

**By** the Committees on Fiscal Policy; Judiciary; and Children, Families, and Elder Affairs; and Senators Detert, Joyner, and Margolis

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1                                   A bill to be entitled  
2           An act relating to guardianship; providing directives  
3           to the Division of Law Revision and Information;  
4           amending s. 744.1012, F.S.; revising legislative  
5           intent; renumbering s. 744.201, F.S., relating to  
6           domicile of ward; renumbering and amending s. 744.202,  
7           F.S.; conforming a cross-reference; renumbering s.  
8           744.2025, F.S., relating to change of ward's  
9           residence; renumbering and amending s. 744.7021, F.S.;  
10          renaming the Statewide Public Guardianship Office to  
11          the Office of Public and Professional Guardians;  
12          revising the duties and responsibilities of the  
13          executive director for the Office of Public and  
14          Professional Guardians; conforming provisions to  
15          changes made by the act; renumbering and amending s.  
16          744.1083, F.S.; providing that a guardian has standing  
17          to seek judicial review pursuant to ch. 120, F.S., if  
18          his or her registration is denied; removing a  
19          provision authorizing the executive director to  
20          suspend or revoke the registration of a guardian who  
21          commits certain violations; removing the requirement  
22          of written notification to the chief judge of the  
23          judicial circuit upon the executive director's denial,  
24          suspension, or revocation of a registration;  
25          conforming provisions to changes made by the act;  
26          conforming a cross-reference; renumbering and amending  
27          s. 744.1085, F.S.; conforming provisions to changes  
28          made by the act; removing an obsolete provision;  
29          conforming a cross-reference; creating s. 744.2004,  
30          F.S.; requiring the Office of Public and Professional

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31 Guardians to establish certain procedures by a  
32 specified date; requiring the office to establish  
33 disciplinary proceedings, conduct hearings, and take  
34 administrative action pursuant to ch. 120, F.S.;  
35 requiring the Department of Elderly Affairs to provide  
36 certain written information in disciplinary  
37 proceedings; requiring that certain findings and  
38 recommendations be made within a certain time;  
39 requiring the office, under certain circumstances, to  
40 make a specified recommendation to a court of  
41 competent jurisdiction; requiring the office to report  
42 determination or suspicion of abuse to the Department  
43 of Children and Families' central abuse hotline under  
44 specified circumstances; requiring the Department of  
45 Elderly Affairs to adopt rules; creating s. 744.20041,  
46 F.S.; specifying the acts by a professional guardian  
47 that constitute grounds for the Office of Public and  
48 Professional Guardians to take specified disciplinary  
49 actions; specifying penalties that the Office of  
50 Public and Professional Guardians may impose;  
51 requiring the Office of Public and Professional  
52 Guardians to consider sanctions necessary to safeguard  
53 wards and to protect the public; requiring the Office  
54 of Public and Professional Guardians to adopt by rule  
55 and periodically review disciplinary guidelines;  
56 providing legislative intent for the disciplinary  
57 guidelines; requiring the Office of Public and  
58 Professional Guardians to designate by rule possible  
59 mitigating and aggravating circumstances and the

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60 variation and range of penalties; requiring an  
61 administrative law judge to follow the Office of  
62 Public and Professional Guardians' disciplinary  
63 guidelines when recommending penalties; requiring the  
64 administrative law judge to provide written mitigating  
65 or aggravating circumstances under certain  
66 circumstances; authorizing the Office of Public and  
67 Professional Guardians to impose a penalty other than  
68 those in the disciplinary guidelines under certain  
69 circumstances; authorizing the Office of Public and  
70 Professional Guardians to seek an injunction or a writ  
71 of mandamus for specified violations; providing for  
72 permanent revocation of a professional guardian's  
73 registration by the Office of Public and Professional  
74 Guardians under certain circumstances; requiring the  
75 Office of Public and Professional Guardians to notify  
76 a court of the determination to suspend or revoke the  
77 professional guardian's registration under certain  
78 circumstances; providing that cross-references are  
79 considered a general reference for the purpose of  
80 incorporation by reference; requiring the Office of  
81 Public and Professional Guardians to adopt rules;  
82 renumbering and amending s. 744.344, F.S.; making  
83 technical changes; renumbering and amending s.  
84 744.703, F.S.; conforming provisions to changes made  
85 by the act; renumbering ss. 744.704 and 744.705, F.S.,  
86 relating to the powers and duties of public guardians  
87 and the costs of public guardians, respectively;  
88 renumbering and amending ss. 744.706 and 744.707,

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89 F.S.; conforming provisions to changes made by the  
90 act; renumbering s. 744.709, F.S., relating to surety  
91 bonds; renumbering and amending s. 744.708, F.S.;  
92 conforming provisions to changes made by the act;  
93 renumbering and amending s. 744.7081, F.S.; requiring  
94 that the Office of Public and Professional Guardians  
95 be provided financial audits upon its request as part  
96 of an investigation; conforming provisions to changes  
97 made by the act; renumbering and amending s. 744.7082,  
98 F.S.; conforming provisions to changes made by the  
99 act; renumbering and amending s. 744.712, F.S.;  
100 providing legislative intent; conforming provisions;  
101 renumbering and amending ss. 744.713, 744.714, and  
102 744.715, F.S.; conforming provisions to changes made  
103 by the act; amending s. 744.3135, F.S.; requiring the  
104 office to adopt rules by a certain date; conforming  
105 provisions to changes made by the act; repealing s.  
106 744.701, F.S., relating to a short title; repealing s.  
107 744.702, F.S., relating to legislative intent;  
108 repealing s. 744.7101, F.S., relating to a short  
109 title; repealing s. 744.711, F.S., relating to  
110 legislative findings and intent; amending ss. 400.148  
111 and 744.331, F.S.; conforming provisions to changes  
112 made by the act; amending ss. 20.415, 415.1102,  
113 744.309, and 744.524, F.S.; conforming cross-  
114 references; making technical changes; providing an  
115 appropriation; providing an effective date.

116  
117 Be It Enacted by the Legislature of the State of Florida:

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

122       Section 2. The Division of Law Revision and Information is  
123 directed to rename part II of chapter 744, Florida Statutes,  
124 entitled "VENUE," as "PUBLIC AND PROFESSIONAL GUARDIANS,"  
125 consisting of ss. 744.2001-744.2109, Florida Statutes.

126       Section 3. The Division of Law Revision and Information is  
127 directed to remove part IX of chapter 744, Florida Statutes.

128       Section 4. Section 744.1012, Florida Statutes, is amended  
129 to read:

130       744.1012 Legislative intent.—The Legislature finds that:

131       (1) ~~That~~ Adjudicating a person totally incapacitated and in  
132 need of a guardian deprives such person of all her or his civil  
133 and legal rights and that such deprivation may be unnecessary.

134       (2) ~~The Legislature further finds that~~ It is desirable to  
135 make available the least restrictive form of guardianship to  
136 assist persons who are only partially incapable of caring for  
137 their needs and that alternatives to guardianship and less  
138 restrictive means of assistance, including, but not limited to,  
139 guardian advocates, should always be explored before an  
140 individual's rights are removed through an adjudication of  
141 incapacity.

142       (3) By recognizing that every individual has unique needs  
143 and differing abilities, ~~the Legislature declares that~~ it is the  
144 purpose of this act to promote the public welfare by  
145 establishing a system that permits incapacitated persons to  
146 participate as fully as possible in all decisions affecting

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147 them; that assists such persons in meeting the essential  
148 requirements for their physical health and safety, in protecting  
149 their rights, in managing their financial resources, and in  
150 developing or regaining their abilities to the maximum extent  
151 possible; and that accomplishes these objectives through  
152 providing, in each case, the form of assistance that least  
153 interferes with the legal capacity of a person to act in her or  
154 his own behalf. This act shall be liberally construed to  
155 accomplish this purpose.

156 (4) Private guardianship may be inadequate when there is no  
157 willing and responsible family member or friend, other person,  
158 bank, or corporation available to serve as guardian for an  
159 incapacitated person, and such person does not have adequate  
160 income or wealth for the compensation of a private guardian.

161 (5) Through the establishment of the Office of Public and  
162 Professional Guardians, the Legislature intends to permit the  
163 establishment of offices of public guardians for the purpose of  
164 providing guardianship services for incapacitated persons when  
165 no private guardian is available.

