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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,

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30 F.S.; requiring the Office of Public and Professional
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

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59 mitigating and aggravating circumstances and the
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;

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88 renumbering and amending ss. 744.706 and 744.707,
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.
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117 Be It Enacted by the Legislature of the State of Florida:

118
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, be explored before a plenary guardian is
140 appointed.

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

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

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

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

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

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

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

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175 that section is amended, to read:

176 744.1097 ~~744.202~~ Venue.—

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

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

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

187 744.2001 ~~744.7021~~ Statewide Public Guardianship Office of
188 Public and Professional Guardians.—There is hereby created the
189 Statewide Public Guardianship Office of Public and Professional
190 Guardians within the Department of Elderly Affairs.

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

203 (2) The executive director shall, within available

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204 resources:

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

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

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

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

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

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

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

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233 120.

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

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

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

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

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

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

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

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

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

265 ~~(6)(3)~~ The executive director may conduct or contract for
266 demonstration projects authorized by the Department of Elderly
267 Affairs, within funds appropriated or through gifts, grants, or
268 contributions for such purposes, to determine the feasibility or
269 desirability of new concepts of organization, administration,
270 financing, or service delivery designed to preserve the civil
271 and constitutional rights of persons of marginal or diminished
272 capacity. Any gifts, grants, or contributions for such purposes
273 shall be deposited in the Department of Elderly Affairs
274 Administrative Trust Fund.

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

279 744.2002 ~~744.1083~~ Professional guardian registration.—

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

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

288 (3) Registration must include the following:

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

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

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

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

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

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

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

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

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

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

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

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

358 744.2003 ~~744.1085~~ Regulation of professional guardians;
359 application; bond required; educational requirements.—

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

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

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

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

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

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

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

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

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

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

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

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

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407 744.2004 Complaints; disciplinary proceedings; penalties;
408 enforcement.-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

473 744.20041 Grounds for discipline; penalties; enforcement.-

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

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

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

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

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

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

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

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

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

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

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

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

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

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523 court pursuant to s. 744.108.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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581 Guardians pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

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

634 744.2005 ~~744.344~~ Order of appointment.—

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

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

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

644 (3)~~(2)~~ The order appointing a guardian must be consistent
645 with the incapacitated person's welfare and safety, must be the
646 least restrictive appropriate alternative, and must reserve to
647 the incapacitated person the right to make decisions in all
648 matters commensurate with the person's ability to do so.

649 (4)~~(3)~~ If a petition for appointment of a guardian has been
650 filed, an order appointing a guardian must be issued
651 contemporaneously with the order adjudicating the person
652 incapacitated. The order must specify the amount of the bond to
653 be given by the guardian and must state specifically whether the
654 guardian must place all, or part, of the property of the ward in
655 a restricted account in a financial institution designated
656 pursuant to s. 69.031.

657 (5)~~(4)~~ If a petition for the appointment of a guardian has
658 not been filed or ruled upon at the time of the hearing on the
659 petition to determine capacity, the court may appoint an
660 emergency temporary guardian in the manner and for the purposes
661 specified in s. 744.3031.

662 (6)~~(5)~~ A plenary guardian shall exercise all delegable
663 rights and powers of the incapacitated person.

664 (7)~~(6)~~ A person for whom a limited guardian has been
665 appointed retains all legal rights except those that ~~which~~ have
666 been specifically granted to the guardian in the court's written
667 order.

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

671 744.2006 ~~744.703~~ Office of Public and Professional
672 Guardians ~~guardian~~; appointment, notification.—

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

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

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

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

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

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

711 744.2009 ~~744.706~~ Preparation of budget.—Each public
712 guardian, whether funded in whole or in part by money raised
713 through local efforts, grants, or any other source or whether
714 funded in whole or in part by the state, shall prepare a budget
715 for the operation of the office of public guardian to be
716 submitted to the ~~Statewide Public Guardianship~~ Office of Public
717 and Professional Guardians. As appropriate, the ~~Statewide Public~~
718 ~~Guardianship~~ Office of Public and Professional Guardians will
719 include such budgetary information in the Department of Elderly
720 Affairs' legislative budget request. The office of public
721 guardian shall be operated within the limitations of the General
722 Appropriations Act and any other funds appropriated by the
723 Legislature to that particular judicial circuit, subject to the
724 provisions of chapter 216. The Department of Elderly Affairs
725 shall make a separate and distinct request for an appropriation

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

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

735 744.2101 ~~744.707~~ Procedures and rules.—The public guardian,
736 subject to the oversight of the ~~Statewide Public Guardianship~~
737 Office of Public and Professional Guardians, is authorized to:

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

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

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

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

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

752 744.2103 ~~744.708~~ Reports and standards.—

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

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

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

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

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

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

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

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

790 744.2104 ~~744.7081~~ Access to records by the Statewide Public
791 Guardianship Office of Public and Professional Guardians;
792 confidentiality.-

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

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

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

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

819 744.2105 ~~744.7082~~ Direct-support organization; definition;
820 use of property; board of directors; audit; dissolution.—

