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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/20/2015	.	
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The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. The Division of Law Revision and Information is directed to add ss. 744.1096-744.1098, Florida Statutes, created by this act, to part I of chapter 744, Florida Statutes.

Section 2. The Division of Law Revision and Information is directed to retitle part II of chapter 744, Florida Statutes, consisting of ss. 744.2001-744.2109, Florida Statutes, as



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11 "PUBLIC AND PROFESSIONAL GUARDIANS."

12 Section 3. The Division of Law Revision and Information is
13 directed to remove part IX of chapter 744, Florida Statutes,
14 consisting of ss. 744.701-744.715.

15 Section 4. Subsection (3) of section 709.2109, Florida
16 Statutes, is amended to read:

17 709.2109 Termination or suspension of power of attorney or
18 agent's authority.—

19 (3) If any person initiates judicial proceedings to
20 determine the principal's incapacity or for the appointment of a
21 guardian advocate, the authority granted under the power of
22 attorney is suspended until the petition is dismissed or
23 withdrawn or the court enters an order authorizing the agent to
24 exercise one or more powers granted under the power of attorney.
25 However, if the agent named in the power of attorney is the
26 principal's parent, spouse, child, or grandchild, the authority
27 under the power of attorney is not suspended unless a verified
28 motion in accordance with s. 744.3203 is also filed.

29 (a) If an emergency arises after initiation of proceedings
30 to determine incapacity and before adjudication regarding the
31 principal's capacity, the agent may petition the court in which
32 the proceeding is pending for authorization to exercise a power
33 granted under the power of attorney. The petition must set forth
34 the nature of the emergency, the property or matter involved,
35 and the power to be exercised by the agent.

36 (b) Notwithstanding the provisions of this section, unless
37 otherwise ordered by the court, a proceeding to determine
38 incapacity does not affect the authority of the agent to make
39 health care decisions for the principal, including, but not



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40 limited to, those provided in chapter 765. If the principal has
41 executed a health care advance directive designating a health
42 care surrogate, the terms of the directive control if the
43 directive and the power of attorney are in conflict unless the
44 power of attorney is later executed and expressly states
45 otherwise.

46 Section 5. Effective January 1, 2016, section 744.1012,
47 Florida Statutes, is amended to read:

48 744.1012 Legislative intent.—The Legislature: ~~finds~~

49 (1) Finds that adjudicating a person totally incapacitated
50 and in need of a guardian deprives such person of all her or his
51 civil and legal rights and that such deprivation may be
52 unnecessary.

53 (2) Finds ~~The Legislature further finds~~ that it is
54 desirable to make available the least restrictive form of
55 guardianship to assist persons who are only partially incapable
56 of caring for their needs and that alternatives to guardianship
57 and less intrusive means of assistance should always be
58 explored, including, but not limited to, guardian advocates,
59 before an individual's rights are removed through an
60 adjudication of incapacity.

61 (3) Finds that by recognizing that every individual has
62 unique needs and differing abilities, the Legislature declares
63 that it is the purpose of this act to promote the public welfare
64 by establishing a system that permits incapacitated persons to
65 participate as fully as possible in all decisions affecting
66 them; that assists such persons in meeting the essential
67 requirements for their physical health and safety, in protecting
68 their rights, in managing their financial resources, and in



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69 developing or regaining their abilities to the maximum extent
70 possible; and that accomplishes these objectives through
71 providing, in each case, the form of assistance that least
72 interferes with the legal capacity of a person to act in her or
73 his own behalf. This act shall be liberally construed to
74 accomplish this purpose.

75 (4) Finds that private guardianship is inadequate when
76 there is no willing and responsible family member or friend,
77 other person, bank, or corporation available to serve as
78 guardian for an incapacitated person, and such person does not
79 have adequate income or wealth for the compensation of a private
80 guardian.

81 (5) Intends, through the establishment of the Office of
82 Public and Professional Guardians, to permit the establishment
83 of offices of public guardians for the purpose of providing
84 guardianship services for incapacitated persons when no private
85 guardian is available.

86 (6) Intends that a public guardian be provided only to
87 those persons whose needs cannot be met through less drastic
88 means of intervention.

89 Section 6. Subsection (5) is added to section 744.107,
90 Florida Statutes, to read:

91 744.107 Court monitors.-

92 (5) The court may appoint the office of criminal conflict
93 and civil regional counsel as monitor if the ward is indigent.

94 Section 7. Subsection (6) is added to section 744.1075,
95 Florida Statutes, to read:

96 744.1075 Emergency court monitor.-

97 (6) The court may appoint the office of criminal conflict



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98 and civil regional counsel as monitor if the ward is indigent.

99 Section 8. Subsections (5) and (8) of section 744.108,
100 Florida Statutes, are amended, and subsection (9) is added to
101 that section, to read:

102 744.108 Guardian ~~Guardian's~~ and attorney ~~attorney's~~ fees
103 and expenses.—

104 (5) All petitions for guardian ~~guardian's~~ and attorney
105 ~~attorney's~~ fees and expenses must be accompanied by an itemized
106 description of the services performed for the fees and expenses
107 sought to be recovered.

108 (8) When court proceedings are instituted to review or
109 determine a guardian's or an attorney's fees under subsection
110 (2), such proceedings are part of the guardianship
111 administration process and the costs, including costs and
112 attorney fees for the guardian's attorney, an attorney appointed
113 under s. 744.331(2), or an attorney who has rendered services to
114 the ward, shall be determined by the court and paid from the
115 assets of the guardianship estate unless the court finds the
116 requested compensation under subsection (2) to be substantially
117 unreasonable.

118 (9) The court may determine that a request for compensation
119 by the guardian, the guardian's attorney, a person employed by
120 the guardian, an attorney appointed under s. 744.331(2), or an
121 attorney who has rendered services to the ward, is reasonable
122 without receiving expert testimony. A person or party may offer
123 expert testimony for or against a request for compensation after
124 giving notice to interested persons. Reasonable expert witness
125 fees shall be awarded by the court and paid from the assets of
126 the guardianship estate using the standards in subsection (8).



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127 Section 9. Effective January 1, 2016, section 744.201,
128 Florida Statutes, is renumbered as section 744.1096, Florida
129 Statutes.

130 Section 10. Effective January 1, 2016, section 744.202,
131 Florida Statutes, is renumbered as section 744.1097, Florida
132 Statutes, and subsection (3) of that section is amended to read:

133 744.1097~~744.202~~ Venue.—

134 (3) When the residence of an incapacitated person is
135 changed to another county, the guardian shall petition to have
136 the venue of the guardianship changed to the county of the
137 acquired residence, except as provided in s. 744.1098 ~~s.~~
138 ~~744.2025~~.

139 Section 11. Effective January 1, 2016, section 744.2025,
140 Florida Statutes, is renumbered as section 744.1098, Florida
141 Statutes.

142 Section 12. Section 744.3025, Florida Statutes, is amended
143 to read:

144 744.3025 Claims of minors.—

145 (1) (a) The court may appoint a guardian ad litem to
146 represent the minor's interest before approving a settlement of
147 the minor's portion of the claim in a any case in which a minor
148 has a claim for personal injury, property damage, wrongful
149 death, or other cause of action in which the gross settlement of
150 the claim exceeds \$15,000 if the court believes a guardian ad
151 litem is necessary to protect the minor's interest.

152 (b) Except as provided in paragraph (e), the court shall
153 appoint a guardian ad litem to represent the minor's interest
154 before approving a settlement of the minor's claim in a any case
155 in which the gross settlement involving a minor equals or



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156 exceeds \$50,000.

157 (c) The appointment of the guardian ad litem must be
158 without the necessity of bond or notice.

159 (d) The duty of the guardian ad litem is to protect the
160 minor's interests as described in the Florida Probate Rules.

161 (e) A court need not appoint a guardian ad litem for the
162 minor if a guardian of the minor has previously been appointed
163 and that guardian has no potential adverse interest to the
164 minor. ~~A court may appoint a guardian ad litem if the court
165 believes a guardian ad litem is necessary to protect the
166 interests of the minor.~~

167 (2) Unless waived, the court shall award reasonable fees
168 and costs to the guardian ad litem to be paid out of the gross
169 proceeds of the settlement.

170 (3) A settlement of a claim pursuant to this section is
171 subject to the confidentiality provisions of this chapter.

172 Section 13. Present subsections (2) through (8) of section
173 744.3031, Florida Statutes, are redesignated as subsections (3)
174 through (9), respectively, and a new subsection (2) is added to
175 that section, and present subsection (8) of that section is
176 amended, to read:

177 744.3031 Emergency temporary guardianship.-

178 (2) Notice of filing of the petition for appointment of an
179 emergency temporary guardian and a hearing on the petition must
180 be served on the alleged incapacitated person and on the alleged
181 incapacitated person's attorney at least 24 hours before the
182 hearing on the petition is commenced, unless the petitioner
183 demonstrates that substantial harm to the alleged incapacitated
184 person would occur if the 24-hour notice is given.



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185 ~~(9)-(8)~~ (a) An emergency temporary guardian shall file a
186 final report no later than 30 days after the expiration of the
187 emergency temporary guardianship.

188 (b) A court may not authorize any payment of the emergency
189 temporary guardian's final fees or the final fees of his or her
190 attorney until the final report is filed.

191 ~~(c)-(b)~~ If an emergency temporary guardian is a guardian for
192 the property, the final report must consist of a verified
193 inventory of the property, as provided in s. 744.365, as of the
194 date the letters of emergency temporary guardianship were
195 issued, a final accounting that gives a full and correct account
196 of the receipts and disbursements of all the property of the
197 ward over which the guardian had control, and a statement of the
198 property of the ward on hand at the end of the emergency
199 temporary guardianship. If the emergency temporary guardian
200 becomes the successor guardian of the property, the final report
201 must satisfy the requirements of the initial guardianship report
202 for the guardian of the property as provided in s. 744.362.

203 ~~(d)-(c)~~ If the emergency temporary guardian is a guardian of
204 the person, the final report must summarize the activities of
205 the temporary guardian with regard to residential placement,
206 medical condition, mental health and rehabilitative services,
207 and the social condition of the ward to the extent of the
208 authority granted to the temporary guardian in the letters of
209 guardianship. If the emergency temporary guardian becomes the
210 successor guardian of the person, the report must satisfy the
211 requirements of the initial report for a guardian of the person
212 as stated in s. 744.362.