166 (6) A public guardian will be provided only to those  
167 persons whose needs cannot be met through less restrictive means  
168 of intervention. A public guardian may also serve in the  
169 capacity of a limited guardian or guardian advocate under s.  
170 393.12 when the public guardian is the guardian of last resort  
171 as described in subsection (4).

172 Section 5. Section 744.201, Florida Statutes, is renumbered  
173 as section 744.1096, Florida Statutes.

174 Section 6. Section 744.202, Florida Statutes, is renumbered  
175 as section 744.1097, Florida Statutes, and subsection (3) of

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176 that section is amended, to read:

177 744.1097 ~~744.202~~ Venue.—

178 (3) When the residence of an incapacitated person is  
179 changed to another county, the guardian shall petition to have  
180 the venue of the guardianship changed to the county of the  
181 acquired residence, except as provided in s. 744.1098 ~~s.~~  
182 ~~744.2025~~.

183 Section 7. Section 744.2025, Florida Statutes, is  
184 renumbered as section 744.1098, Florida Statutes.

185 Section 8. Section 744.7021, Florida Statutes, is  
186 renumbered as section 744.2001, Florida Statutes, and amended to  
187 read:

188 744.2001 ~~744.7021~~ Statewide Public Guardianship Office of  
189 Public and Professional Guardians.—There is hereby created the  
190 Statewide Public Guardianship Office of Public and Professional  
191 Guardians within the Department of Elderly Affairs.

192 (1) The Secretary of Elderly Affairs shall appoint the  
193 executive director, who shall be the head of the ~~Statewide~~  
194 ~~Public Guardianship Office of Public and Professional Guardians.~~  
195 The executive director must be a member of The Florida Bar,  
196 knowledgeable of guardianship law and of the social services  
197 available to meet the needs of incapacitated persons, shall  
198 serve on a full-time basis, and shall personally, or through a  
199 representative ~~representatives~~ of the office, carry out the  
200 purposes and functions of the ~~Statewide Public Guardianship~~  
201 Office of Public and Professional Guardians in accordance with  
202 state and federal law. The executive director shall serve at the  
203 pleasure of and report to the secretary.

204 (2) The executive director shall, within available

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205 resources:

206 (a) Have oversight responsibilities for all public and  
207 professional guardians.

208 (b) Establish standards of practice for public and  
209 professional guardians by rule, in consultation with  
210 professional guardianship associations and other interested  
211 stakeholders, no later than October 1, 2016. The executive  
212 director shall provide a draft of the standards to the Governor,  
213 the Legislature, and the secretary for review by August 1, 2016.

214 (c) Review and approve the standards and criteria for the  
215 education, registration, and certification of public and  
216 professional guardians in Florida.

217 (3) The executive director's oversight responsibilities of  
218 professional guardians must be finalized by October 1, 2016, and  
219 shall include, but are not limited to:

220 (a) Developing and implementing a monitoring tool to ensure  
221 compliance of professional guardians with the standards of  
222 practice established by the Office of Public and Professional  
223 Guardians. This monitoring tool may not include a financial  
224 audit as required by the clerk of the circuit court under s.  
225 744.368.

226 (b) Developing procedures, in consultation with  
227 professional guardianship associations and other interested  
228 stakeholders, for the review of an allegation that a  
229 professional guardian has violated the standards of practice  
230 established by the Office of Public and Professional Guardians  
231 governing the conduct of professional guardians.

232 (c) Establishing disciplinary proceedings, conducting  
233 hearings, and taking administrative action pursuant to chapter



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234 120.

235 (4) The executive director's oversight responsibilities of  
236 public guardians shall include, but are not limited to:

237 (a) Reviewing ~~The executive director shall review~~ the  
238 current public guardian programs in Florida and other states.

239 (b) Developing ~~The executive director,~~ in consultation with  
240 local guardianship offices and other interested stakeholders,  
241 ~~shall develop~~ statewide performance measures ~~and standards.~~

242 (c) Reviewing ~~The executive director shall review~~ the  
243 various methods of funding public guardianship programs, the  
244 kinds of services being provided by such programs, and the  
245 demographics of the wards. In addition, the executive director  
246 shall review and make recommendations regarding the feasibility  
247 of recovering a portion or all of the costs of providing public  
248 guardianship services from the assets or income of the wards.

249 (d) By January 1 of each year, providing ~~the executive~~  
250 ~~director shall provide~~ a status report and ~~provide further~~  
251 recommendations to the secretary which ~~that~~ address the need for  
252 public guardianship services and related issues.

253 (e) Developing a guardianship training program curriculum  
254 that may be offered to all guardians, whether public or private.

255 (5) ~~(e)~~ The executive director may provide assistance to  
256 local governments or entities in pursuing grant opportunities.  
257 The executive director shall review and make recommendations in  
258 the annual report on the availability and efficacy of seeking  
259 Medicaid matching funds. The executive director shall diligently  
260 seek ways to use existing programs and services to meet the  
261 needs of public wards.

262 ~~(f) The executive director, in consultation with the~~

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263 ~~Florida Guardianship Foundation, shall develop a guardianship~~  
264 ~~training program curriculum that may be offered to all guardians~~  
265 ~~whether public or private.~~

266 ~~(6)(3)~~ The executive director may conduct or contract for  
267 demonstration projects authorized by the Department of Elderly  
268 Affairs, within funds appropriated or through gifts, grants, or  
269 contributions for such purposes, to determine the feasibility or  
270 desirability of new concepts of organization, administration,  
271 financing, or service delivery designed to preserve the civil  
272 and constitutional rights of persons of marginal or diminished  
273 capacity. Any gifts, grants, or contributions for such purposes  
274 shall be deposited in the Department of Elderly Affairs  
275 Administrative Trust Fund.

276 Section 9. Section 744.1083, Florida Statutes, is  
277 renumbered as section 744.2002, Florida Statutes, subsections  
278 (1) through (5) of that section are amended, and subsections (7)  
279 and (10) of that section are republished, to read:

280 744.2002 ~~744.1083~~ Professional guardian registration.—

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

284 (2) Annual registration shall be made on forms furnished by  
285 the ~~Statewide Public Guardianship Office~~ of Public and  
286 Professional Guardians and accompanied by the applicable  
287 registration fee as determined by rule. The fee may not exceed  
288 \$100.

289 (3) Registration must include the following:

290 (a) Sufficient information to identify the professional  
291 guardian, as follows:

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292 1. If the professional guardian is a natural person, the  
293 name, address, date of birth, and employer identification or  
294 social security number of the person.

295 2. If the professional guardian is a partnership or  
296 association, the name, address, and employer identification  
297 number of the entity.

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

300 (c) Sufficient information to distinguish a guardian  
301 providing guardianship services as a public guardian,  
302 individually, through partnership, corporation, or any other  
303 business organization.

304 (4) Prior to registering a professional guardian, the  
305 ~~Statewide Public Guardianship Office~~ of Public and Professional  
306 Guardians must receive and review copies of the credit and  
307 criminal investigations conducted under s. 744.3135. The credit  
308 and criminal investigations must have been completed within the  
309 previous 2 years.

310 (5) The executive director of the office may deny  
311 registration to a professional guardian if the executive  
312 director determines that the guardian's proposed registration,  
313 including the guardian's credit or criminal investigations,  
314 indicates that registering the professional guardian would  
315 violate any provision of this chapter. If a guardian's proposed  
316 registration is denied, the guardian has standing to seek  
317 judicial review of the denial pursuant to chapter 120 ~~If a~~  
318 ~~guardian who is currently registered with the office violates a~~  
319 ~~provision of this chapter, the executive director of the office~~  
320 ~~may suspend or revoke the guardian's registration. If the~~

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321 ~~executive director denies registration to a professional~~  
322 ~~guardian or suspends or revokes a professional guardian's~~  
323 ~~registration, the Statewide Public Guardianship Office must send~~  
324 ~~written notification of the denial, suspension, or revocation to~~  
325 ~~the chief judge of each judicial circuit in which the guardian~~  
326 ~~was serving on the day of the office's decision to deny,~~  
327 ~~suspend, or revoke the registration.~~

328 (7) A trust company, a state banking corporation or state  
329 savings association authorized and qualified to exercise  
330 fiduciary powers in this state, or a national banking  
331 association or federal savings and loan association authorized  
332 and qualified to exercise fiduciary powers in this state, may,  
333 but is not required to, register as a professional guardian  
334 under this section. If a trust company, state banking  
335 corporation, state savings association, national banking  
336 association, or federal savings and loan association described  
337 in this subsection elects to register as a professional guardian  
338 under this subsection, the requirements of subsections (3) and  
339 (4) do not apply and the registration must include only the  
340 name, address, and employer identification number of the  
341 registrant, the name and address of its registered agent, if  
342 any, and the documentation described in paragraph (3)(b).

