge in each judicial circuit to
21 establish a registry to allow for the appointment of
22 professional guardians in rotating order as provided in s.
23 744.2005.

24 (4) The executive director's oversight responsibilities of
25 public guardians shall include, but not be limited to:

26 (a) The ~~executive director shall~~ review of the current
27 public guardian programs in Florida and other states.

28 (b) The development ~~executive director,~~ in consultation
29 with local guardianship offices, of ~~shall develop~~ statewide
30 performance measures and standards.

31 (c) The ~~executive director shall~~ review of the various
32 methods of funding public guardianship programs, the kinds of
33 services being provided by such programs, and the demographics
34 of the wards. In addition, the executive director shall review
35 and make recommendations regarding the feasibility of recovering
36 a portion or all of the costs of providing public guardianship
37 services from the assets or income of the wards.

38 (d) By January 1 of each year, providing ~~the executive~~
39 ~~director shall provide~~ a status report and providing ~~provide~~
40 further recommendations to the secretary that address the need
41 for public guardianship services and related issues.

42 (e) In consultation with the Florida State Guardianship

Amendment No.

43 Association, the development of a guardianship training program
44 curriculum that may be offered to all guardians, whether public
45 or private.

46 (5) The executive director may provide assistance to local
47 governments or entities in pursuing grant opportunities. The
48 executive director shall review and make recommendations in the
49 annual report on the availability and efficacy of seeking
50 Medicaid matching funds. The executive director shall diligently
51 seek ways to use existing programs and services to meet the
52 needs of public wards.

53 ~~(f) The executive director, in consultation with the~~
54 ~~Florida Guardianship Foundation, shall develop a guardianship~~
55 ~~training program curriculum that may be offered to all guardians~~
56 ~~whether public or private.~~

57 Section 8. Section 744.7021, Florida Statutes, is
58 renumbered as section 744.2001, Florida Statutes, and amended to
59 read:

60 744.2001 744.7021 Statewide Public Guardianship Office of
61 Public and Professional Guardians.—There is hereby created the
62 Statewide Public Guardianship Office of Public and Professional
63 Guardians within the Department of Elderly Affairs.

64 (1) The Secretary of Elderly Affairs shall appoint the
65 executive director, who shall be the head of the ~~Statewide~~
66 ~~Public Guardianship~~ Office of Public and Professional Guardians.
67 The executive director must be a member of The Florida Bar,
68 knowledgeable of guardianship law and of the social services

Amendment No.

69 available to meet the needs of incapacitated persons, shall
70 serve on a full-time basis, and shall personally, or through a
71 representative ~~representatives~~ of the office, carry out the
72 purposes and functions of the ~~Statewide Public Guardianship~~
73 Office of Public and Professional Guardians in accordance with
74 state and federal law. The executive director shall serve at the
75 pleasure of and report to the secretary.

76 (2) The executive director shall, within available
77 resources:7

78 (a) Have oversight responsibilities for all public and
79 professional guardians.

80 (b) Review the standards and criteria for the education,
81 registration, and certification of public and professional
82 guardians in Florida.

83 (3) The executive director's oversight responsibilities of
84 professional guardians shall include, but not be limited to:

85 (a) The development and implementation of a monitoring
86 tool to be used for regular monitoring activities of
87 professional guardians related to the management of each ward
88 and his or her personal affairs. This monitoring may not include
89 a financial audit as required by the clerk of the circuit court
90 under s. 744.368.

91 (b) The development of procedures, in consultation with
92 professional guardianship associations, for the review of an
93 allegation that a professional guardian has violated an
94 applicable statute, fiduciary duty, standard of practice, rule,

Amendment No.

95 regulation, or other requirement governing the conduct of
96 professional guardians.

97 (c) The establishment of disciplinary proceedings,
98 including the authority to conduct investigations and take
99 appropriate administrative action pursuant to chapter 120.

100 (d) Assist the chief judge in each judicial circuit to
101 establish a registry to allow for the appointment of
102 professional guardians in rotating order as provided in s.
103 744.2005.

104 (4) The executive director's oversight responsibilities of
105 public guardians shall include, but not be limited to:

106 (a) ~~The executive director shall~~ review of the current
107 public guardian programs in Florida and other states.

108 (b) The development ~~executive director,~~ in consultation
109 with local guardianship offices, of ~~shall develop~~ statewide
110 performance measures and standards.

111 (c) ~~The executive director shall~~ review of the various
112 methods of funding public guardianship programs, the kinds of
113 services being provided by such programs, and the demographics
114 of the wards. In addition, the executive director shall review
115 and make recommendations regarding the feasibility of recovering
116 a portion or all of the costs of providing public guardianship
117 services from the assets or income of the wards.

118 (d) By January 1 of each year, providing ~~the executive~~
119 ~~director shall provide~~ a status report and providing ~~provide~~
120 further recommendations to the secretary that address the need

Amendment No.