213 ~~(e)-(d)~~ A copy of the final report of the emergency



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214 temporary guardianship shall be served on the successor guardian
215 and the ward.

216 Section 14. Subsection (7) is added to section 744.309,
217 Florida Statutes, to read:

218 744.309 Who may be appointed guardian of a resident ward.-

219 (7) FOR-PROFIT CORPORATE GUARDIAN.-A for-profit corporate
220 guardian existing under the laws of this state is qualified to
221 act as guardian of a ward if the corporation is qualified to do
222 business in the state, is wholly owned by the person who is the
223 public guardian in the circuit in which the corporate guardian
224 is appointed, has met the registration requirements of s.

225 744.1083, and posts and maintains a bond or insurance policy
226 under paragraph (a).

227 (a) The for-profit corporate guardian must meet one of the
228 following requirements:

229 1. Post and maintain a blanket fiduciary bond of at least
230 \$250,000 with the clerk of the circuit court in the county in
231 which the corporate guardian has its principal place of
232 business. The corporate guardian shall provide proof of the
233 fiduciary bond to the clerks of each additional circuit court in
234 which he or she is serving as a guardian. The bond must cover
235 all wards for whom the corporation has been appointed as a
236 guardian at any given time. The liability of the provider of the
237 bond is limited to the face value of the bond, regardless of the
238 number of wards for whom the corporation is acting as a
239 guardian. The terms of the bond must cover the acts or omissions
240 of each agent or employee of the corporation who has direct
241 contact with the ward or access to the assets of the
242 guardianship. The bond must be payable to the Governor and his



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243 or her successors in office and be conditioned on the faithful
244 performance of all duties of a guardian under this chapter. The
245 bond is in lieu of and not in addition to the bond required
246 under s. 744.1085 but is in addition to any bonds required under
247 s. 744.351. The expenses incurred in satisfying the bonding
248 requirements of this section may not be paid with the assets of
249 any ward; or

250 2. Maintain a liability insurance policy that covers any
251 losses sustained by the guardianship caused by errors,
252 omissions, or any intentional misconduct committed by the
253 corporation's officers or agents. The policy must cover all
254 wards for whom the corporation is acting as a guardian for
255 losses up to \$250,000. The terms of the policy must cover acts
256 or omissions of each agent or employee of the corporation who
257 has direct contact with the ward or access to the assets of the
258 guardianship. The corporate guardian shall provide proof of the
259 policy to the clerk of each circuit court in which he or she is
260 servicing as a guardian.

261 (b) A for-profit corporation appointed as guardian before
262 July 1, 2015, is also qualified to serve as a guardian in the
263 particular guardianships in which the corporation has already
264 been appointed as guardian.

265 Section 15. Section 744.3115, Florida Statutes, is amended
266 to read:

267 744.3115 Advance directives for health care.—In each
268 proceeding in which a guardian is appointed under this chapter,
269 the court shall determine whether the ward, prior to incapacity,
270 has executed any valid advance directive under chapter 765. If
271 any advance directive exists, the court shall specify in its



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272 order and letters of guardianship what authority, if any, the
273 guardian shall exercise over the ward with regard to health care
274 decisions and what authority, if any, the surrogate shall
275 continue to exercise over the ward with regard to health care
276 decisions surrogate. Pursuant to the grounds listed in s.
277 765.105, the court, upon its own motion, may, with notice to the
278 surrogate and any other appropriate parties, modify or revoke
279 the authority of the surrogate to make health care decisions for
280 the ward. Any order revoking or modifying the authority of the
281 surrogate must be supported by specific written findings of
282 fact. If the court order provides that the guardian is
283 responsible for making health care decisions for the ward, the
284 guardian shall assume the responsibilities of the surrogate
285 which are provided in s. 765.205. For purposes of this section,
286 the term "health care decision" has the same meaning as in s.
287 765.101.

288 Section 16. Section 744.312, Florida Statutes, is reordered
289 and amended to read:

290 744.312 Considerations in appointment of guardian.—

291 (2) (1) If a guardian cannot be appointed under subsection
292 (1) Subject to the provisions of subsection (4), the court may
293 appoint any person who is fit and proper and qualified to act as
294 guardian, regardless of whether he or she is related to the ward
295 or not.

296 ~~(2)~~ The court shall give preference to the appointment of a
297 person who:

298 (a) Is related by blood or marriage to the ward;

299 (b) Has educational, professional, or business experience
300 relevant to the nature of the services sought to be provided;



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301 (c) Has the capacity to manage the financial resources
302 involved; or

303 (d) Has the ability to meet the requirements of the law and
304 the unique needs of the individual case.

305 (3) The court shall also:

306 (a) Consider the wishes expressed by an incapacitated
307 person as to who shall be appointed guardian.†

308 (b) Consider the preference of a minor who is age 14 or
309 over as to who should be appointed guardian.†

310 (c) Consider any person designated as guardian in any will
311 in which the ward is a beneficiary.

312 (d) Consider the wishes of the ward's next of kin, when the
313 ward cannot express a preference.

314 (1)-(4) If the person designated is qualified to serve
315 pursuant to s. 744.309, the court shall appoint any standby
316 guardian or preneed guardian, unless the court determines that
317 appointing such person is contrary to the best interests of the
318 ward.

319 (4) Except when a standby guardian or a preneed guardian is
320 appointed by the court:

321 (a) In each case when a court appoints a professional
322 guardian and does not use a rotation system for such
323 appointment, the court must make specific findings of fact
324 stating why the person was selected as guardian in the
325 particular matter involved. The findings must reference each of
326 the factors listed in subsections (2) and (3).

327 (b) An emergency temporary guardian who is a professional
328 guardian may not be appointed as the permanent guardian of a
329 ward unless one of the next of kin of the alleged incapacitated



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330 person or the ward requests that the professional guardian be
331 appointed as permanent guardian. The court may waive the
332 limitations of this paragraph if the special requirements of the
333 guardianship demand that the court appoint a guardian because he
334 or she has special talent or specific prior experience. The
335 court must make specific findings of fact that justify waiving
336 the limitations of this paragraph.

337 (5) The court may not give preference to the appointment of
338 a person under subsection (2) based solely on the fact that such
339 person was appointed by the court to serve as an emergency
340 temporary guardian.

341 Section 17. Section 744.3203, Florida Statutes, is created
342 to read:

343 744.3203 Suspension of power of attorney before incapacity
344 determination.—

345 (1) At any time during proceedings to determine incapacity
346 but before the entry of an order determining incapacity, the
347 authority granted under an alleged incapacitated person's power
348 of attorney to a parent, spouse, child, or grandchild is
349 suspended when the petitioner files a motion stating that a
350 specific power of attorney should be suspended for any of the
351 following grounds:

352 (a) The agent's decisions are not in accord with the
353 alleged incapacitated person's known desires.

354 (b) The power of attorney is invalid.

355 (c) The agent has failed to discharge his or her duties or
356 incapacity or illness renders the agent incapable of discharging
357 duties.

358 (d) The agent has abused powers.



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359 (e) There is a danger that the property of the alleged
360 incapacitated person may be wasted, misappropriated, or lost
361 unless the authority under the power of attorney is suspended.
362

363 Grounds for suspending a power of attorney do not include the
364 existence of a dispute between the agent and the petitioner
365 which is more appropriate for resolution in some other forum or
366 a legal proceeding other than a guardianship proceeding.

367 (2) The motion must:

368 (a) Identify one or more of the grounds in subsection (1);

369 (b) Include specific statements of fact showing that

370 grounds exist to justify the relief sought; and

371 (c) Include the following statement: "Under penalties of
372 perjury, I declare that I have read the foregoing motion and
373 that the facts stated in it are true to the best of my knowledge
374 and belief," followed by the signature of the petitioner.

375 (3) Upon the filing of a response to the motion by the
376 agent under the power of attorney, the court shall schedule the
377 motion for an expedited hearing. Unless an emergency arises and
378 the agent's response sets forth the nature of the emergency, the
379 property or matter involved, and the power to be exercised by
380 the agent, notice must be given to all interested persons, the
381 alleged incapacitated person, and the alleged incapacitated
382 person's attorney. The court order following the hearing must
383 set forth what powers the agent is permitted to exercise, if
384 any, pending the outcome of the petition to determine
385 incapacity.

386 (4) In addition to any other remedy authorized by law, a
387 court may award reasonable attorney fees and costs to an agent



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388 who successfully challenges the suspension of the power of
389 attorney if the petitioner's motion was made in bad faith.

390 (5) The suspension of authority granted to persons other
391 than a parent, spouse, child, or grandchild shall be as provided
392 in s. 709.2109.

393 Section 18. Effective January 1, 2016, paragraph (d) of
394 subsection (3), subsection (6), and paragraph (c) of subsection
395 (7) of section 744.331, Florida Statutes, are amended to read:

396 744.331 Procedures to determine incapacity.—

397 (3) EXAMINING COMMITTEE.—

398 (d) A member of an examining committee must complete a
399 minimum of 4 hours of initial training. The person must complete
400 2 hours of continuing education during each 2-year period after
401 the initial training. The initial training and continuing
402 education program must be developed under the supervision of the
403 ~~Statewide Public Guardianship~~ Office of Public and Professional
404 Guardians, in consultation with the Florida Conference of
405 Circuit Court Judges; the Elder Law and the Real Property,
406 Probate and Trust Law sections of The Florida Bar; the Florida
407 State Guardianship Association; and the Florida Guardianship
408 Foundation. The court may waive the initial training requirement
409 for a person who has served for not less than 5 years on
410 examining committees. If a person wishes to obtain his or her
411 continuing education on the Internet or by watching a video
412 course, the person must first obtain the approval of the chief
413 judge before taking an Internet or video course.

414 (6) ORDER DETERMINING INCAPACITY.—If, after making findings
415 of fact on the basis of clear and convincing evidence, the court
416 finds that a person is incapacitated with respect to the



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417 exercise of a particular right, or all rights, the court shall
418 enter a written order determining such incapacity. In
419 determining incapacity, the court shall consider the person's
420 unique needs and abilities and may only remove those rights that
421 the court finds the person does not have the capacity to
422 exercise. A person is determined to be incapacitated only with
423 respect to those rights specified in the order.