343 (10) A state college or university or an independent  
344 college or university that is located and chartered in Florida,  
345 that is accredited by the Commission on Colleges of the Southern  
346 Association of Colleges and Schools or the Accrediting Council  
347 for Independent Colleges and Schools, and that confers degrees  
348 as defined in s. 1005.02(7) may, but is not required to,  
349 register as a professional guardian under this section. If a

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350 state college or university or independent college or university  
 351 elects to register as a professional guardian under this  
 352 subsection, the requirements of subsections (3) and (4) do not  
 353 apply and the registration must include only the name, address,  
 354 and employer identification number of the registrant.

355 Section 10. Section 744.1085, Florida Statutes, is  
 356 renumbered as section 744.2003, Florida Statutes, subsections  
 357 (3), (6), and (9) of that section are amended, and subsection  
 358 (8) of that section is republished, to read:

359 744.2003 ~~744.1085~~ Regulation of professional guardians;  
 360 application; bond required; educational requirements.—

361 (3) Each professional guardian defined in s. 744.102(17)  
 362 and public guardian must receive a minimum of 40 hours of  
 363 instruction and training. Each professional guardian must  
 364 receive a minimum of 16 hours of continuing education every 2  
 365 calendar years after the year in which the initial 40-hour  
 366 educational requirement is met. The instruction and education  
 367 must be completed through a course approved or offered by the  
 368 ~~Statewide Public Guardianship Office~~ of Public and Professional  
 369 Guardians. The expenses incurred to satisfy the educational  
 370 requirements prescribed in this section may not be paid with the  
 371 assets of any ward. This subsection does not apply to any  
 372 attorney who is licensed to practice law in this state or an  
 373 institution acting as guardian under s. 744.2002(7).

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

378 (a) The Department of Elderly Affairs shall determine the

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379 minimum examination score necessary for passage of guardianship  
380 examinations.

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

383 (c) The Department of Elderly Affairs or its contractor  
384 shall charge an examination fee for the actual costs of the  
385 development and the administration of the examination. The  
386 examination fee for a guardian may, not ~~to~~ exceed \$500.

387 (d) The Department of Elderly Affairs may recognize passage  
388 of a national guardianship examination in lieu of all or part of  
389 the examination approved by the Department of Elderly Affairs,  
390 except that all professional guardians must take and pass an  
391 approved examination section related to Florida law and  
392 procedure.

393 (8) The Department of Elderly Affairs shall waive the  
394 examination requirement in subsection (6) if a professional  
395 guardian can provide:

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

398 (b) A letter from a circuit judge before whom the  
399 professional guardian practiced at least 1 year which states  
400 that the professional guardian had demonstrated to the court  
401 competency as a professional guardian.

402 (9) ~~After July 1, 2004,~~ The court may ~~shall~~ not appoint any  
403 professional guardian who is ~~has~~ not registered by the Office of  
404 Public and Professional Guardians ~~met the requirements of this~~  
405 ~~section and s. 744.1083.~~

406 Section 11. Section 744.2004, Florida Statutes, is created  
407 to read:

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408 744.2004 Complaints; disciplinary proceedings; penalties;  
409 enforcement.-

410 (1) By October 1, 2016, the Office of Public and  
411 Professional Guardians shall establish procedures to:

412 (a) Review and, if determined legally sufficient,  
413 investigate any complaint that a professional guardian has  
414 violated the standards of practice established by the Office of  
415 Public and Professional Guardians governing the conduct of  
416 professional guardians. A complaint is legally sufficient if it  
417 contains ultimate facts that show a violation of a standard of  
418 practice by a professional guardian has occurred.

419 (b) Initiate an investigation no later than 10 business  
420 days after the Office of Public and Professional Guardians  
421 receives a complaint.

422 (c) Complete and provide initial investigative findings and  
423 recommendations, if any, to the professional guardian and the  
424 person who filed the complaint within 60 days after receipt.

425 (d) Obtain supporting information or documentation to  
426 determine the legal sufficiency of a complaint.

427 (e) Interview a ward, family member, or interested party to  
428 determine the legal sufficiency of a complaint.

429 (f) Dismiss any complaint if, at any time after legal  
430 sufficiency is determined, it is found there is insufficient  
431 evidence to support the allegations contained in the complaint.

432 (g) Coordinate, to the greatest extent possible, with the  
433 clerks of court to avoid duplication of duties with regard to  
434 the financial audits prepared by the clerks pursuant to s.  
435 744.368.

436 (2) The Office of Public and Professional Guardians shall

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437 establish disciplinary proceedings, conduct hearings, and take  
438 administrative action pursuant to chapter 120. Disciplinary  
439 actions may include, but are not limited to, requiring a  
440 professional guardian to participate in additional educational  
441 courses provided or approved by the Office of Public and  
442 Professional Guardians, imposing additional monitoring by the  
443 office of the guardianships to which the professional guardian  
444 is appointed, and suspension or revocation of a professional  
445 guardian's registration.

446 (3) In any disciplinary proceeding that may result in the  
447 suspension or revocation of a professional guardian's  
448 registration, the Department of Elderly Affairs shall provide  
449 the professional guardian and the person who filed the  
450 complaint:

451 (a) A written explanation of how an administrative  
452 complaint is resolved by the disciplinary process.

453 (b) A written explanation of how and when the person may  
454 participate in the disciplinary process.

455 (c) A written notice of any hearing before the Division of  
456 Administrative Hearings at which final agency action may be  
457 taken.

458 (4) If the office makes a final determination to suspend or  
459 revoke the professional guardian's registration, it must provide  
460 such determination to the court of competent jurisdiction for  
461 any guardianship case to which the professional guardian is  
462 currently appointed.

463 (5) If the office determines or has reasonable cause to  
464 suspect that a vulnerable adult has been or is being abused,  
465 neglected, or exploited as a result of a filed complaint or



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466 during the course of an investigation of a complaint, it shall  
467 immediately report such determination or suspicion to the  
468 central abuse hotline established and maintained by the  
469 Department of Children and Families pursuant to s. 415.103.

470 (6) By October 1, 2016, the Department of Elderly Affairs  
471 shall adopt rules to implement the provisions of this section.

472 Section 12. Section 744.20041, Florida Statutes, is created  
473 to read:

474 744.20041 Grounds for discipline; penalties; enforcement.-

475 (1) The following acts by a professional guardian shall  
476 constitute grounds for which the disciplinary actions specified  
477 in subsection (2) may be taken:

478 (a) Making misleading, deceptive, or fraudulent  
479 representations in or related to the practice of guardianship.

480 (b) Violating any rule governing guardians or guardianships  
481 adopted by the Office of Public and Professional Guardians.

482 (c) Being convicted or found guilty of, or entering a plea  
483 of guilty or nolo contendere to, regardless of adjudication, a  
484 crime in any jurisdiction which relates to the practice of or  
485 the ability to practice as a professional guardian.

486 (d) Failing to comply with the educational course  
487 requirements contained in s. 744.2003.

488 (e) Having a registration, a license, or the authority to  
489 practice a regulated profession revoked, suspended, or otherwise  
490 acted against, including the denial of registration or  
491 licensure, by the registering or licensing authority of any  
492 jurisdiction, including its agencies or subdivisions, for a  
493 violation under Florida law. The registering or licensing  
494 authority's acceptance of a relinquishment of registration or

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495 licensure, stipulation, consent order, or other settlement  
496 offered in response to or in anticipation of the filing of  
497 charges against the registration or license shall be construed  
498 as an action against the registration or license.

499 (f) Knowingly filing a false report or complaint with the  
500 Office of Public and Professional Guardians against another  
501 guardian.

502 (g) Attempting to obtain, obtaining, or renewing a  
503 registration or license to practice a profession by bribery, by  
504 fraudulent misrepresentation, or as a result of an error by the  
505 Office of Public and Professional Guardians which is known and  
506 not disclosed to the Office of Public and Professional  
507 Guardians.

508 (h) Failing to report to the Office of Public and  
509 Professional Guardians any person who the professional guardian  
510 knows is in violation of this chapter or the rules of the Office  
511 of Public and Professional Guardians.