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

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

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

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

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

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

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

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

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

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

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

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

865

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

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

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

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

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

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

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

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

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

913 744.2106 ~~744.712~~ Joining Forces for Public Guardianship
914 grant program; purpose.—The Legislature establishes the Joining
915 Forces for Public Guardianship matching grant program for the
916 purpose of assisting counties to establish and fund community-
917 supported public guardianship programs. The Joining Forces for
918 Public Guardianship matching grant program shall be established
919 and administered by the ~~Statewide Public Guardianship~~ Office of
920 Public and Professional Guardians within the Department of
921 Elderly Affairs. The purpose of the program is to provide
922 startup funding to encourage communities to develop and
923 administer locally funded and supported public guardianship
924 programs to address the needs of indigent and incapacitated
925 residents.

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

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

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

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

943

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

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

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

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

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

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

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

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

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

980

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

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

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

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

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

995 744.2107 ~~744.713~~ Program administration; duties of the
996 ~~Statewide Public Guardianship~~ Office of Public and Professional
997 Guardians.—The ~~Statewide Public Guardianship~~ Office of Public
998 and Professional Guardians shall administer the grant program.
999 The office shall:

1000 (1) Publicize the availability of grant funds to entities
1001 that may be eligible for the funds.

1002 (2) Establish an application process for submitting a grant
1003 proposal.

1004 (3) Request, receive, and review proposals from applicants
1005 seeking grant funds.

1006 (4) Determine the amount of grant funds each awardee may
1007 receive and award grant funds to applicants.

1008 (5) Develop a monitoring process to evaluate grant
1009 awardees, which may include an annual monitoring visit to each
1010 awardee's local office.

1011 (6) Ensure that persons or organizations awarded grant
1012 funds meet and adhere to the requirements of this act.

1013 Section 25. Section 744.714, Florida Statutes, is
1014 renumbered as section 744.2108, Florida Statutes, and paragraph
1015 (b) of subsection (1) and paragraph (b) of subsection (2) of

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1016 that section are amended, to read:

1017 744.2108 ~~744.714~~ Eligibility.—

1018 (1) Any person or organization that has not been awarded a
1019 grant must meet all of the following conditions to be eligible
1020 to receive a grant:

1021 (b) The applicant must have already been appointed by, or
1022 is pending appointment by, the ~~Statewide Public Guardianship~~
1023 Office of Public and Professional Guardians to become an office
1024 of public guardian in this state.

1025 (2) Any person or organization that has been awarded a
1026 grant must meet all of the following conditions to be eligible
1027 to receive another grant:

1028 (b) The applicant must have been appointed by, or is
1029 pending reappointment by, the ~~Statewide Public Guardianship~~
1030 Office of Public and Professional Guardians to be an office of
1031 public guardian in this state.

1032 Section 26. Section 744.715, Florida Statutes, is
1033 renumbered as section 744.2109, Florida Statutes, and amended to
1034 read:

1035 744.2109 ~~744.715~~ Grant application requirements; review
1036 criteria; awards process.—Grant applications must be submitted
1037 to the ~~Statewide Public Guardianship~~ Office of Public and
1038 Professional Guardians for review and approval.

1039 (1) A grant application must contain:

1040 (a) The specific amount of funds being requested.

1041 (b) The proposed annual budget for the office of public
1042 guardian for which the applicant is applying on behalf of,
1043 including all sources of funding, and a detailed report of
1044 proposed expenditures, including administrative costs.

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1045 (c) The total number of wards the applicant intends to
1046 serve during the grant period.

1047 (d) Evidence that the applicant has:

1048 1. Attempted to procure funds and has exhausted all
1049 possible other sources of funding; or

1050 2. Procured funds from local sources, but the total amount
1051 of the funds collected or pledged is not sufficient to meet the
1052 need for public guardianship in the geographic area that the
1053 applicant intends to serve.

1054 (e) An agreement or confirmation from a local funding
1055 source, such as a county, municipality, or any other public or
1056 private organization, that the local funding source will
1057 contribute matching funds to the public guardianship program
1058 totaling not less than \$1 for every \$1 of grant funds awarded.
1059 For purposes of this section, an applicant may provide evidence
1060 of agreements or confirmations from multiple local funding
1061 sources showing that the local funding sources will pool their
1062 contributed matching funds to the public guardianship program
1063 for a combined total of not less than \$1 for every \$1 of grant
1064 funds awarded. In-kind contributions, such as materials,
1065 commodities, office space, or other types of facilities,
1066 personnel services, or other items as determined by rule shall
1067 be considered by the office and may be counted as part or all of
1068 the local matching funds.

1069 (f) A detailed plan describing how the office of public
1070 guardian for which the applicant is applying on behalf of will
1071 be funded in future years.

1072 (g) Any other information determined by rule as necessary
1073 to assist in evaluating grant applicants.

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1074 (2) If the ~~Statewide Public Guardianship~~ Office of Public
1075 and Professional Guardians determines that an applicant meets
1076 the requirements for an award of grant funds, the office may
1077 award the applicant any amount of grant funds the executive
1078 director deems appropriate, if the amount awarded meets the
1079 requirements of this act. The office may adopt a rule allocating
1080 the maximum allowable amount of grant funds which may be
1081 expended on any ward.