424 (a) The court shall make the following findings:

425 1. The exact nature and scope of the person's incapacities;

426 2. The exact areas in which the person lacks capacity to
427 make informed decisions about care and treatment services or to
428 meet the essential requirements for her or his physical or
429 mental health or safety;

430 3. The specific legal disabilities to which the person is
431 subject; and

432 4. The specific rights that the person is incapable of
433 exercising.

434 (b) When an order determines that a person is incapable of
435 exercising delegable rights, the court must consider and find
436 whether there is an alternative to guardianship that will
437 sufficiently address the problems of the incapacitated person. ~~A~~
438 ~~guardian must be appointed to exercise the incapacitated~~
439 ~~person's delegable rights unless the court finds there is an~~
440 ~~alternative.~~ A guardian may not be appointed if the court finds
441 there is an alternative to guardianship which will sufficiently
442 address the problems of the incapacitated person. If the court
443 finds there is not an alternative to guardianship that
444 sufficiently addresses the problems of the incapacitated person,
445 a guardian must be appointed to exercise the incapacitated



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446 person's delegable rights.

447 (c) In determining that a person is totally incapacitated,
448 the order must contain findings of fact demonstrating that the
449 individual is totally without capacity to care for herself or
450 himself or her or his property.

451 (d) An order adjudicating a person to be incapacitated
452 constitutes proof of such incapacity until further order of the
453 court.

454 (e) After the order determining that the person is
455 incapacitated has been filed with the clerk, it must be served
456 on the incapacitated person. The person is deemed incapacitated
457 only to the extent of the findings of the court. The filing of
458 the order is notice of the incapacity. An incapacitated person
459 retains all rights not specifically removed by the court.

460 (f) Upon the filing of a verified statement by an
461 interested person stating:

462 1. That he or she has a good faith belief that the alleged
463 incapacitated person's trust, trust amendment, or durable power
464 of attorney is invalid; and

465 2. A reasonable factual basis for that belief,

466
467 the trust, trust amendment, or durable power of attorney shall
468 not be deemed to be an alternative to the appointment of a
469 guardian. The appointment of a guardian does not limit the
470 court's power to determine that certain authority granted by a
471 durable power of attorney is to remain exercisable by the agent
472 ~~attorney in fact.~~

473 (7) FEES.—

474 (c) If the petition is dismissed or denied:



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475 1. The fees of the examining committee shall be paid upon
476 court order as expert witness fees under s. 29.004(6).

477 2. Costs and attorney ~~attorney's~~ fees of the proceeding may
478 be assessed against the petitioner if the court finds the
479 petition to have been filed in bad faith. The petitioner shall
480 also reimburse the state courts system for any amounts paid
481 under subparagraph 1. upon such a finding.

482 Section 19. Effective January 1, 2016, section 744.344,
483 Florida Statutes, is renumbered as section 744.2005, Florida
484 Statutes, and amended to read:

485 744.2005~~744.344~~ Order of appointment.-

486 (1) A professional guardian appointed by the court to
487 provide representation of an alleged incapacitated person must
488 be selected from a registry of professional guardians.

489 (2) In using a registry, the chief judge of the judicial
490 circuit shall compile a list of professional guardians by county
491 and provide the list to the clerk of court in each county. To be
492 included on a registry, the professional guardian must be
493 certified by the Office of Public and Professional Guardians.

494 (3)~~(1)~~ The court may hear testimony on the question of who
495 is entitled to preference in the appointment of a guardian. Any
496 interested person may intervene in the proceedings.

497 (4) The order appointing a guardian must state the nature
498 of the guardianship as either plenary or limited. If limited,
499 the order must state that the guardian may exercise only those
500 delegable rights which have been removed from the incapacitated
501 person and specifically delegated to the guardian. The order
502 shall state the specific powers and duties of the guardian.

503 (5)~~(2)~~ The order appointing a guardian must be consistent



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504 with the incapacitated person's welfare and safety, must be the
505 least restrictive appropriate alternative, and must reserve to
506 the incapacitated person the right to make decisions in all
507 matters commensurate with the person's ability to do so.

508 ~~(6)~~⁽³⁾ If a petition for appointment of guardian has been
509 filed, an order appointing a guardian must be issued
510 contemporaneously with the order adjudicating the person
511 incapacitated. The order must specify the amount of the bond to
512 be given by the guardian and must state specifically whether the
513 guardian must place all, or part, of the property of the ward in
514 a restricted account in a financial institution designated
515 pursuant to s. 69.031.

516 ~~(7)~~⁽⁴⁾ If a petition for the appointment of a guardian has
517 not been filed or ruled upon at the time of the hearing on the
518 petition to determine capacity, the court may appoint an
519 emergency temporary guardian in the manner and for the purposes
520 specified in s. 744.3031.

521 ~~(8)~~⁽⁵⁾ A plenary guardian shall exercise all delegable
522 rights and powers of the incapacitated person.

523 ~~(9)~~⁽⁶⁾ A person for whom a limited guardian has been
524 appointed retains all legal rights except those which have been
525 specifically granted to the guardian in the court's written
526 order.

527 Section 20. Section 744.345, Florida Statutes, is amended
528 to read:

529 744.345 Letters of guardianship.—Letters of guardianship
530 shall be issued to the guardian and shall specify whether the
531 guardianship pertains to the person, or the property, or both,
532 of the ward. The letters must state whether the guardianship is



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533 plenary or limited, and, if limited, the letters must state the
534 powers and duties of the guardian. ~~If the guardianship is~~
535 ~~limited,~~ The letters shall state whether ~~or not~~ and to what
536 extent the guardian is authorized to act on behalf of the ward
537 with regard to any advance directive previously executed by the
538 ward.

539 Section 21. Section 744.359, Florida Statutes, is created
540 to read:

541 744.359 Abuse, neglect, or exploitation by a guardian.—

542 (1) A guardian may not abuse, neglect, or exploit a ward.

543 (2) A guardian has committed exploitation when the

544 guardian:

545 (a) Commits fraud in obtaining appointment as a guardian;

546 (b) Abuses his or her powers; or

547 (c) Wastes, embezzles, or intentionally mismanages the
548 assets of the ward.

549 (3) A person who believes that a guardian is abusing,
550 neglecting, or exploiting a ward shall report the incident to
551 the central abuse hotline of the Department of Children and
552 Families.

553 (4) This section shall be interpreted in conformity with s.
554 825.103.

555 Section 22. Section 744.361, Florida Statutes, is amended
556 to read:

557 744.361 Powers and duties of guardian.—

558 (1) The guardian of an incapacitated person is a fiduciary
559 and may exercise only those rights that have been removed from
560 the ward and delegated to the guardian. The guardian of a minor
561 shall exercise the powers of a plenary guardian.



562 (2) The guardian shall act within the scope of the
563 authority granted by the court and as provided by law.
564 (3) The guardian shall act in good faith.
565 (4) A guardian may not act in a manner that is contrary to
566 the ward's best interests under the circumstances.
567 (5) A guardian who has special skills or expertise, or is
568 appointed in reliance upon the guardian's representation that
569 the guardian has special skills or expertise, shall use those
570 special skills or expertise when acting on behalf of the ward.
571 (6)~~(2)~~ The guardian shall file an initial guardianship
572 report in accordance with s. 744.362.
573 (7)~~(3)~~ The guardian shall file a guardianship report
574 annually in accordance with s. 744.367.
575 (8)~~(4)~~ The guardian of the person shall implement the
576 guardianship plan.
577 (9)~~(5)~~ When two or more guardians have been appointed, the
578 guardians shall consult with each other.
579 (10)~~(6)~~ A guardian who is given authority over any property
580 of the ward shall:
581 (a) Protect and preserve the property and invest it
582 prudently as provided in chapter 518, apply it as provided in s.
583 744.397, and keep clear, distinct, and accurate records of the
584 administration of the ward's property ~~account for it faithfully.~~
585 (b) Perform all other duties required of him or her by law.
586 (c) At the termination of the guardianship, deliver the
587 property of the ward to the person lawfully entitled to it.
588 (11)~~(7)~~ The guardian shall observe the standards in dealing
589 with the guardianship property that would be observed by a
590 prudent person dealing with the property of another, ~~and, if the~~



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591 ~~guardian has special skills or is named guardian on the basis of~~
592 ~~representations of special skills or expertise, he or she is~~
593 ~~under a duty to use those skills.~~

594 (12)(8) The guardian, if authorized by the court, shall
595 take possession of all of the ward's property and of the rents,
596 income, issues, and profits from it, whether accruing before or
597 after the guardian's appointment, and of the proceeds arising
598 from the sale, lease, or mortgage of the property or of any
599 part. All of the property and the rents, income, issues, and
600 profits from it are assets in the hands of the guardian for the
601 payment of debts, taxes, claims, charges, and expenses of the
602 guardianship and for the care, support, maintenance, and
603 education of the ward or the ward's dependents, as provided for
604 under the terms of the guardianship plan or by law.

605 (13) Recognizing that every individual has unique needs and
606 abilities, a guardian who is given authority over a ward's
607 person shall, as appropriate under the circumstances:

608 (a) Consider the expressed desires of the ward as known by
609 the guardian when making decisions that affect the ward.

610 (b) Allow the ward to maintain contact with family and
611 friends unless the guardian believes that such contact may cause
612 harm to the ward.

613 (c) Not restrict the physical liberty of the ward more than
614 reasonably necessary to protect the ward or another person from
615 serious physical injury, illness, or disease.

616 (d) Assist the ward in developing or regaining capacity, if
617 medically possible.

618 (e) Notify the court if the guardian believes that the ward
619 has regained capacity and that one or more of the rights that



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620 have been removed should be restored to the ward.

621 (f) To the extent applicable, make provision for the
622 medical, mental, rehabilitative, or personal care services for
623 the welfare of the ward.

624 (g) To the extent applicable, acquire a clear understanding
625 of the risks and benefits of a recommended course of health care
626 treatment before making a health care decision.

627 (h) Evaluate the ward's medical and health care options,
628 financial resources, and desires when making residential
629 decisions that are best suited for the current needs of the
630 ward.

631 (i) Advocate on behalf of the ward in institutional and
632 other residential settings and regarding access to home and
633 community-based services.