512 (i) Failing to perform any statutory or legal obligation  
513 placed upon a professional guardian.

514 (j) Making or filing a report or record that the  
515 professional guardian knows to be false, intentionally or  
516 negligently failing to file a report or record required by state  
517 or federal law, or willfully impeding or obstructing another  
518 person's attempt to do so. Such reports or records shall include  
519 only those that are signed in the guardian's capacity as a  
520 professional guardian.

521 (k) Using the position of guardian for the purpose of  
522 financial gain by a professional guardian or a third party,  
523 other than the funds awarded to the professional guardian by the

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524 court pursuant to s. 744.108.

525 (l) Violating a lawful order of the Office of Public and  
526 Professional Guardians or failing to comply with a lawfully  
527 issued subpoena of the Office of Public and Professional  
528 Guardians.

529 (m) Improperly interfering with an investigation or  
530 inspection authorized by statute or rule or with any  
531 disciplinary proceeding.

532 (n) Using the guardian relationship to engage or attempt to  
533 engage the ward, or an immediate family member or a  
534 representative of the ward, in verbal, written, electronic, or  
535 physical sexual activity.

536 (o) Failing to report to the Office of Public and  
537 Professional Guardians in writing within 30 days after being  
538 convicted or found guilty of, or entered a plea of nolo  
539 contendere to, regardless of adjudication, a crime in any  
540 jurisdiction.

541 (p) Being unable to perform the functions of a professional  
542 guardian with reasonable skill by reason of illness or use of  
543 alcohol, drugs, narcotics, chemicals, or any other type of  
544 substance or as a result of any mental or physical condition.

545 (q) Failing to post and maintain a blanket fiduciary bond  
546 pursuant to s. 744.1085.

547 (r) Failing to maintain all records pertaining to a  
548 guardianship for a reasonable time after the court has closed  
549 the guardianship matter.

550 (s) Violating any provision of this chapter or any rule  
551 adopted pursuant thereto.

552 (2) When the Office of Public and Professional Guardians

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553 finds a professional guardian guilty of violating subsection  
554 (1), it may enter an order imposing one or more of the following  
555 penalties:

556 (a) Refusal to register an applicant as a professional  
557 guardian.

558 (b) Suspension or permanent revocation of a professional  
559 guardian's registration.

560 (c) Issuance of a reprimand or letter of concern.

561 (d) Requirement that the professional guardian undergo  
562 treatment, attend continuing education courses, submit to  
563 reexamination, or satisfy any terms that are reasonably tailored  
564 to the violations found.

565 (e) Requirement that the professional guardian pay  
566 restitution of any funds obtained, disbursed, or obtained  
567 through a violation of any statute, rule, or other legal  
568 authority to a ward or the ward's estate, if applicable.

569 (f) Requirement that the professional guardian undergo  
570 remedial education.

571 (3) In determining what action is appropriate, the Office  
572 of Public and Professional Guardians must first consider what  
573 sanctions are necessary to safeguard wards and to protect the  
574 public. Only after those sanctions have been imposed may the  
575 Office of Public and Professional Guardians consider and include  
576 in the order requirements designed to mitigate the circumstances  
577 and rehabilitate the professional guardian.

578 (4) The Office of Public and Professional Guardians shall  
579 adopt by rule and periodically review the disciplinary  
580 guidelines applicable to each ground for disciplinary action  
581 that may be imposed by the Office of Public and Professional

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582 Guardians pursuant to this chapter.

583 (5) It is the intent of the Legislature that the  
584 disciplinary guidelines specify a meaningful range of designated  
585 penalties based upon the severity and repetition of specific  
586 offenses and that minor violations be distinguished from those  
587 which endanger the health, safety, or welfare of a ward or the  
588 public; that such guidelines provide reasonable and meaningful  
589 notice to the public of likely penalties that may be imposed for  
590 proscribed conduct; and that such penalties be consistently  
591 applied by the Office of Public and Professional Guardians.

592 (6) The Office of Public and Professional Guardians shall  
593 by rule designate possible mitigating and aggravating  
594 circumstances and the variation and range of penalties permitted  
595 for such circumstances.

596 (a) An administrative law judge, in recommending penalties  
597 in any recommended order, must follow the disciplinary  
598 guidelines established by the Office of Public and Professional  
599 Guardians and must state in writing any mitigating or  
600 aggravating circumstance upon which a recommended penalty is  
601 based if such circumstance causes the administrative law judge  
602 to recommend a penalty other than that provided in the  
603 disciplinary guidelines.

604 (b) The Office of Public and Professional Guardians may  
605 impose a penalty other than those provided for in the  
606 disciplinary guidelines upon a specific finding in the final  
607 order of mitigating or aggravating circumstances.

608 (7) In addition to, or in lieu of, any other remedy or  
609 criminal prosecution, the Office of Public and Professional  
610 Guardians may file a proceeding in the name of the state seeking

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611 issuance of an injunction or a writ of mandamus against any  
612 person who violates any provision of this chapter or any  
613 provision of law with respect to professional guardians or the  
614 rules adopted pursuant thereto.

615 (8) Notwithstanding chapter 120, if the Office of Public  
616 and Professional Guardians determines that revocation of a  
617 professional guardian's registration is the appropriate penalty,  
618 the revocation is permanent.

619 (9) If the Office of Public and Professional Guardians  
620 makes a final determination to suspend or revoke the  
621 professional guardian's registration, the office must provide  
622 the determination to the court of competent jurisdiction for any  
623 guardianship case to which the professional guardian is  
624 currently appointed.

625 (10) The purpose of this section is to facilitate uniform  
626 discipline for those actions made punishable under this section  
627 and, to this end, a reference to this section constitutes a  
628 general reference under the doctrine of incorporation by  
629 reference.

630 (11) The Office of Public and Professional Guardians shall  
631 adopt rules to administer this section.

632 Section 13. Section 744.344, Florida Statutes, is  
633 renumbered as section 744.2005, Florida Statutes, and amended to  
634 read:

635 744.2005 ~~744.344~~ Order of appointment.—

636 (1) The court may hear testimony on the question of who is  
637 entitled to preference in the appointment of a guardian. Any  
638 interested person may intervene in the proceedings.

639 (2) The order appointing a guardian must state the nature

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640 of the guardianship as either plenary or limited. If limited,  
641 the order must state that the guardian may exercise only those  
642 delegable rights which have been removed from the incapacitated  
643 person and specifically delegated to the guardian. The order  
644 shall state the specific powers and duties of the guardian.

645 (3)~~(2)~~ The order appointing a guardian must be consistent  
646 with the incapacitated person's welfare and safety, must be the  
647 least restrictive appropriate alternative, and must reserve to  
648 the incapacitated person the right to make decisions in all  
649 matters commensurate with the person's ability to do so.

650 (4)~~(3)~~ If a petition for appointment of a guardian has been  
651 filed, an order appointing a guardian must be issued  
652 contemporaneously with the order adjudicating the person  
653 incapacitated. The order must specify the amount of the bond to  
654 be given by the guardian and must state specifically whether the  
655 guardian must place all, or part, of the property of the ward in  
656 a restricted account in a financial institution designated  
657 pursuant to s. 69.031.

658 (5)~~(4)~~ If a petition for the appointment of a guardian has  
659 not been filed or ruled upon at the time of the hearing on the  
660 petition to determine capacity, the court may appoint an  
661 emergency temporary guardian in the manner and for the purposes  
662 specified in s. 744.3031.

663 (6)~~(5)~~ A plenary guardian shall exercise all delegable  
664 rights and powers of the incapacitated person.

665 (7)~~(6)~~ A person for whom a limited guardian has been  
666 appointed retains all legal rights except those that ~~which~~ have  
667 been specifically granted to the guardian in the court's written  
668 order.