121 for public guardianship services and related issues.

122 (e) In consultation with the Florida Guardianship
123 Foundation, the development of a guardianship training program
124 curriculum that may be offered to all guardians, whether public
125 or private.

126 (5) The executive director may provide assistance to local
127 governments or entities in pursuing grant opportunities. The
128 executive director shall review and make recommendations in the
129 annual report on the availability and efficacy of seeking
130 Medicaid matching funds. The executive director shall diligently
131 seek ways to use existing programs and services to meet the
132 needs of public wards.

133 ~~(f) The executive director, in consultation with the~~
134 ~~Florida Guardianship Foundation, shall develop a guardianship~~
135 ~~training program curriculum that may be offered to all guardians~~
136 ~~whether public or private.~~

137 (6)-(3) The executive director may conduct or contract for
138 demonstration projects authorized by the Department of Elderly
139 Affairs, within funds appropriated or through gifts, grants, or
140 contributions for such purposes, to determine the feasibility or
141 desirability of new concepts of organization, administration,
142 financing, or service delivery designed to preserve the civil
143 and constitutional rights of persons of marginal or diminished
144 capacity. Any gifts, grants, or contributions for such purposes
145 shall be deposited in the Department of Elderly Affairs
146 Administrative Trust Fund.

Amendment No.

147 Section 9. Section 744.1083, Florida Statutes, is
148 renumbered as section 744.2002, Florida Statutes, subsections
149 (1) through (5) of that section are amended, and subsections (7)
150 and (10) of that section are republished, to read:

151 744.2002 ~~744.1083~~ Professional guardian registration.—

152 (1) A professional guardian must register with the
153 ~~Statewide Public Guardianship~~ Office of Public and Professional
154 Guardians established in part II ~~IX~~ of this chapter.

155 (2) Annual registration shall be made on forms furnished
156 by the ~~Statewide Public Guardianship~~ Office of Public and
157 Professional Guardians and accompanied by the applicable
158 registration fee as determined by rule. The fee may not exceed
159 \$100.

160 (3) Registration must include the following:

161 (a) Sufficient information to identify the professional
162 guardian, as follows:

163 1. If the professional guardian is a natural person, the
164 name, address, date of birth, and employer identification or
165 social security number of the person.

166 2. If the professional guardian is a partnership or
167 association, the name, address, and employer identification
168 number of the entity.

169 (b) Documentation that the bonding and educational
170 requirements of s. 744.2003 ~~s. 744.1085~~ have been met.

171 (c) Sufficient information to distinguish a guardian
172 providing guardianship services as a public guardian,

Amendment No.

173 individually, through partnership, corporation, or any other
174 business organization.

175 (4) Prior to registering a professional guardian, the
176 ~~Statewide Public Guardianship Office~~ of Public and Professional
177 Guardians must receive and review copies of the credit and
178 criminal investigations conducted under s. 744.3135. The credit
179 and criminal investigations must have been completed within the
180 previous 2 years.

181 (5) The executive director of the office may deny
182 registration to a professional guardian if the executive
183 director determines that the guardian's proposed registration,
184 including the guardian's credit or criminal investigations,
185 indicates that registering the professional guardian would
186 violate any provision of this chapter. ~~If a guardian who is~~
187 ~~currently registered with the office violates a provision of~~
188 ~~this chapter, the executive director of the office may suspend~~
189 ~~or revoke the guardian's registration. If the executive director~~
190 ~~denies registration to a professional guardian or suspends or~~
191 ~~revokes a professional guardian's registration, the Statewide~~
192 ~~Public Guardianship Office must send written notification of the~~
193 ~~denial, suspension, or revocation to the chief judge of each~~
194 ~~judicial circuit in which the guardian was serving on the day of~~
195 ~~the office's decision to deny, suspend, or revoke the~~
196 ~~registration.~~

197 (7) A trust company, a state banking corporation or state
198 savings association authorized and qualified to exercise

Amendment No.

199 fiduciary powers in this state, or a national banking
200 association or federal savings and loan association authorized
201 and qualified to exercise fiduciary powers in this state, may,
202 but is not required to, register as a professional guardian
203 under this section. If a trust company, state banking
204 corporation, state savings association, national banking
205 association, or federal savings and loan association described
206 in this subsection elects to register as a professional guardian
207 under this subsection, the requirements of subsections (3) and
208 (4) do not apply and the registration must include only the
209 name, address, and employer identification number of the
210 registrant, the name and address of its registered agent, if
211 any, and the documentation described in paragraph (3)(b).