634 (j) When not inconsistent with the person's goals, needs,
635 and preferences, acquire an understanding of the available
636 residential options and give priority to home and other
637 community-based services and settings.

638 (14) ~~(9)~~ A professional guardian must ensure that each of
639 the guardian's wards is personally visited by the guardian or
640 one of the guardian's professional staff at least once each
641 calendar quarter. During the personal visit, the guardian or the
642 guardian's professional staff person shall assess:

643 (a) The ward's physical appearance and condition.

644 (b) The appropriateness of the ward's current living
645 situation.

646 (c) The need for any additional services and the necessity
647 for continuation of existing services, taking into consideration
648 all aspects of social, psychological, educational, direct



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649 service, health, and personal care needs.

650 (d) The nature and extent of visitation and communication
651 with the ward's family and friends.

652

653 This subsection does not apply to a professional guardian who
654 has been appointed only as guardian of the property.

655 Section 23. Subsection (1) of section 744.367, Florida
656 Statutes, is amended to read:

657 744.367 Duty to file annual guardianship report.—

658 (1) Unless the court requires filing on a calendar-year
659 basis, each guardian of the person shall file with the court an
660 annual guardianship plan at least 60 days, but no more than
661 within 90 days, before ~~after~~ the last day of the anniversary
662 month that the letters of guardianship were signed, and the plan
663 must cover the coming fiscal year, ending on the last day in
664 such anniversary month. If the court requires calendar-year
665 filing, the guardianship plan for the forthcoming calendar year
666 must be filed on or after September 1 but no later than December
667 1 of the current year ~~before April 1 of each year.~~

668 Section 24. Subsection (8) of section 744.369, Florida
669 Statutes, is amended to read:

670 744.369 Judicial review of guardianship reports.—

671 (8) The approved report constitutes the authority for the
672 guardian to act in the forthcoming year. The powers of the
673 guardian are limited by the terms of the report. The annual
674 report may not grant additional authority to the guardian
675 without a hearing, as provided for in s. 744.331, to determine
676 that the ward is incapacitated to act in that matter. Unless the
677 court orders otherwise, the guardian may continue to act under



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678 authority of the last-approved report until the forthcoming
679 year's report is approved.

680 Section 25. Subsection (1) of section 744.3715, Florida
681 Statutes, is amended to read:

682 744.3715 Petition for interim judicial review.—

683 (1) At any time, any interested person, including the ward,
684 may petition the court for review alleging that the guardian is
685 not complying with the guardianship plan, ~~or~~ is exceeding his or
686 her authority under the guardianship plan, is acting in a manner
687 contrary to s. 744.361, is denying visitation between the ward
688 and his or her relatives in violation of s. 744.361(13), or ~~and~~
689 ~~the guardian~~ is not acting in the best interest of the ward. The
690 petition for review must state the nature of the objection to
691 the guardian's action or proposed action. Upon the filing of any
692 such petition, the court shall review the petition and act upon
693 it expeditiously.

694 Section 26. Paragraphs (a) and (b) of subsection (3) of
695 section 744.464, Florida Statutes, are amended, and subsection
696 (4) is added to that section, to read:

697 744.464 Restoration to capacity.—

698 (3) ORDER OF RESTORATION.—

699 (a) If no objections are filed, and the court is satisfied
700 that ~~with~~ the medical examination establishes by a preponderance
701 of the evidence that restoration of all or some of the ward's
702 rights is appropriate, the court shall enter an order of
703 restoration of capacity, restoring all or some of the rights
704 which were removed from the ward in accordance with those
705 findings. ~~The order must be issued within 30 days after the~~
706 ~~medical report is filed.~~



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707 (b) At the conclusion of a hearing, conducted pursuant to
708 s. 744.1095, the court shall make specific findings of fact and,
709 based on a preponderance of the evidence, enter an order either
710 denying the suggestion of capacity or restoring all or some of
711 the rights which were removed from the ward. The ward has the
712 burden of proving by a preponderance of the evidence that the
713 restoration of capacity is warranted.

714 (4) TIMELINESS OF HEARING.—The court shall give priority to
715 any suggestion of capacity and shall advance the cause on the
716 calendar.

717 Section 27. Effective January 1, 2016, section 744.7021,
718 Florida Statutes, is renumbered as section 744.2001, Florida
719 Statutes, and amended to read:

720 744.2001~~744.7021~~ Statewide Public Guardianship Office of
721 Public and Professional Guardians.—There is hereby created the
722 ~~Statewide Public Guardianship Office~~ of Public and Professional
723 Guardians within the Department of Elderly Affairs.

724 (1) The Secretary of Elderly Affairs shall appoint the
725 executive director, who shall be the head of the ~~Statewide~~
726 ~~Public Guardianship Office~~ of Public and Professional Guardians.
727 The executive director must be a member of The Florida Bar,
728 knowledgeable of guardianship law and of the social services
729 available to meet the needs of incapacitated persons, shall
730 serve on a full-time basis, and shall personally, or through a
731 representative ~~representatives~~ of the office, carry out the
732 purposes and functions of the ~~Statewide Public Guardianship~~
733 Office of Public and Professional Guardians in accordance with
734 state and federal law. The executive director shall serve at the
735 pleasure of and report to the secretary.



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736 (2) The executive director shall, within available
737 resources:

738 (a) Have oversight responsibilities for all public and
739 professional guardians.

740 (b) Review the standards and criteria for the education,
741 registration, and certification of public and professional
742 guardians in Florida.

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

745 (a) The development and implementation of a monitoring tool
746 to be used for regular monitoring activities of professional
747 guardians related to the management of each ward and his or her
748 personal affairs. This monitoring may not include a financial
749 audit as required by the clerk of the circuit court under s.
750 744.368.

751 (b) The development of procedures, in consultation with
752 professional guardianship associations, for the review of an
753 allegation that a professional guardian has violated an
754 applicable statute, fiduciary duty, standard of practice, rule,
755 regulation, or other requirement governing the conduct of
756 professional guardians.

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

760 (d) Assist the chief judge in each judicial circuit to
761 establish a registry to allow for the appointment of
762 professional guardians as provided in s. 744.2005.

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



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

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

770 (c) The ~~executive director shall~~ review of ~~the~~ various
771 methods of funding public guardianship programs, the kinds of
772 services being provided by such programs, and the demographics
773 of the wards. In addition, the executive director shall review
774 and make recommendations regarding the feasibility of recovering
775 a portion or all of the costs of providing public guardianship
776 services from the assets or income of the wards.

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

781 (e) In consultation with the Florida Guardianship
782 Foundation, the development of a guardianship training program
783 curriculum that may be offered to all guardians, whether public
784 or private.

785 (5) The executive director may provide assistance to local
786 governments or entities in pursuing grant opportunities. The
787 executive director shall review and make recommendations in the
788 annual report on the availability and efficacy of seeking
789 Medicaid matching funds. The executive director shall diligently
790 seek ways to use existing programs and services to meet the
791 needs of public wards.

792 ~~(f) The executive director, in consultation with the~~
793 ~~Florida Guardianship Foundation, shall develop a guardianship~~



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794 ~~training program curriculum that may be offered to all guardians~~
795 ~~whether public or private.~~

796 (6)~~(3)~~ The executive director may conduct or contract for
797 demonstration projects authorized by the Department of Elderly
798 Affairs, within funds appropriated or through gifts, grants, or
799 contributions for such purposes, to determine the feasibility or
800 desirability of new concepts of organization, administration,
801 financing, or service delivery designed to preserve the civil
802 and constitutional rights of persons of marginal or diminished
803 capacity. Any gifts, grants, or contributions for such purposes
804 shall be deposited in the Department of Elderly Affairs
805 Administrative Trust Fund.

806 Section 28. Effective January 1, 2016, section 744.1083,
807 Florida Statutes, is renumbered as section 744.2002, Florida
808 Statutes, subsections (1) through (5) of that section are
809 amended, and subsections (7) and (10) of that section are
810 republished, to read:

811 744.2002~~744.1083~~ Professional guardian registration.-

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

815 (2) Annual registration shall be made on forms furnished by
816 the ~~Statewide Public Guardianship Office~~ of Public and
817 Professional Guardians and accompanied by the applicable
818 registration fee as determined by rule. The fee may not exceed
819 \$100.

820 (3) Registration must include the following:

821 (a) Sufficient information to identify the professional
822 guardian, as follows:



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823 1. If the professional guardian is a natural person, the
824 name, address, date of birth, and employer identification or
825 social security number of the person.

826 2. If the professional guardian is a partnership or
827 association, the name, address, and employer identification
828 number of the entity.

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

831 (c) Sufficient information to distinguish a guardian
832 providing guardianship services as a public guardian,
833 individually, through partnership, corporation, or any other
834 business organization.

835 (4) Prior to registering a professional guardian, the
836 ~~Statewide Public Guardianship Office~~ of Public and Professional
837 Guardians must receive and review copies of the credit and
838 criminal investigations conducted under s. 744.3135. The credit
839 and criminal investigations must have been completed within the
840 previous 2 years.

841 (5) The executive director of the office may deny
842 registration to a professional guardian if the executive
843 director determines that the guardian's proposed registration,
844 including the guardian's credit or criminal investigations,
845 indicates that registering the professional guardian would
846 violate any provision of this chapter. ~~If a guardian who is~~
847 ~~currently registered with the office violates a provision of~~
848 ~~this chapter, the executive director of the office may suspend~~
849 ~~or revoke the guardian's registration. If the executive director~~
850 ~~denies registration to a professional guardian or suspends or~~
851 ~~revokes a professional guardian's registration, the Statewide~~



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852 ~~Public Guardianship Office must send written notification of the~~
853 ~~denial, suspension, or revocation to the chief judge of each~~
854 ~~judicial circuit in which the guardian was serving on the day of~~
855 ~~the office's decision to deny, suspend, or revoke the~~
856 ~~registration.~~

857 (7) A trust company, a state banking corporation or state
858 savings association authorized and qualified to exercise
859 fiduciary powers in this state, or a national banking
860 association or federal savings and loan association authorized
861 and qualified to exercise fiduciary powers in this state, may,
862 but is not required to, register as a professional guardian
863 under this section. If a trust company, state banking
864 corporation, state savings association, national banking
865 association, or federal savings and loan association described
866 in this subsection elects to register as a professional guardian
867 under this subsection, the requirements of subsections (3) and
868 (4) do not apply and the registration must include only the
869 name, address, and employer identification number of the
870 registrant, the name and address of its registered agent, if
871 any, and the documentation described in paragraph (3)(b).