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669 Section 14. Section 744.703, Florida Statutes, is  
670 renumbered as section 744.2006, Florida Statutes, and  
671 subsections (1) and (6) of that section are amended, to read:

672 744.2006 ~~744.703~~ Office of Public and Professional  
673 Guardians ~~guardian~~; appointment, notification.—

674 (1) The executive director of the ~~Statewide Public~~  
675 ~~Guardianship~~ Office of Public and Professional Guardians, after  
676 consultation with the chief judge and other circuit judges  
677 within the judicial circuit and with appropriate advocacy groups  
678 and individuals and organizations who are knowledgeable about  
679 the needs of incapacitated persons, may establish, within a  
680 county in the judicial circuit or within the judicial circuit,  
681 one or more offices of public guardian and if so established,  
682 shall create a list of persons best qualified to serve as the  
683 public guardian, who have been investigated pursuant to s.  
684 744.3135. The public guardian must have knowledge of the legal  
685 process and knowledge of social services available to meet the  
686 needs of incapacitated persons. The public guardian shall  
687 maintain a staff or contract with professionally qualified  
688 individuals to carry out the guardianship functions, including  
689 an attorney who has experience in probate areas and another  
690 person who has a master's degree in social work, or a  
691 gerontologist, psychologist, registered nurse, or nurse  
692 practitioner. A public guardian that is a nonprofit corporate  
693 guardian under s. 744.309(5) must receive tax-exempt status from  
694 the United States Internal Revenue Service.

695 (6) Public guardians who have been previously appointed by  
696 a chief judge prior to the effective date of this act pursuant  
697 to this section may continue in their positions until the



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698 expiration of their term pursuant to their agreement. However,  
699 oversight of all public guardians shall transfer to the  
700 ~~Statewide Public Guardianship~~ Office of Public and Professional  
701 Guardians upon the effective date of this act. The executive  
702 director of the ~~Statewide Public Guardianship~~ Office of Public  
703 and Professional Guardians shall be responsible for all future  
704 appointments of public guardians pursuant to this act.

705 Section 15. Section 744.704, Florida Statutes, is  
706 renumbered as section 744.2007, Florida Statutes.

707 Section 16. Section 744.705, Florida Statutes, is  
708 renumbered as section 744.2008, Florida Statutes.

709 Section 17. Section 744.706, Florida Statutes, is  
710 renumbered as section 744.2009, Florida Statutes, and amended to  
711 read:

712 744.2009 ~~744.706~~ Preparation of budget.—Each public  
713 guardian, whether funded in whole or in part by money raised  
714 through local efforts, grants, or any other source or whether  
715 funded in whole or in part by the state, shall prepare a budget  
716 for the operation of the office of public guardian to be  
717 submitted to the ~~Statewide Public Guardianship~~ Office of Public  
718 and Professional Guardians. As appropriate, the ~~Statewide Public~~  
719 ~~Guardianship~~ Office of Public and Professional Guardians will  
720 include such budgetary information in the Department of Elderly  
721 Affairs' legislative budget request. The office of public  
722 guardian shall be operated within the limitations of the General  
723 Appropriations Act and any other funds appropriated by the  
724 Legislature to that particular judicial circuit, subject to the  
725 provisions of chapter 216. The Department of Elderly Affairs  
726 shall make a separate and distinct request for an appropriation

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727 for the ~~Statewide Public Guardianship~~ Office of Public and  
728 Professional Guardians. However, this section may ~~shall~~ not be  
729 construed to preclude the financing of any operations of the  
730 office of ~~the~~ public guardian by moneys raised through local  
731 effort or through the efforts of the ~~Statewide Public~~  
732 Guardianship Office of Public and Professional Guardians.

733 Section 18. Section 744.707, Florida Statutes, is  
734 renumbered as section 744.2101, Florida Statutes, and amended to  
735 read:

736 744.2101 ~~744.707~~ Procedures and rules.—The public guardian,  
737 subject to the oversight of the ~~Statewide Public Guardianship~~  
738 Office of Public and Professional Guardians, is authorized to:

739 (1) Formulate and adopt necessary procedures to assure the  
740 efficient conduct of the affairs of the ward and general  
741 administration of the office and staff.

742 (2) Contract for services necessary to discharge the duties  
743 of the office.

744 (3) Accept the services of volunteer persons or  
745 organizations and provide reimbursement for proper and necessary  
746 expenses.

747 Section 19. Section 744.709, Florida Statutes, is  
748 renumbered as section 744.2102, Florida Statutes.

749 Section 20. Section 744.708, Florida Statutes, is  
750 renumbered as section 744.2103, Florida Statutes, and  
751 subsections (3), (4), (5), and (7) of that section are amended,  
752 to read:

753 744.2103 ~~744.708~~ Reports and standards.—

754 (3) A public guardian shall file an annual report on the  
755 operations of the office of public guardian, in writing, by

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756 September 1 for the preceding fiscal year with the ~~Statewide~~  
757 ~~Public Guardianship~~ Office of Public and Professional Guardians,  
758 which shall have responsibility for supervision of the  
759 operations of the office of public guardian.

760 (4) Within 6 months of his or her appointment as guardian  
761 of a ward, the public guardian shall submit to the clerk of the  
762 court for placement in the ward's guardianship file and to the  
763 executive director of the ~~Statewide Public Guardianship~~ Office  
764 of Public and Professional Guardians a report on his or her  
765 efforts to locate a family member or friend, other person, bank,  
766 or corporation to act as guardian of the ward and a report on  
767 the ward's potential to be restored to capacity.

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

773 (b) In addition to regular monitoring activities, the  
774 ~~Statewide Public Guardianship~~ Office of Public and Professional  
775 Guardians shall conduct an investigation into the practices of  
776 each office of public guardian related to the managing of each  
777 ward's personal affairs and property. If feasible, the  
778 investigation shall be conducted in conjunction with the  
779 financial audit of each office of public guardian under  
780 paragraph (a).

781 (7) The ratio for professional staff to wards shall be 1  
782 professional to 40 wards. The ~~Statewide Public Guardianship~~  
783 Office of Public and Professional Guardians may increase or  
784 decrease the ratio after consultation with the local public

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785 guardian and the chief judge of the circuit court. The basis for  
786 the decision to increase or decrease the prescribed ratio must  
787 be included in the annual report to the secretary.

788 Section 21. Section 744.7081, Florida Statutes, is  
789 renumbered as section 744.2104, Florida Statutes, and amended to  
790 read:

791 744.2104 ~~744.7081~~ Access to records by the Statewide Public  
792 Guardianship Office of Public and Professional Guardians;  
793 confidentiality.-

794 (1) Notwithstanding any other provision of law to the  
795 contrary, any medical, financial, or mental health records held  
796 by an agency, or the court and its agencies, or financial audits  
797 prepared by the clerk of the court pursuant to s. 744.368 and  
798 held by the court, which are necessary as part of an  
799 investigation of a guardian as a result of a complaint filed  
800 with the Office of Public and Professional Guardians to evaluate  
801 the public guardianship system, to assess the need for  
802 additional public guardianship, or to develop required reports,  
803 shall be provided to the ~~Statewide Public Guardianship~~ Office of  
804 Public and Professional Guardians upon that office's request.  
805 Any confidential or exempt information provided to the ~~Statewide~~  
806 ~~Public Guardianship~~ Office of Public and Professional Guardians  
807 shall continue to be held confidential or exempt as otherwise  
808 provided by law.

809 (2) All records held by the ~~Statewide Public Guardianship~~  
810 Office of Public and Professional Guardians relating to the  
811 medical, financial, or mental health of vulnerable adults as  
812 defined in chapter 415, persons with a developmental disability  
813 as defined in chapter 393, or persons with a mental illness as

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814 defined in chapter 394, shall be confidential and exempt from s.  
815 119.07(1) and s. 24(a), Art. I of the State Constitution.

816 Section 22. Section 744.7082, Florida Statutes, is  
817 renumbered as section 744.2105, Florida Statutes, and  
818 subsections (1) through (5) and (8) of that section are amended,  
819 to read:

820 744.2105 ~~744.7082~~ Direct-support organization; definition;  
821 use of property; board of directors; audit; dissolution.—

822 (1) DEFINITION.—As used in this section, the term “direct-  
823 support organization” means an organization whose sole purpose  
824 is to support the ~~Statewide Public Guardianship~~ Office of Public  
825 and Professional Guardians and is:

826 (a) A not-for-profit corporation incorporated under chapter  
827 617 and approved by the Department of State;

828 (b) Organized and operated to conduct programs and  
829 activities; to raise funds; to request and receive grants,  
830 gifts, and bequests of moneys; to acquire, receive, hold,  
831 invest, and administer, in its own name, securities, funds,  
832 objects of value, or other property, real or personal; and to  
833 make expenditures to or for the direct or indirect benefit of  
834 the ~~Statewide Public Guardianship~~ Office of Public and  
835 Professional Guardians; and

836 (c) Determined by the ~~Statewide Public Guardianship~~ Office  
837 of Public and Professional Guardians to be consistent with the  
838 goals of the office, in the best interests of the state, and in  
839 accordance with the adopted goals and mission of the Department  
840 of Elderly Affairs and the ~~Statewide Public Guardianship~~ Office  
841 of Public and Professional Guardians.