212 (10) A state college or university or an independent
213 college or university that is located and chartered in Florida,
214 that is accredited by the Commission on Colleges of the Southern
215 Association of Colleges and Schools or the Accrediting Council
216 for Independent Colleges and Schools, and that confers degrees
217 as defined in s. 1005.02(7) may, but is not required to,
218 register as a professional guardian under this section. If a
219 state college or university or independent college or university
220 elects to register as a professional guardian under this
221 subsection, the requirements of subsections (3) and (4) do not
222 apply and the registration must include only the name, address,
223 and employer identification number of the registrant.

Amendment No.

224 Section 10. Section 744.1085, Florida Statutes, is
225 renumbered as section 744.2003, Florida Statutes, subsections
226 (3), (6), and (9) of that section are amended, and subsection
227 (8) of that section is republished, to read:

228 744.2003 ~~744.1085~~ Regulation of professional guardians;
229 application; bond required; educational requirements.-

230 (3) Each professional guardian defined in s. 744.102(17)
231 and public guardian must receive a minimum of 40 hours of
232 instruction and training. Each professional guardian must
233 receive a minimum of 16 hours of continuing education every 2
234 calendar years after the year in which the initial 40-hour
235 educational requirement is met. The instruction and education
236 must be completed through a course approved or offered by the
237 ~~Statewide Public Guardianship~~ Office of Public and Professional
238 Guardians. The expenses incurred to satisfy the educational
239 requirements prescribed in this section may not be paid with the
240 assets of any ward. This subsection does not apply to any
241 attorney who is licensed to practice law in this state.

242 (6) ~~After July 1, 2005,~~ Each professional guardian is
243 ~~shall be~~ required to demonstrate competency to act as a
244 professional guardian by taking an examination approved by the
245 Department of Elderly Affairs.

246 (a) The Department of Elderly Affairs shall determine the
247 minimum examination score necessary for passage of guardianship
248 examinations.

Amendment No.

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

251 (c) The Department of Elderly Affairs or its contractor
252 shall charge an examination fee for the actual costs of the
253 development and the administration of the examination. The fee
254 for registration and certification of a professional guardian
255 may not, ~~not to~~ exceed \$500.

256 (d) The Department of Elderly Affairs may recognize
257 passage of a national guardianship examination in lieu of all or
258 part of the examination approved by the Department of Elderly
259 Affairs, except that all professional guardians must take and
260 pass an approved examination section related to Florida law and
261 procedure.

262 (8) The Department of Elderly Affairs shall waive the
263 examination requirement in subsection (6) if a professional
264 guardian can provide:

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

267 (b) A letter from a circuit judge before whom the
268 professional guardian practiced at least 1 year which states
269 that the professional guardian had demonstrated to the court
270 competency as a professional guardian.

271 (9) ~~After July 1, 2004,~~ The court may ~~shall~~ not appoint
272 any professional guardian who has not met the requirements of
273 this section and s. 744.2002 ~~s. 744.1083~~.

Amendment No.

274 Section 11. Section 744.2004, Florida Statutes, is created
275 to read:

276 744.2004 Complaints; disciplinary proceedings; penalties;
277 enforcement.-

278 (1) The Office of Public and Professional Guardians shall
279 adopt rules to:

280 (a) Review, and if determined appropriate, investigate an
281 allegation that a professional guardian has violated an
282 applicable statute, fiduciary duty, standard of practice, rule,
283 regulation, or other requirement governing the conduct of
284 professional guardians.

285 (b) Establish disciplinary proceedings, conduct hearings,
286 and take administrative action pursuant to chapter 120.
287 Disciplinary actions include, but are not limited to, requiring
288 a professional guardian to participate in additional educational
289 courses provided by the Office of Public and Professional
290 Guardians, imposing additional monitoring by the office of the
291 guardianships to which the professional guardian is appointed,
292 and suspension or revocation of a professional guardian's
293 registration.

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295 to read:

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299 adopt rules to:

Amendment No.

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301 allegation that a professional guardian has violated an
302 applicable statute, fiduciary duty, standard of practice, rule,
303 regulation, or other requirement governing the conduct of
304 professional guardians.

305 (b) Establish disciplinary proceedings, conduct hearings,
306 and take administrative action pursuant to chapter 120.
307 Disciplinary actions include, but are not limited to, requiring
308 a professional guardian to participate in additional educational
309 courses provided by the Office of Public and Professional
310 Guardians, imposing additional monitoring by the office of the
311 guardianships to which the professional guardian is appointed,
312 and suspension or revocation of a professional guardian's
313 registration.

314 (2) If the office makes a final determination to suspend
315 or revoke the professional guardian's registration, it must
316 provide the determination to the court of competent jurisdiction
317 for any guardianship case to which the professional guardian is
318 currently appointed.

319 Section 12. Section 744.344, Florida Statutes, is
320 renumbered as section 744.2005, Florida Statutes, and amended to
321 read:

322 744.2005 ~~744.344~~ Order of appointment.-

323 (1) A professional guardian appointed by the court to
324 provide representation of a ward shall