872 (10) A state college or university or an independent
873 college or university that is located and chartered in Florida,
874 that is accredited by the Commission on Colleges of the Southern
875 Association of Colleges and Schools or the Accrediting Council
876 for Independent Colleges and Schools, and that confers degrees
877 as defined in s. 1005.02(7) may, but is not required to,
878 register as a professional guardian under this section. If a
879 state college or university or independent college or university
880 elects to register as a professional guardian under this



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881 subsection, the requirements of subsections (3) and (4) do not
882 apply and the registration must include only the name, address,
883 and employer identification number of the registrant.

884 Section 29. Effective January 1, 2016, section 744.1085,
885 Florida Statutes, is renumbered as section 744.2003, Florida
886 Statutes, subsections (3), (6), and (9) of that section are
887 amended, and subsection (8) of that section is republished, to
888 read:

889 744.2003~~744.1085~~ Regulation of professional guardians;
890 application; bond required; educational requirements.-

891 (3) Each professional guardian defined in s. 744.102(17)
892 and public guardian must receive a minimum of 40 hours of
893 instruction and training. Each professional guardian must
894 receive a minimum of 16 hours of continuing education every 2
895 calendar years after the year in which the initial 40-hour
896 educational requirement is met. The instruction and education
897 must be completed through a course approved or offered by the
898 ~~Statewide Public Guardianship~~ Office of Public and Professional
899 Guardians. The expenses incurred to satisfy the educational
900 requirements prescribed in this section may not be paid with the
901 assets of any ward. This subsection does not apply to any
902 attorney who is licensed to practice law in this state.

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

907 (a) The Department of Elderly Affairs shall determine the
908 minimum examination score necessary for passage of guardianship
909 examinations.



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

912 (c) The Department of Elderly Affairs or its contractor
913 shall charge an examination fee for the actual costs of the
914 development and the administration of the examination. The fee
915 for registration and licensing of a professional guardian may
916 not, not to exceed \$500.

917 (d) The Department of Elderly Affairs may recognize passage
918 of a national guardianship examination in lieu of all or part of
919 the examination approved by the Department of Elderly Affairs,
920 except that all professional guardians must take and pass an
921 approved examination section related to Florida law and
922 procedure.

923 (8) The Department of Elderly Affairs shall waive the
924 examination requirement in subsection (6) if a professional
925 guardian can provide:

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

928 (b) A letter from a circuit judge before whom the
929 professional guardian practiced at least 1 year which states
930 that the professional guardian had demonstrated to the court
931 competency as a professional guardian.

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

935 Section 30. Effective January 1, 2016, section 744.2004,
936 Florida Statutes, is created to read:

937 744.2004 Complaints; disciplinary proceedings; penalties;
938 enforcement.-



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939 (1) The Office of Public and Professional Guardians shall
940 adopt rules to:

941 (a) Review, and if determined appropriate, investigate an
942 allegation that a professional guardian has violated an
943 applicable statute, fiduciary duty, standard of practice, rule,
944 regulation, or other requirement governing the conduct of
945 professional guardians.

946 (b) Establish disciplinary proceedings, conduct hearings,
947 and take administrative action pursuant to chapter 120.
948 Disciplinary actions include, but are not limited to, requiring
949 a professional guardian to participate in additional educational
950 courses provided by the Office of Public and Professional
951 Guardians, imposing additional monitoring by the office of the
952 guardianships to which the professional guardian is appointed,
953 and suspension or revocation of a professional guardian's
954 license.

955 (2) If the office makes a final recommendation for the
956 suspension or revocation of a professional guardian's license,
957 it must provide the recommendation to the court of competent
958 jurisdiction for any guardianship case to which the professional
959 guardian is currently appointed.

960 Section 31. Effective January 1, 2016, section 744.703,
961 Florida Statutes, is renumbered as 744.2006, Florida Statutes,
962 and subsections (1) and (6) of that section are amended, to
963 read:

964 744.2006~~744.703~~ Office of public and professional guardians
965 guardian; appointment, notification.-

966 (1) The executive director of the ~~Statewide Public~~
967 ~~Guardianship~~ Office of Public and Professional Guardians, after



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968 consultation with the chief judge and other circuit judges
969 within the judicial circuit and with appropriate advocacy groups
970 and individuals and organizations who are knowledgeable about
971 the needs of incapacitated persons, may establish, within a
972 county in the judicial circuit or within the judicial circuit,
973 one or more offices of public and professional guardian and if
974 so established, shall create a list of persons best qualified to
975 serve as the public guardian, who have been investigated
976 pursuant to s. 744.3135. The public guardian must have knowledge
977 of the legal process and knowledge of social services available
978 to meet the needs of incapacitated persons. The public guardian
979 shall maintain a staff or contract with professionally qualified
980 individuals to carry out the guardianship functions, including
981 an attorney who has experience in probate areas and another
982 person who has a master's degree in social work, or a
983 gerontologist, psychologist, registered nurse, or nurse
984 practitioner. A public guardian that is a nonprofit corporate
985 guardian under s. 744.309(5) must receive tax-exempt status from
986 the United States Internal Revenue Service.

987 (6) Public guardians who have been previously appointed by
988 a chief judge prior to the effective date of this act pursuant
989 to this section may continue in their positions until the
990 expiration of their term pursuant to their agreement. However,
991 oversight of all public guardians shall transfer to the
992 Statewide Public Guardianship Office of Public and Professional
993 Guardians upon the effective date of this act. The executive
994 director of the Statewide Public Guardianship Office of Public
995 and Professional Guardians shall be responsible for all future
996 appointments of public guardians pursuant to this act.



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997 Section 32. Section 744.704, Florida Statutes, is
998 renumbered as section 744.2007, Florida Statutes.

999 Section 33. Effective January 1, 2016, section 744.705,
1000 Florida Statutes, is renumbered as section 744.2008, Florida
1001 Statutes.

1002 Section 34. Effective January 1, 2016, section 744.706,
1003 Florida Statutes, is renumbered as section 744.2009, Florida
1004 Statutes, and amended to read:

1005 744.2009~~744.706~~ Preparation of budget.—Each public
1006 guardian, whether funded in whole or in part by money raised
1007 through local efforts, grants, or any other source or whether
1008 funded in whole or in part by the state, shall prepare a budget
1009 for the operation of the office of public guardian to be
1010 submitted to the ~~Statewide Public Guardianship~~ Office of Public
1011 and Professional Guardians. As appropriate, the ~~Statewide Public~~
1012 ~~Guardianship~~ Office of Public and Professional Guardians will
1013 include such budgetary information in the Department of Elderly
1014 Affairs' legislative budget request. The office of public
1015 guardian shall be operated within the limitations of the General
1016 Appropriations Act and any other funds appropriated by the
1017 Legislature to that particular judicial circuit, subject to the
1018 provisions of chapter 216. The Department of Elderly Affairs
1019 shall make a separate and distinct request for an appropriation
1020 for the ~~Statewide Public Guardianship~~ Office of Public and
1021 Professional Guardians. However, this section may ~~shall~~ not be
1022 construed to preclude the financing of any operations of the
1023 office of the public guardian by moneys raised through local
1024 effort or through the efforts of the ~~Statewide Public~~
1025 ~~Guardianship~~ Office of Public and Professional Guardians.



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1026 Section 35. Effective January 1, 2016, section 744.707,
1027 Florida Statutes, is renumbered as section 744.2101, Florida
1028 Statutes, and amended to read:

1029 744.2101~~744.707~~ Procedures and rules.—The public guardian,
1030 subject to the oversight of the ~~Statewide Public Guardianship~~
1031 Office of Public and Professional Guardians, is authorized to:

1032 (1) Formulate and adopt necessary procedures to assure the
1033 efficient conduct of the affairs of the ward and general
1034 administration of the office and staff.

1035 (2) Contract for services necessary to discharge the duties
1036 of the office.

1037 (3) Accept the services of volunteer persons or
1038 organizations and provide reimbursement for proper and necessary
1039 expenses.

1040 Section 36. Effective January 1, 2016, section 744.709,
1041 Florida Statutes, is renumbered as section 744.2102, Florida
1042 Statutes.

1043 Section 37. Effective January 1, 2016, section 744.708,
1044 Florida Statutes, is renumbered as section 744.2103, Florida
1045 Statutes, and subsections (3), (4), (5), and (7) of that section
1046 are amended, to read:

1047 744.2103~~744.708~~ Reports and standards.—

1048 (3) A public guardian shall file an annual report on the
1049 operations of the office of public guardian, in writing, by
1050 September 1 for the preceding fiscal year with the ~~Statewide~~
1051 ~~Public Guardianship~~ Office of Public and Professional Guardians,
1052 which shall have responsibility for supervision of the
1053 operations of the office of public guardian.

1054 (4) Within 6 months of his or her appointment as guardian



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1055 of a ward, the public guardian shall submit to the clerk of the
1056 court for placement in the ward's guardianship file and to the
1057 executive director of the ~~Statewide Public Guardianship~~ Office
1058 of Public and Professional Guardians a report on his or her
1059 efforts to locate a family member or friend, other person, bank,
1060 or corporation to act as guardian of the ward and a report on
1061 the ward's potential to be restored to capacity.

1062 (5) (a) Each office of public guardian shall undergo an
1063 independent audit by a qualified certified public accountant at
1064 least once every 2 years. A copy of the audit report shall be
1065 submitted to the ~~Statewide Public Guardianship~~ Office of Public
1066 and Professional Guardians.

1067 (b) In addition to regular monitoring activities, the
1068 ~~Statewide Public Guardianship~~ Office of Public and Professional
1069 Guardians shall conduct an investigation into the practices of
1070 each office of public guardian related to the managing of each
1071 ward's personal affairs and property. If feasible, the
1072 investigation shall be conducted in conjunction with the
1073 financial audit of each office of public guardian under
1074 paragraph (a).

1075 (7) The ratio for professional staff to wards shall be 1
1076 professional to 40 wards. The ~~Statewide Public Guardianship~~
1077 Office of Public and Professional Guardians may increase or
1078 decrease the ratio after consultation with the local public
1079 guardian and the chief judge of the circuit court. The basis for
1080 the decision to increase or decrease the prescribed ratio must
1081 be included in the annual report to the secretary.