842 (2) CONTRACT.—The direct-support organization shall operate

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843 under a written contract with the ~~Statewide Public Guardianship~~  
844 Office of Public and Professional Guardians. The written  
845 contract must provide for:

846 (a) Certification by the ~~Statewide Public Guardianship~~  
847 Office of Public and Professional Guardians that the direct-  
848 support organization is complying with the terms of the contract  
849 and is doing so consistent with the goals and purposes of the  
850 office and in the best interests of the state. This  
851 certification must be made annually and reported in the official  
852 minutes of a meeting of the direct-support organization.

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

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

858 2. To the ~~Statewide Public Guardianship~~ Office of Public  
859 and Professional Guardians if the direct-support organization  
860 ceases to exist;

861 3. To the Department of Elderly Affairs if the ~~Statewide~~  
862 ~~Public Guardianship~~ Office of Public and Professional Guardians  
863 ceases to exist; or

864 4. To the state if the Department of Elderly Affairs ceases  
865 to exist.

866

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

869 (c) The disclosure of the material provisions of the  
870 contract, and the distinction between the ~~Statewide Public~~  
871 ~~Guardianship~~ Office of Public and Professional Guardians and the

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872 direct-support organization, to donors of gifts, contributions,  
873 or bequests, including such disclosure on all promotional and  
874 fundraising publications.

875 (3) BOARD OF DIRECTORS.—The Secretary of Elderly Affairs  
876 shall appoint a board of directors for the direct-support  
877 organization from a list of nominees submitted by the executive  
878 director of the ~~Statewide Public Guardianship~~ Office of Public  
879 and Professional Guardians.

880 (4) USE OF PROPERTY.—The Department of Elderly Affairs may  
881 permit, without charge, appropriate use of fixed property and  
882 facilities of the department or the ~~Statewide Public~~  
883 ~~Guardianship~~ Office of Public and Professional Guardians by the  
884 direct-support organization. The department may prescribe any  
885 condition with which the direct-support organization must comply  
886 in order to use fixed property or facilities of the department  
887 or the ~~Statewide Public Guardianship~~ Office of Public and  
888 Professional Guardians.

889 (5) MONEYS.—Any moneys may be held in a separate depository  
890 account in the name of the direct-support organization and  
891 subject to the provisions of the written contract with the  
892 ~~Statewide Public Guardianship~~ Office of Public and Professional  
893 Guardians. Expenditures of the direct-support organization shall  
894 be expressly used to support the ~~Statewide Public Guardianship~~  
895 ~~Office~~ of Public and Professional Guardians. The expenditures of  
896 the direct-support organization may not be used for the purpose  
897 of lobbying as defined in s. 11.045.

898 (8) DISSOLUTION.—~~A~~ After July 1, 2004, any not-for-profit  
899 corporation incorporated under chapter 617 that is determined by  
900 a circuit court to be representing itself as a direct-support

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901 organization created under this section, but that does not have  
902 a written contract with the ~~Statewide Public Guardianship~~ Office  
903 of Public and Professional Guardians in compliance with this  
904 section, is considered to meet the grounds for a judicial  
905 dissolution described in s. 617.1430(1)(a). The ~~Statewide Public~~  
906 ~~Guardianship~~ Office of Public and Professional Guardians shall  
907 be the recipient for all assets held by the dissolved  
908 corporation which accrued during the period that the dissolved  
909 corporation represented itself as a direct-support organization  
910 created under this section.

911 Section 23. Section 744.712, Florida Statutes, is  
912 renumbered as section 744.2106, Florida Statutes, and amended to  
913 read:

914 744.2106 ~~744.712~~ Joining Forces for Public Guardianship  
915 grant program; purpose.—The Legislature establishes the Joining  
916 Forces for Public Guardianship matching grant program for the  
917 purpose of assisting counties to establish and fund community-  
918 supported public guardianship programs. The Joining Forces for  
919 Public Guardianship matching grant program shall be established  
920 and administered by the ~~Statewide Public Guardianship~~ Office of  
921 Public and Professional Guardians within the Department of  
922 Elderly Affairs. The purpose of the program is to provide  
923 startup funding to encourage communities to develop and  
924 administer locally funded and supported public guardianship  
925 programs to address the needs of indigent and incapacitated  
926 residents.

927 (1) The ~~Statewide Public Guardianship~~ Office of Public and  
928 Professional Guardians may distribute the grant funds as  
929 follows:



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930 (a) As initial startup funding to encourage counties that  
931 have no office of public guardian to establish an office, or as  
932 initial startup funding to open an additional office of public  
933 guardian within a county whose public guardianship needs require  
934 more than one office of public guardian.

935 (b) As support funding to operational offices of public  
936 guardian that demonstrate a necessity for funds to meet the  
937 public guardianship needs of a particular geographic area in the  
938 state which the office serves.

939 (c) To assist counties that have an operating public  
940 guardianship program but that propose to expand the geographic  
941 area or population of persons they serve, or to develop and  
942 administer innovative programs to increase access to public  
943 guardianship in this state.

944

945 Notwithstanding this subsection, the executive director of the  
946 office may award emergency grants if he or she determines that  
947 the award is in the best interests of public guardianship in  
948 this state. Before making an emergency grant, the executive  
949 director must obtain the written approval of the Secretary of  
950 Elderly Affairs. Subsections (2), (3), and (4) do not apply to  
951 the distribution of emergency grant funds.

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

957 (3) If an applicant is eligible and meets the requirements  
958 to receive grant funds more than once, the ~~Statewide Public~~

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959 ~~Guardianship~~ Office of Public and Professional Guardians shall  
960 award funds to prior awardees in the following manner:

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

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

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

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

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

981  
982 The ~~Statewide Public Guardianship~~ Office of Public and  
983 Professional Guardians may not award grant funds to any  
984 applicant within a county that has received grant funds for more  
985 than 6 years.

986 (4) Grant funds shall be used only to provide direct  
987 services to indigent wards, except that up to 10 percent of the

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988 grant funds may be retained by the awardee for administrative  
989 expenses.

990 (5) Implementation of the program is subject to a specific  
991 appropriation by the Legislature in the General Appropriations  
992 Act.

993 Section 24. Section 744.713, Florida Statutes, is  
994 renumbered as section 744.2107, Florida Statutes, and amended to  
995 read:

996 744.2107 ~~744.713~~ Program administration; duties of the  
997 ~~Statewide Public Guardianship~~ Office of Public and Professional  
998 Guardians.—The ~~Statewide Public Guardianship~~ Office of Public  
999 and Professional Guardians shall administer the grant program.

1000 The office shall:

1001 (1) Publicize the availability of grant funds to entities  
1002 that may be eligible for the funds.

1003 (2) Establish an application process for submitting a grant  
1004 proposal.

1005 (3) Request, receive, and review proposals from applicants  
1006 seeking grant funds.

1007 (4) Determine the amount of grant funds each awardee may  
1008 receive and award grant funds to applicants.

1009 (5) Develop a monitoring process to evaluate grant  
1010 awardees, which may include an annual monitoring visit to each  
1011 awardee's local office.

1012 (6) Ensure that persons or organizations awarded grant  
1013 funds meet and adhere to the requirements of this act.

1014 Section 25. Section 744.714, Florida Statutes, is  
1015 renumbered as section 744.2108, Florida Statutes, and paragraph  
1016 (b) of subsection (1) and paragraph (b) of subsection (2) of

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1017 that section are amended, to read:

1018 744.2108 ~~744.714~~ Eligibility.—

1019 (1) Any person or organization that has not been awarded a  
1020 grant must meet all of the following conditions to be eligible  
1021 to receive a grant:

1022 (b) The applicant must have already been appointed by, or  
1023 is pending appointment by, the ~~Statewide Public Guardianship~~  
1024 Office of Public and Professional Guardians to become an office  
1025 of public guardian in this state.

1026 (2) Any person or organization that has been awarded a  
1027 grant must meet all of the following conditions to be eligible  
1028 to receive another grant:

1029 (b) The applicant must have been appointed by, or is  
1030 pending reappointment by, the ~~Statewide Public Guardianship~~  
1031 Office of Public and Professional Guardians to be an office of  
1032 public guardian in this state.