1082 Section 38. Effective January 1, 2016, section 744.7081,
1083 Florida Statutes, is renumbered as section 744.2104, Florida



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1084 Statutes, and amended to read:

1085 744.2104744.7081 Access to records by the ~~Statewide Public~~
1086 ~~Guardianship~~ Office of Public and Professional Guardians;
1087 confidentiality.—Notwithstanding any other provision of law to
1088 the contrary, any medical, financial, or mental health records
1089 held by an agency, or the court and its agencies, which are
1090 necessary to evaluate the public guardianship system, to assess
1091 the need for additional public guardianship, or to develop
1092 required reports, shall be provided to the ~~Statewide Public~~
1093 ~~Guardianship~~ Office of Public and Professional Guardians upon
1094 that office's request. Any confidential or exempt information
1095 provided to the ~~Statewide Public Guardianship~~ Office of Public
1096 and Professional Guardians shall continue to be held
1097 confidential or exempt as otherwise provided by law. All records
1098 held by the ~~Statewide Public Guardianship~~ Office of Public and
1099 ~~Professional Guardians~~ relating to the medical, financial, or
1100 mental health of vulnerable adults as defined in chapter 415,
1101 persons with a developmental disability as defined in chapter
1102 393, or persons with a mental illness as defined in chapter 394,
1103 shall be confidential and exempt from s. 119.07(1) and s. 24(a),
1104 Art. I of the State Constitution.

1105 Section 39. Effective January 1, 2016, section 744.7082,
1106 Florida Statutes, is renumbered as section 744.2105, Florida
1107 Statutes, and subsections (1) through (5) and (8) of that
1108 section are amended, to read:

1109 744.2105744.7082 Direct-support organization; definition;
1110 use of property; board of directors; audit; dissolution.—

1111 (1) DEFINITION.—As used in this section, the term "direct-
1112 support organization" means an organization whose sole purpose



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1113 is to support the ~~Statewide Public Guardianship~~ Office of Public
1114 and Professional Guardians and is:

1115 (a) A not-for-profit corporation incorporated under chapter
1116 617 and approved by the Department of State;

1117 (b) Organized and operated to conduct programs and
1118 activities; to raise funds; to request and receive grants,
1119 gifts, and bequests of moneys; to acquire, receive, hold,
1120 invest, and administer, in its own name, securities, funds,
1121 objects of value, or other property, real or personal; and to
1122 make expenditures to or for the direct or indirect benefit of
1123 the ~~Statewide Public Guardianship~~ Office of Public and
1124 Professional Guardians; and

1125 (c) Determined by the ~~Statewide Public Guardianship~~ Office
1126 of Public and Professional Guardians to be consistent with the
1127 goals of the office, in the best interests of the state, and in
1128 accordance with the adopted goals and mission of the Department
1129 of Elderly Affairs and the ~~Statewide Public Guardianship~~ Office
1130 of Public and Professional Guardians.

1131 (2) CONTRACT.—The direct-support organization shall operate
1132 under a written contract with the ~~Statewide Public Guardianship~~
1133 Office of Public and Professional Guardians. The written
1134 contract must provide for:

1135 (a) Certification by the ~~Statewide Public Guardianship~~
1136 Office of Public and Professional Guardians that the direct-
1137 support organization is complying with the terms of the contract
1138 and is doing so consistent with the goals and purposes of the
1139 office and in the best interests of the state. This
1140 certification must be made annually and reported in the official
1141 minutes of a meeting of the direct-support organization.



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1142 (b) The reversion of moneys and property held in trust by
1143 the direct-support organization:

1144 1. To the ~~Statewide Public Guardianship~~ Office of Public
1145 and Professional Guardians if the direct-support organization is
1146 no longer approved to operate for the office;

1147 2. To the ~~Statewide Public Guardianship~~ Office of Public
1148 and Professional Guardians if the direct-support organization
1149 ceases to exist;

1150 3. To the Department of Elderly Affairs if the ~~Statewide~~
1151 ~~Public Guardianship~~ Office of Public and Professional Guardians
1152 ceases to exist; or

1153 4. To the state if the Department of Elderly Affairs ceases
1154 to exist.

1155
1156 The fiscal year of the direct-support organization shall begin
1157 on July 1 of each year and end on June 30 of the following year.

1158 (c) The disclosure of the material provisions of the
1159 contract, and the distinction between the ~~Statewide Public~~
1160 ~~Guardianship~~ Office of Public and Professional Guardians and the
1161 direct-support organization, to donors of gifts, contributions,
1162 or bequests, including such disclosure on all promotional and
1163 fundraising publications.

1164 (3) BOARD OF DIRECTORS.—The Secretary of Elderly Affairs
1165 shall appoint a board of directors for the direct-support
1166 organization from a list of nominees submitted by the executive
1167 director of the ~~Statewide Public Guardianship~~ Office of Public
1168 and Professional Guardians.

1169 (4) USE OF PROPERTY.—The Department of Elderly Affairs may
1170 permit, without charge, appropriate use of fixed property and



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1171 facilities of the department or the ~~Statewide Public~~
1172 ~~Guardianship~~ Office of Public and Professional Guardians by the
1173 direct-support organization. The department may prescribe any
1174 condition with which the direct-support organization must comply
1175 in order to use fixed property or facilities of the department
1176 or the ~~Statewide Public Guardianship~~ Office of Public and
1177 Professional Guardians.

1178 (5) MONEYS.—Any moneys may be held in a separate depository
1179 account in the name of the direct-support organization and
1180 subject to the provisions of the written contract with the
1181 ~~Statewide Public Guardianship~~ Office of Public and Professional
1182 Guardians. Expenditures of the direct-support organization shall
1183 be expressly used to support the ~~Statewide Public Guardianship~~
1184 Office of Public and Professional Guardians. The expenditures of
1185 the direct-support organization may not be used for the purpose
1186 of lobbying as defined in s. 11.045.

1187 (8) DISSOLUTION.—~~A~~ After July 1, 2004, any not-for-profit
1188 corporation incorporated under chapter 617 that is determined by
1189 a circuit court to be representing itself as a direct-support
1190 organization created under this section, but that does not have
1191 a written contract with the ~~Statewide Public Guardianship~~ Office
1192 of Public and Professional Guardians in compliance with this
1193 section, is considered to meet the grounds for a judicial
1194 dissolution described in s. 617.1430(1)(a). The ~~Statewide Public~~
1195 ~~Guardianship~~ Office of Public and Professional Guardians shall
1196 be the recipient for all assets held by the dissolved
1197 corporation which accrued during the period that the dissolved
1198 corporation represented itself as a direct-support organization
1199 created under this section.



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1200 Section 40. Effective January 1, 2016, section 744.712,
1201 Florida Statutes, is renumbered as section 744.2106, Florida
1202 Statutes, and amended to read:

1203 744.2106~~744.712~~ Joining Forces for Public Guardianship
1204 grant program; purpose.—The Legislature intends to establish the
1205 Joining Forces for Public Guardianship matching grant program
1206 for the purpose of assisting counties to establish and fund
1207 community-supported public guardianship programs. The Joining
1208 Forces for Public Guardianship matching grant program shall be
1209 established and administered by the ~~Statewide Public~~
1210 ~~Guardianship~~ Office of Public and Professional Guardians within
1211 the Department of Elderly Affairs. The purpose of the program is
1212 to provide startup funding to encourage communities to develop
1213 and administer locally funded and supported public guardianship
1214 programs to address the needs of indigent and incapacitated
1215 residents.

1216 (1) The ~~Statewide Public Guardianship~~ Office of Public and
1217 Professional Guardians may distribute the grant funds as
1218 follows:

1219 (a) As initial startup funding to encourage counties that
1220 have no office of public guardian to establish an office, or as
1221 initial startup funding to open an additional office of public
1222 guardian within a county whose public guardianship needs require
1223 more than one office of public guardian.

1224 (b) As support funding to operational offices of public
1225 guardian that demonstrate a necessity for funds to meet the
1226 public guardianship needs of a particular geographic area in the
1227 state which the office serves.

1228 (c) To assist counties that have an operating public



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1229 guardianship program but that propose to expand the geographic
1230 area or population of persons they serve, or to develop and
1231 administer innovative programs to increase access to public
1232 guardianship in this state.

1233

1234 Notwithstanding this subsection, the executive director of the
1235 office may award emergency grants if he or she determines that
1236 the award is in the best interests of public guardianship in
1237 this state. Before making an emergency grant, the executive
1238 director must obtain the written approval of the Secretary of
1239 Elderly Affairs. Subsections (2), (3), and (4) do not apply to
1240 the distribution of emergency grant funds.

1241 (2) One or more grants may be awarded within a county.
1242 However, a county may not receive an award that equals, or
1243 multiple awards that cumulatively equal, more than 20 percent of
1244 the total amount of grant funds appropriated during any fiscal
1245 year.

1246 (3) If an applicant is eligible and meets the requirements
1247 to receive grant funds more than once, the ~~Statewide Public~~
1248 ~~Guardianship~~ Office of Public and Professional Guardians shall
1249 award funds to prior awardees in the following manner:

1250 (a) In the second year that grant funds are awarded, the
1251 cumulative sum of the award provided to one or more applicants
1252 within the same county may not exceed 75 percent of the total
1253 amount of grant funds awarded within that county in year one.

1254 (b) In the third year that grant funds are awarded, the
1255 cumulative sum of the award provided to one or more applicants
1256 within the same county may not exceed 60 percent of the total
1257 amount of grant funds awarded within that county in year one.



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1258 (c) In the fourth year that grant funds are awarded, the
1259 cumulative sum of the award provided to one or more applicants
1260 within the same county may not exceed 45 percent of the total
1261 amount of grant funds awarded within that county in year one.

1262 (d) In the fifth year that grant funds are awarded, the
1263 cumulative sum of the award provided to one or more applicants
1264 within the same county may not exceed 30 percent of the total
1265 amount of grant funds awarded within that county in year one.

1266 (e) In the sixth year that grant funds are awarded, the
1267 cumulative sum of the award provided to one or more applicants
1268 within the same county may not exceed 15 percent of the total
1269 amount of grant funds awarded within that county in year one.