1033 Section 26. Section 744.715, Florida Statutes, is  
1034 renumbered as section 744.2109, Florida Statutes, and amended to  
1035 read:

1036 744.2109 ~~744.715~~ Grant application requirements; review  
1037 criteria; awards process.—Grant applications must be submitted  
1038 to the ~~Statewide Public Guardianship~~ Office of Public and  
1039 Professional Guardians for review and approval.

1040 (1) A grant application must contain:

1041 (a) The specific amount of funds being requested.

1042 (b) The proposed annual budget for the office of public  
1043 guardian for which the applicant is applying on behalf of,  
1044 including all sources of funding, and a detailed report of  
1045 proposed expenditures, including administrative costs.

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1046 (c) The total number of wards the applicant intends to  
1047 serve during the grant period.

1048 (d) Evidence that the applicant has:

1049 1. Attempted to procure funds and has exhausted all  
1050 possible other sources of funding; or

1051 2. Procured funds from local sources, but the total amount  
1052 of the funds collected or pledged is not sufficient to meet the  
1053 need for public guardianship in the geographic area that the  
1054 applicant intends to serve.

1055 (e) An agreement or confirmation from a local funding  
1056 source, such as a county, municipality, or any other public or  
1057 private organization, that the local funding source will  
1058 contribute matching funds to the public guardianship program  
1059 totaling not less than \$1 for every \$1 of grant funds awarded.  
1060 For purposes of this section, an applicant may provide evidence  
1061 of agreements or confirmations from multiple local funding  
1062 sources showing that the local funding sources will pool their  
1063 contributed matching funds to the public guardianship program  
1064 for a combined total of not less than \$1 for every \$1 of grant  
1065 funds awarded. In-kind contributions, such as materials,  
1066 commodities, office space, or other types of facilities,  
1067 personnel services, or other items as determined by rule shall  
1068 be considered by the office and may be counted as part or all of  
1069 the local matching funds.

1070 (f) A detailed plan describing how the office of public  
1071 guardian for which the applicant is applying on behalf of will  
1072 be funded in future years.

1073 (g) Any other information determined by rule as necessary  
1074 to assist in evaluating grant applicants.

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1075 (2) If the ~~Statewide Public Guardianship~~ Office of Public  
1076 and Professional Guardians determines that an applicant meets  
1077 the requirements for an award of grant funds, the office may  
1078 award the applicant any amount of grant funds the executive  
1079 director deems appropriate, if the amount awarded meets the  
1080 requirements of this act. The office may adopt a rule allocating  
1081 the maximum allowable amount of grant funds which may be  
1082 expended on any ward.

1083 (3) A grant awardee must submit a new grant application for  
1084 each year of additional funding.

1085 (4) (a) In the first year of the Joining Forces for Public  
1086 Guardianship program's existence, the ~~Statewide Public~~  
1087 ~~Guardianship~~ Office of Public and Professional Guardians shall  
1088 give priority in awarding grant funds to those entities that:

1089 1. Are operating as appointed offices of public guardians  
1090 in this state;

1091 2. Meet all of the requirements for being awarded a grant  
1092 under this act; and

1093 3. Demonstrate a need for grant funds during the current  
1094 fiscal year due to a loss of local funding formerly raised  
1095 through court filing fees.

1096 (b) In each fiscal year after the first year that grant  
1097 funds are distributed, the ~~Statewide Public Guardianship~~ Office  
1098 of Public and Professional Guardians may give priority to  
1099 awarding grant funds to those entities that:

1100 1. Meet all of the requirements of this section and ss.  
1101 744.2106, 744.2107, and 744.2108 ~~this act~~ for being awarded  
1102 grant funds; and

1103 2. Submit with their application an agreement or

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1104 confirmation from a local funding source, such as a county,  
1105 municipality, or any other public or private organization, that  
1106 the local funding source will contribute matching funds totaling  
1107 an amount equal to or exceeding \$2 for every \$1 of grant funds  
1108 awarded by the office. An entity may submit with its application  
1109 agreements or confirmations from multiple local funding sources  
1110 showing that the local funding sources will pool their  
1111 contributed matching funds to the public guardianship program  
1112 for a combined total of not less than \$2 for every \$1 of grant  
1113 funds awarded. In-kind contributions allowable under this  
1114 section shall be evaluated by the ~~Statewide Public Guardianship~~  
1115 Office of Public and Professional Guardians and may be counted  
1116 as part or all of the local matching funds.

1117 Section 27. Subsection (3), paragraph (c) of subsection  
1118 (4), and subsections (5) and (6) of section 744.3135, Florida  
1119 Statutes, are amended to read:

1120 744.3135 Credit and criminal investigation.—

1121 (3) For professional guardians, the court and the ~~Statewide~~  
1122 ~~Public Guardianship~~ Office of Public and Professional Guardians  
1123 shall accept the satisfactory completion of a criminal history  
1124 record check by any method described in this subsection. A  
1125 professional guardian satisfies the requirements of this section  
1126 by undergoing an electronic fingerprint criminal history record  
1127 check. A professional guardian may use any electronic  
1128 fingerprinting equipment used for criminal history record  
1129 checks. By October 1, 2016, the ~~Statewide Public Guardianship~~  
1130 Office of Public and Professional Guardians shall adopt a rule  
1131 detailing the acceptable methods for completing an electronic  
1132 fingerprint criminal history record check under this section.

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1133 The professional guardian shall pay the actual costs incurred by  
1134 the Federal Bureau of Investigation and the Department of Law  
1135 Enforcement for the criminal history record check. The entity  
1136 completing the record check must immediately send the results of  
1137 the criminal history record check to the clerk of the court and  
1138 the ~~Statewide Public Guardianship~~ Office of Public and  
1139 Professional Guardians. The clerk of the court shall maintain  
1140 the results in the professional guardian's file and shall make  
1141 the results available to the court.

1142 (4)

1143 (c) The Department of Law Enforcement shall search all  
1144 arrest fingerprints received under s. 943.051 against the  
1145 fingerprints retained in the statewide automated biometric  
1146 identification system under paragraph (b). Any arrest record  
1147 that is identified with the fingerprints of a person described  
1148 in this paragraph must be reported to the clerk of court. The  
1149 clerk of court must forward any arrest record received for a  
1150 professional guardian to the ~~Statewide Public Guardianship~~  
1151 Office of Public and Professional Guardians within 5 days. Each  
1152 professional guardian who elects to submit fingerprint  
1153 information electronically shall participate in this search  
1154 process by paying an annual fee to the ~~Statewide Public~~  
1155 ~~Guardianship~~ Office of Public and Professional Guardians of the  
1156 Department of Elderly Affairs and by informing the clerk of  
1157 court and the ~~Statewide Public Guardianship~~ Office of Public and  
1158 Professional Guardians of any change in the status of his or her  
1159 guardianship appointment. The amount of the annual fee to be  
1160 imposed for performing these searches and the procedures for the  
1161 retention of professional guardian fingerprints and the



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1162 dissemination of search results shall be established by rule of  
1163 the Department of Law Enforcement. At least once every 5 years,  
1164 the ~~Statewide Public Guardianship~~ Office of Public and  
1165 Professional Guardians must request that the Department of Law  
1166 Enforcement forward the fingerprints maintained under this  
1167 section to the Federal Bureau of Investigation.

1168 (5) (a) A professional guardian, and each employee of a  
1169 professional guardian who has a fiduciary responsibility to a  
1170 ward, must complete, at his or her own expense, an investigation  
1171 of his or her credit history before and at least once every 2  
1172 years after the date of the guardian's registration with the  
1173 ~~Statewide Public Guardianship~~ Office of Public and Professional  
1174 Guardians.

1175 (b) By October 1, 2016, the ~~Statewide Public Guardianship~~  
1176 Office of Public and Professional Guardians shall adopt a rule  
1177 detailing the acceptable methods for completing a credit  
1178 investigation under this section. If appropriate, the ~~Statewide~~  
1179 ~~Public Guardianship~~ Office of Public and Professional Guardians  
1180 may administer credit investigations. If the office chooses to  
1181 administer the credit investigation, the office may adopt a rule  
1182 setting a fee, not to exceed \$25, to reimburse the costs  
1183 associated with the administration of a credit investigation.

1184 (6) The ~~Statewide Public Guardianship~~ Office of Public and  
1185 Professional Guardians may inspect at any time the results of  
1186 any credit or criminal history record check of a public or  
1187 professional guardian conducted under this section. The office  
1188 shall maintain copies of the credit or criminal history record  
1189 check results in the guardian's registration file. If the  
1190 results of a credit or criminal investigation of a public or

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1191 professional guardian have not been forwarded to the ~~Statewide~~  
1192 ~~Public Guardianship~~ Office of Public and Professional Guardians  
1193 by the investigating agency, the clerk of the court shall  
1194 forward copies of the results of the investigations to the  
1195 office upon receiving them.

1196 Section 28. Section 744.701, Florida Statutes, is repealed.

1197 Section 29. Section 744.702, Florida Statutes, is repealed.

1198 Section 30. Section 744.7101, Florida Statutes, is  
1199 repealed.

1200 Section 31. Section 744.711, Florida Statutes, is repealed.

1201 Section 32. Subsection (5) of section 400.148, Florida  
1202 Statutes, is amended to read:

1203 400.148 Medicaid "Up-or-Out" Quality of Care Contract  
1204 Management Program.—

1205 (5) The agency shall, jointly with the ~~Statewide Public~~  
1206 ~~Guardianship~~ Office of Public and Professional Guardians,  
1207 develop a system in the pilot project areas to identify Medicaid  
1208 recipients who are residents of a participating nursing home or  
1209 assisted living facility who have diminished ability to make  
1210 their own decisions and who do not have relatives or family  
1211 available to act as guardians in nursing homes listed on the  
1212 Nursing Home Guide Watch List. The agency and the ~~Statewide~~  
1213 ~~Public Guardianship~~ Office of Public and Professional Guardians  
1214 shall give such residents priority for publicly funded  
1215 guardianship services.

1216 Section 33. Paragraph (d) of subsection (3) of section  
1217 744.331, Florida Statutes, is amended to read:

1218 744.331 Procedures to determine incapacity.—

1219 (3) EXAMINING COMMITTEE.—

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1220 (d) A member of an examining committee must complete a  
1221 minimum of 4 hours of initial training. The person must complete  
1222 2 hours of continuing education during each 2-year period after  
1223 the initial training. The initial training and continuing  
1224 education program must be developed under the supervision of the  
1225 ~~Statewide Public Guardianship~~ Office of Public and Professional  
1226 Guardians, in consultation with the Florida Conference of  
1227 Circuit Court Judges; the Elder Law and the Real Property,  
1228 Probate and Trust Law sections of The Florida Bar; and the  
1229 Florida State Guardianship Association; ~~and the Florida~~  
1230 ~~Guardianship Foundation~~. The court may waive the initial  
1231 training requirement for a person who has served for not less  
1232 than 5 years on examining committees. If a person wishes to  
1233 obtain his or her continuing education on the Internet or by  
1234 watching a video course, the person must first obtain the  
1235 approval of the chief judge before taking an Internet or video  
1236 course.

1237 Section 34. Paragraph (a) of subsection (1) of section  
1238 20.415, Florida Statutes, is amended to read:

1239 20.415 Department of Elderly Affairs; trust funds.—The  
1240 following trust funds shall be administered by the Department of  
1241 Elderly Affairs:

1242 (1) Administrative Trust Fund.

1243 (a) Funds to be credited to and uses of the trust fund  
1244 shall be administered in accordance with ss. 215.32, 744.534,  
1245 and 744.2001 ~~744.7021~~.

1246 Section 35. Paragraph (e) of subsection (2) of section  
1247 415.1102, Florida Statutes, is amended to read:

1248 415.1102 Adult protection teams.—

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1249 (2) Such teams may be composed of, but need not be limited  
1250 to:

1251 (e) Public and professional guardians as described in part  
1252 II ~~IX~~ of chapter 744.

1253 Section 36. Paragraph (a) of subsection (7) of section  
1254 744.309, Florida Statutes, is amended to read:

1255 744.309 Who may be appointed guardian of a resident ward.-

1256 (7) FOR-PROFIT CORPORATE GUARDIAN.-A for-profit corporate  
1257 guardian existing under the laws of this state is qualified to  
1258 act as guardian of a ward if the entity is qualified to do  
1259 business in the state, is wholly owned by the person who is the  
1260 circuit's public guardian in the circuit where the corporate  
1261 guardian is appointed, has met the registration requirements of  
1262 s. 744.2002 ~~s. 744.1083~~, and posts and maintains a bond or  
1263 insurance policy under paragraph (a).

1264 (a) The for-profit corporate guardian must meet one of the  
1265 following requirements:

1266 1. Post and maintain a blanket fiduciary bond of at least  
1267 \$250,000 with the clerk of the circuit court in the county in  
1268 which the corporate guardian has its principal place of  
1269 business. The corporate guardian shall provide proof of the  
1270 fiduciary bond to the clerks of each additional circuit court in  
1271 which he or she is serving as a guardian. The bond must cover  
1272 all wards for whom the corporation has been appointed as a  
1273 guardian at any given time. The liability of the provider of the  
1274 bond is limited to the face value of the bond, regardless of the  
1275 number of wards for whom the corporation is acting as a  
1276 guardian. The terms of the bond must cover the acts or omissions  
1277 of each agent or employee of the corporation who has direct

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1278 contact with the ward or access to the assets of the  
1279 guardianship. The bond must be payable to the Governor and his  
1280 or her successors in office and be conditioned on the faithful  
1281 performance of all duties of a guardian under this chapter. The  
1282 bond is in lieu of and not in addition to the bond required  
1283 under s. 744.2003 ~~s. 744.1085~~ but is in addition to any bonds  
1284 required under s. 744.351. The expenses incurred to satisfy the  
1285 bonding requirements of this section may not be paid with the  
1286 assets of any ward; or

1287         2. Maintain a liability insurance policy that covers any  
1288 losses sustained by the guardianship caused by errors,  
1289 omissions, or any intentional misconduct committed by the  
1290 corporation's officers or agents. The policy must cover all  
1291 wards for whom the corporation is acting as a guardian for  
1292 losses up to \$250,000. The terms of the policy must cover acts  
1293 or omissions of each agent or employee of the corporation who  
1294 has direct contact with the ward or access to the assets of the  
1295 guardianship. The corporate guardian shall provide proof of the  
1296 policy to the clerk of each circuit court in which he or she is  
1297 serving as a guardian.

1298         Section 37. Section 744.524, Florida Statutes, is amended  
1299 to read:

1300         744.524 Termination of guardianship on change of domicile  
1301 of resident ward.—When the domicile of a resident ward has  
1302 changed as provided in s. 744.1098 ~~s. 744.2025~~, and the foreign  
1303 court having jurisdiction over the ward at the ward's new  
1304 domicile has appointed a guardian and that guardian has  
1305 qualified and posted a bond in an amount required by the foreign  
1306 court, the guardian in this state may file her or his final

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1307 report and close the guardianship in this state. The guardian of  
1308 the property in this state shall cause a notice to be published  
1309 once a week for 2 consecutive weeks, in a newspaper of general  
1310 circulation published in the county, that she or he has filed  
1311 her or his accounting and will apply for discharge on a day  
1312 certain and that jurisdiction of the ward will be transferred to  
1313 the state of foreign jurisdiction. If an objection is filed to  
1314 the termination of the guardianship in this state, the court  
1315 shall hear the objection and enter an order either sustaining or  
1316 overruling the objection. Upon the disposition of all objections  
1317 filed, or if no objection is filed, final settlement shall be  
1318 made by the Florida guardian. On proof that the remaining  
1319 property in the guardianship has been received by the foreign  
1320 guardian, the guardian of the property in this state shall be  
1321 discharged. The entry of the order terminating the guardianship  
1322 in this state shall not exonerate the guardian or the guardian's  
1323 surety from any liability previously incurred.

1324       Section 38. For the 2016-2017 fiscal year, 6 full-time  
1325 equivalent positions, with associated salary rate of 191,119,  
1326 are authorized and the sum of \$698,153 in recurring funds and  
1327 \$123,517 in nonrecurring funds from the General Revenue Fund is  
1328 appropriated to the Department of Elderly Affairs for the  
1329 purpose of carrying out all oversight and monitoring  
1330 responsibilities of the Office of Public and Professional  
1331 Guardians.

1332       Section 39. This act shall take effect upon becoming a law.