1270
1271 The ~~Statewide Public Guardianship~~ Office of Public and
1272 Professional Guardians may not award grant funds to any
1273 applicant within a county that has received grant funds for more
1274 than 6 years.

1275 (4) Grant funds shall be used only to provide direct
1276 services to indigent wards, except that up to 10 percent of the
1277 grant funds may be retained by the awardee for administrative
1278 expenses.

1279 (5) Implementation of the program is subject to a specific
1280 appropriation by the Legislature in the General Appropriations
1281 Act.

1282 Section 41. Effective January 1, 2016, section 744.713,
1283 Florida Statutes, is renumbered as section 744.2107, Florida
1284 Statutes, and amended to read:

1285 744.2107~~744.713~~ Program administration; duties of the
1286 ~~Statewide Public Guardianship~~ Office of Public and Professional



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1287 Guardians.—~~The Statewide Public Guardianship Office of Public~~
1288 and Professional Guardians shall administer the grant program.

1289 The office shall:

1290 (1) Publicize the availability of grant funds to entities
1291 that may be eligible for the funds.

1292 (2) Establish an application process for submitting a grant
1293 proposal.

1294 (3) Request, receive, and review proposals from applicants
1295 seeking grant funds.

1296 (4) Determine the amount of grant funds each awardee may
1297 receive and award grant funds to applicants.

1298 (5) Develop a monitoring process to evaluate grant
1299 awardees, which may include an annual monitoring visit to each
1300 awardee's local office.

1301 (6) Ensure that persons or organizations awarded grant
1302 funds meet and adhere to the requirements of this act.

1303 Section 42. Effective January 1, 2016, section 744.714,
1304 Florida Statutes, is renumbered as section 744.2108, Florida
1305 Statutes, and paragraph (b) of subsection (1) and paragraph (b)
1306 of subsection (2) of that section are amended, to read:

1307 744.2108~~744.714~~ Eligibility.—

1308 (1) Any person or organization that has not been awarded a
1309 grant must meet all of the following conditions to be eligible
1310 to receive a grant:

1311 (b) The applicant must have already been appointed by, or
1312 is pending appointment by, the ~~Statewide Public Guardianship~~
1313 Office of Public and Professional Guardians to become an office
1314 of public guardian in this state.

1315 (2) Any person or organization that has been awarded a



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1316 grant must meet all of the following conditions to be eligible
1317 to receive another grant:

1318 (b) The applicant must have been appointed by, or is
1319 pending reappointment by, the ~~Statewide Public Guardianship~~
1320 Office of Public and Professional Guardians to be an office of
1321 public guardian in this state.

1322 Section 43. Section 744.715, Florida Statutes, is
1323 renumbered as section 744.2109, Florida Statutes, and
1324 subsections (2) and (4) of that section are amended, to read:

1325 744.2109 ~~744.715~~ Grant application requirements; review
1326 criteria; awards process.—Grant applications must be submitted
1327 to the ~~Statewide Public Guardianship~~ Office of Public and
1328 Professional Guardians for review and approval.

1329 (2) If the ~~Statewide Public Guardianship~~ Office of Public
1330 and Professional Guardians determines that an applicant meets
1331 the requirements for an award of grant funds, the office may
1332 award the applicant any amount of grant funds the executive
1333 director deems appropriate, if the amount awarded meets the
1334 requirements of this act. The office may adopt a rule allocating
1335 the maximum allowable amount of grant funds which may be
1336 expended on any ward.

1337 (4) (a) In the first year of the Joining Forces for Public
1338 Guardianship program's existence, the ~~Statewide Public~~
1339 ~~Guardianship~~ Office of Public and Professional Guardians shall
1340 give priority in awarding grant funds to those entities that:

1341 1. Are operating as appointed offices of public guardians
1342 in this state;

1343 2. Meet all of the requirements for being awarded a grant
1344 under this act; and



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1345 3. Demonstrate a need for grant funds during the current
1346 fiscal year due to a loss of local funding formerly raised
1347 through court filing fees.

1348 (b) In each fiscal year after the first year that grant
1349 funds are distributed, the ~~Statewide Public Guardianship~~ Office
1350 of Public and Professional Guardians may give priority to
1351 awarding grant funds to those entities that:

1352 1. Meet all of the requirements of this act for being
1353 awarded grant funds; and

1354 2. Submit with their application an agreement or
1355 confirmation from a local funding source, such as a county,
1356 municipality, or any other public or private organization, that
1357 the local funding source will contribute matching funds totaling
1358 an amount equal to or exceeding \$2 for every \$1 of grant funds
1359 awarded by the office. An entity may submit with its application
1360 agreements or confirmations from multiple local funding sources
1361 showing that the local funding sources will pool their
1362 contributed matching funds to the public guardianship program
1363 for a combined total of not less than \$2 for every \$1 of grant
1364 funds awarded. In-kind contributions allowable under this
1365 section shall be evaluated by the ~~Statewide Public Guardianship~~
1366 Office of Public and Professional Guardians and may be counted
1367 as part or all of the local matching funds.

1368 Section 44. Effective January 1, 2016, section 744.701,
1369 Florida Statutes, is repealed.

1370 Section 45. Effective January 1, 2016, section 744.702,
1371 Florida Statutes, is repealed.

1372 Section 46. Effective January 1, 2016, section 744.7101,
1373 Florida Statutes, is repealed.



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1374 Section 47. Effective January 1, 2016, section 744.711,
1375 Florida Statutes, is repealed.

1376 Section 48. Effective January 1, 2016, subsection (5) of
1377 section 400.148, Florida Statutes, is amended to read:

1378 400.148 Medicaid "Up-or-Out" Quality of Care Contract
1379 Management Program.—

1380 (5) The agency shall, jointly with the ~~Statewide Public~~
1381 ~~Guardianship~~ Office of Public and Professional Guardians,
1382 develop a system in the pilot project areas to identify Medicaid
1383 recipients who are residents of a participating nursing home or
1384 assisted living facility who have diminished ability to make
1385 their own decisions and who do not have relatives or family
1386 available to act as guardians in nursing homes listed on the
1387 Nursing Home Guide Watch List. The agency and the ~~Statewide~~
1388 ~~Public Guardianship~~ Office of Public and Professional Guardians
1389 shall give such residents priority for publicly funded
1390 guardianship services.

1391 Section 49. Effective January 1, 2016, subsection (3),
1392 paragraph (c) of subsection (4), and subsections (5) and (6) of
1393 section 744.3135, Florida Statutes, are amended to read:

1394 744.3135 Credit and criminal investigation.—

1395 (3) For professional guardians, the court and the ~~Statewide~~
1396 ~~Public Guardianship~~ Office of Public and Professional Guardians
1397 shall accept the satisfactory completion of a criminal history
1398 record check by any method described in this subsection. A
1399 professional guardian satisfies the requirements of this section
1400 by undergoing an electronic fingerprint criminal history record
1401 check. A professional guardian may use any electronic
1402 fingerprinting equipment used for criminal history record



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1403 checks. The ~~Statewide Public Guardianship~~ Office of Public and
1404 Professional Guardians shall adopt a rule detailing the
1405 acceptable methods for completing an electronic fingerprint
1406 criminal history record check under this section. The
1407 professional guardian shall pay the actual costs incurred by the
1408 Federal Bureau of Investigation and the Department of Law
1409 Enforcement for the criminal history record check. The entity
1410 completing the record check must immediately send the results of
1411 the criminal history record check to the clerk of the court and
1412 the ~~Statewide Public Guardianship~~ Office of Public and
1413 Professional Guardians. The clerk of the court shall maintain
1414 the results in the professional guardian's file and shall make
1415 the results available to the court.

1416 (4)

1417 (c) The Department of Law Enforcement shall search all
1418 arrest fingerprints received under s. 943.051 against the
1419 fingerprints retained in the statewide automated biometric
1420 identification system under paragraph (b). Any arrest record
1421 that is identified with the fingerprints of a person described
1422 in this paragraph must be reported to the clerk of court. The
1423 clerk of court must forward any arrest record received for a
1424 professional guardian to the ~~Statewide Public Guardianship~~
1425 Office of Public and Professional Guardians within 5 days. Each
1426 professional guardian who elects to submit fingerprint
1427 information electronically shall participate in this search
1428 process by paying an annual fee to the ~~Statewide Public~~
1429 ~~Guardianship~~ Office of Public and Professional Guardians of the
1430 Department of Elderly Affairs and by informing the clerk of
1431 court and the ~~Statewide Public Guardianship~~ Office of Public and



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1432 Professional Guardians of any change in the status of his or her
1433 guardianship appointment. The amount of the annual fee to be
1434 imposed for performing these searches and the procedures for the
1435 retention of professional guardian fingerprints and the
1436 dissemination of search results shall be established by rule of
1437 the Department of Law Enforcement. At least once every 5 years,
1438 the ~~Statewide Public Guardianship~~ Office of Public and
1439 Professional Guardians must request that the Department of Law
1440 Enforcement forward the fingerprints maintained under this
1441 section to the Federal Bureau of Investigation.

1442 (5) (a) A professional guardian, and each employee of a
1443 professional guardian who has a fiduciary responsibility to a
1444 ward, must complete, at his or her own expense, an investigation
1445 of his or her credit history before and at least once every 2
1446 years after the date of the guardian's registration with the
1447 ~~Statewide Public Guardianship~~ Office of Public and Professional
1448 Guardians.

1449 (b) The ~~Statewide Public Guardianship~~ Office of Public and
1450 Professional Guardians shall adopt a rule detailing the
1451 acceptable methods for completing a credit investigation under
1452 this section. If appropriate, the ~~Statewide Public Guardianship~~
1453 Office of Public and Professional Guardians may administer
1454 credit investigations. If the office chooses to administer the
1455 credit investigation, the office may adopt a rule setting a fee,
1456 not to exceed \$25, to reimburse the costs associated with the
1457 administration of a credit investigation.

1458 (6) The ~~Statewide Public Guardianship~~ Office of Public and
1459 Professional Guardians may inspect at any time the results of
1460 any credit or criminal history record check of a public or



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1461 professional guardian conducted under this section. The office
1462 shall maintain copies of the credit or criminal history record
1463 check results in the guardian's registration file. If the
1464 results of a credit or criminal investigation of a public or
1465 professional guardian have not been forwarded to the ~~Statewide~~
1466 ~~Public Guardianship~~ Office of Public and Professional Guardians
1467 by the investigating agency, the clerk of the court shall
1468 forward copies of the results of the investigations to the
1469 office upon receiving them.

1470 Section 50. Effective January 1, 2016, paragraph (a) of
1471 subsection (1) of section 20.415, Florida Statutes, is amended
1472 to read:

1473 20.415 Department of Elderly Affairs; trust funds.—The
1474 following trust funds shall be administered by the Department of
1475 Elderly Affairs:

1476 (1) Administrative Trust Fund.

1477 (a) Funds to be credited to and uses of the trust fund
1478 shall be administered in accordance with ss. 215.32, 744.534,
1479 and 744.2001 ~~744.7021~~.

1480 Section 51. Effective January 1, 2016, paragraph (e) of
1481 subsection (2) of section 415.1102, Florida Statutes, is amended
1482 to read:

1483 415.1102 Adult protection teams.—

1484 (2) Such teams may be composed of, but need not be limited
1485 to:

1486 (e) Public and professional guardians as described in part
1487 II ~~IX~~ of chapter 744.

1488 Section 52. Effective January 1, 2016, section 744.524,
1489 Florida Statutes, is amended to read:



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1490 744.524 Termination of guardianship on change of domicile
1491 of resident ward.—When the domicile of a resident ward has
1492 changed as provided in s. 744.1098 ~~s. 744.2025~~, and the foreign
1493 court having jurisdiction over the ward at the ward's new
1494 domicile has appointed a guardian and that guardian has
1495 qualified and posted a bond in an amount required by the foreign
1496 court, the guardian in this state may file her or his final
1497 report and close the guardianship in this state. The guardian of
1498 the property in this state shall cause a notice to be published
1499 once a week for 2 consecutive weeks, in a newspaper of general
1500 circulation published in the county, that she or he has filed
1501 her or his accounting and will apply for discharge on a day
1502 certain and that jurisdiction of the ward will be transferred to
1503 the state of foreign jurisdiction. If an objection is filed to
1504 the termination of the guardianship in this state, the court
1505 shall hear the objection and enter an order either sustaining or
1506 overruling the objection. Upon the disposition of all objections
1507 filed, or if no objection is filed, final settlement shall be
1508 made by the Florida guardian. On proof that the remaining
1509 property in the guardianship has been received by the foreign
1510 guardian, the guardian of the property in this state shall be
1511 discharged. The entry of the order terminating the guardianship
1512 in this state shall not exonerate the guardian or the guardian's
1513 surety from any liability previously incurred.

1514 Section 53. Sections 709.2109 and 744.3203, Florida
1515 Statutes, as created by this act, apply to all proceedings filed
1516 on or after July 1, 2015. The amendments made by this act to ss.
1517 744.107, 744.1075, 744.108, 744.3025, 744.3031, 744.309,
1518 744.3115, 744.312, 744.345, 744.359, 744.361, 744.367, 744.369,



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1519 744.3715, and 744.464, Florida Statutes, apply to all
1520 proceedings pending on July 1, 2015.

1521 Section 54. Except as otherwise expressly provided in this
1522 act, this act shall take effect July 1, 2015.

1523

1524 ===== T I T L E A M E N D M E N T =====

1525 And the title is amended as follows:

1526 Delete everything before the enacting clause
1527 and insert:

1528 A bill to be entitled
1529 An act relating to guardianship; providing directives
1530 to the Division of Law Revision and Information;
1531 amending s. 709.2109, F.S.; requiring the filing of a
1532 motion before termination or suspension of a power of
1533 attorney in proceedings to determine a principal's
1534 incapacity or for appointment of a guardian advocate
1535 under certain circumstances; amending s. 744.1012,
1536 F.S.; revising legislative intent; amending ss.
1537 744.107 and 744.1075, F.S.; authorizing a court to
1538 appoint the office of criminal conflict and civil
1539 regional counsel as a court monitor in certain
1540 guardianship proceedings; amending s. 744.108, F.S.;
1541 providing that fees and costs incurred by an attorney
1542 who has rendered services to a ward in compensation
1543 proceedings are payable from guardianship assets;
1544 providing that expert testimony is not required in
1545 proceedings to determine compensation for an attorney
1546 or guardian; requiring a person offering expert
1547 testimony to provide notice to interested persons;



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1548 providing that expert witness fees are recoverable by
1549 the prevailing interested person; renumbering s.
1550 744.201, F.S.; renumbering and amending s. 744.202,
1551 F.S.; conforming a cross-reference; renumbering s.
1552 744.2025, F.S.; amending s. 744.3025, F.S.; providing
1553 that a court may appoint a guardian ad litem to
1554 represent a minor if necessary to protect the minor's
1555 interest in a settlement; providing that a settlement
1556 of a minor's claim is subject to certain
1557 confidentiality provisions; removing an obsolete
1558 provision; amending s. 744.3031, F.S.; requiring
1559 notification of an alleged incapacitated person and
1560 such person's attorney of a petition for appointment
1561 of an emergency temporary guardian before a hearing on
1562 the petition commences; prohibiting the payment of the
1563 emergency temporary guardian's final fees and his or
1564 her final attorney fees until a final report is filed;
1565 amending s. 744.309, F.S.; providing that certain for-
1566 profit corporations may act as the guardian of a
1567 person; providing conditions; requiring the posting
1568 and maintenance of a fiduciary bond; limiting
1569 liability; requiring the corporation to maintain
1570 certain insurance coverage; providing for certain
1571 grandfathered guardianships; amending s. 744.3115,
1572 F.S.; directing the court to specify authority for
1573 health care decisions with respect to a ward's advance
1574 directive; amending s. 744.312, F.S.; prohibiting a
1575 court from giving preference to the appointment of
1576 certain persons as guardians; providing requirements



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1577 for the appointment of professional guardians;
1578 creating s. 744.3203, F.S.; providing grounds for
1579 filing a motion for suspension of a power of attorney
1580 before determination of incapacity; providing criteria
1581 for such motion; requiring a hearing under certain
1582 conditions; providing for the award of attorney fees
1583 and costs; amending s. 744.331, F.S.; directing the
1584 court to consider certain factors when determining
1585 incapacity; requiring that the examining committee be
1586 paid from state funds as court-appointed expert
1587 witnesses if a petition for incapacity is dismissed;
1588 requiring that a petitioner reimburse the state for
1589 such expert witness fees if the court finds the
1590 petition to have been filed in bad faith; conforming a
1591 provision to changes made by the act; renumbering and
1592 amending s. 744.344, F.S.; requiring that a
1593 professional guardian appointed by a court to
1594 represent an allegedly incapacitated person be
1595 selected from a registry of professional guardians;
1596 requiring the chief judge of a circuit court to
1597 compile a list of professional guardians by county and
1598 provide the list to the clerk of court in each county;
1599 providing conditions under which the court is
1600 authorized to appoint an emergency temporary guardian;
1601 amending s. 744.345, F.S.; requiring that all letters
1602 of guardianship state the extent to which the guardian
1603 is authorized to act on behalf of the ward; creating
1604 s. 744.359, F.S.; prohibiting abuse, neglect, or
1605 exploitation of a ward by a guardian; requiring



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1606 reporting thereof to the central abuse hotline of the
1607 Department of Children and Families; providing for
1608 interpretation; amending s. 744.361, F.S.; providing
1609 additional powers and duties of a guardian; amending
1610 s. 744.367, F.S.; revising the period during which a
1611 guardian must file an annual guardianship plan with
1612 the court; amending s. 744.369, F.S.; providing for
1613 the continuance of a guardian's authority to act under
1614 an expired annual report under certain circumstances;
1615 amending s. 744.3715, F.S.; providing that an
1616 interested party may petition the court regarding a
1617 guardian's failure to comply with the duties of a
1618 guardian; amending s. 744.464, F.S.; establishing the
1619 burden of proof for determining restoration of
1620 capacity of a ward in pending guardianship cases;
1621 requiring a court to advance such cases on the
1622 calendar; renumbering and amending s. 744.7021, F.S.;
1623 revising the responsibilities of the executive
1624 director for the Office of Public and Professional
1625 Guardians; conforming provisions to changes made by
1626 the act; renumbering and amending s. 744.1083, F.S.;
1627 deleting a provision authorizing the executive
1628 director to suspend or revoke the registration of a
1629 guardian who commits certain violations; removing the
1630 requirement of written notification to the chief judge
1631 of the judicial circuit upon the executive director's
1632 denial, suspension, or revocation of a registration;
1633 conforming provisions to changes made by the act;
1634 conforming a cross-reference; renumbering and amending



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1635 s. 744.1085, F.S.; removing an obsolete provision;
1636 conforming provisions to changes made by the act;
1637 conforming a cross-reference; creating s. 744.2004,
1638 F.S.; requiring the Office of Public and Professional
1639 Guardians to adopt rules; requiring the office, under
1640 certain circumstances, to make a specified
1641 recommendation to a court of competent jurisdiction;
1642 renumbering and amending s. 744.703, F.S.; conforming
1643 provisions to changes made by the act; renumbering ss.
1644 744.704 and 744.705, F.S.; renumbering and amending
1645 ss. 744.706 and 744.707, F.S.; conforming provisions
1646 to changes made by the act; renumbering s. 744.709,
1647 F.S.; renumbering and amending ss. 744.708, 744.7081,
1648 and 744.7082, F.S.; conforming provisions to changes
1649 made by the act; renumbering and amending s. 744.712,
1650 F.S.; providing legislative intent; conforming
1651 provisions; renumbering and amending ss. 744.713,
1652 744.714, and 744.715, F.S.; conforming provisions to
1653 changes made by the act; repealing s. 744.701, F.S.;
1654 relating to a short title; repealing s. 744.702, F.S.;
1655 relating to legislative intent; repealing s. 744.7101,
1656 F.S.; relating to a short title; repealing s. 744.711,
1657 F.S.; relating to legislative findings and intent;
1658 amending ss. 400.148 and 744.3135, F.S.; conforming
1659 provisions to changes made by the act; amending ss.
1660 20.415, 415.1102, and 744.524, F.S.; conforming cross-
1661 references; making technical changes; providing
1662 applicability; providing effective dates.