1082 (3) A grant awardee must submit a new grant application for
1083 each year of additional funding.

1084 (4) (a) In the first year of the Joining Forces for Public
1085 Guardianship program's existence, the ~~Statewide Public~~
1086 ~~Guardianship~~ Office of Public and Professional Guardians shall
1087 give priority in awarding grant funds to those entities that:

1088 1. Are operating as appointed offices of public guardians
1089 in this state;

1090 2. Meet all of the requirements for being awarded a grant
1091 under this act; and

1092 3. Demonstrate a need for grant funds during the current
1093 fiscal year due to a loss of local funding formerly raised
1094 through court filing fees.

1095 (b) In each fiscal year after the first year that grant
1096 funds are distributed, the ~~Statewide Public Guardianship~~ Office
1097 of Public and Professional Guardians may give priority to
1098 awarding grant funds to those entities that:

1099 1. Meet all of the requirements of this section and ss.
1100 744.2106, 744.2107, and 744.2108 ~~this act~~ for being awarded
1101 grant funds; and

1102 2. Submit with their application an agreement or

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1103 confirmation from a local funding source, such as a county,
1104 municipality, or any other public or private organization, that
1105 the local funding source will contribute matching funds totaling
1106 an amount equal to or exceeding \$2 for every \$1 of grant funds
1107 awarded by the office. An entity may submit with its application
1108 agreements or confirmations from multiple local funding sources
1109 showing that the local funding sources will pool their
1110 contributed matching funds to the public guardianship program
1111 for a combined total of not less than \$2 for every \$1 of grant
1112 funds awarded. In-kind contributions allowable under this
1113 section shall be evaluated by the ~~Statewide Public Guardianship~~
1114 Office of Public and Professional Guardians and may be counted
1115 as part or all of the local matching funds.

1116 Section 27. Subsection (3), paragraph (c) of subsection
1117 (4), and subsections (5) and (6) of section 744.3135, Florida
1118 Statutes, are amended to read:

1119 744.3135 Credit and criminal investigation.—

1120 (3) For professional guardians, the court and the ~~Statewide~~
1121 ~~Public Guardianship~~ Office of Public and Professional Guardians
1122 shall accept the satisfactory completion of a criminal history
1123 record check by any method described in this subsection. A
1124 professional guardian satisfies the requirements of this section
1125 by undergoing an electronic fingerprint criminal history record
1126 check. A professional guardian may use any electronic
1127 fingerprinting equipment used for criminal history record
1128 checks. By October 1, 2016, the ~~Statewide Public Guardianship~~
1129 Office of Public and Professional Guardians shall adopt a rule
1130 detailing the acceptable methods for completing an electronic
1131 fingerprint criminal history record check under this section.

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1132 The professional guardian shall pay the actual costs incurred by
1133 the Federal Bureau of Investigation and the Department of Law
1134 Enforcement for the criminal history record check. The entity
1135 completing the record check must immediately send the results of
1136 the criminal history record check to the clerk of the court and
1137 the ~~Statewide Public Guardianship~~ Office of Public and
1138 Professional Guardians. The clerk of the court shall maintain
1139 the results in the professional guardian's file and shall make
1140 the results available to the court.

1141 (4)

1142 (c) The Department of Law Enforcement shall search all
1143 arrest fingerprints received under s. 943.051 against the
1144 fingerprints retained in the statewide automated biometric
1145 identification system under paragraph (b). Any arrest record
1146 that is identified with the fingerprints of a person described
1147 in this paragraph must be reported to the clerk of court. The
1148 clerk of court must forward any arrest record received for a
1149 professional guardian to the ~~Statewide Public Guardianship~~
1150 Office of Public and Professional Guardians within 5 days. Each
1151 professional guardian who elects to submit fingerprint
1152 information electronically shall participate in this search
1153 process by paying an annual fee to the ~~Statewide Public~~
1154 ~~Guardianship~~ Office of Public and Professional Guardians of the
1155 Department of Elderly Affairs and by informing the clerk of
1156 court and the ~~Statewide Public Guardianship~~ Office of Public and
1157 Professional Guardians of any change in the status of his or her
1158 guardianship appointment. The amount of the annual fee to be
1159 imposed for performing these searches and the procedures for the
1160 retention of professional guardian fingerprints and the

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1161 dissemination of search results shall be established by rule of
1162 the Department of Law Enforcement. At least once every 5 years,
1163 the ~~Statewide Public Guardianship~~ Office of Public and
1164 Professional Guardians must request that the Department of Law
1165 Enforcement forward the fingerprints maintained under this
1166 section to the Federal Bureau of Investigation.

1167 (5) (a) A professional guardian, and each employee of a
1168 professional guardian who has a fiduciary responsibility to a
1169 ward, must complete, at his or her own expense, an investigation
1170 of his or her credit history before and at least once every 2
1171 years after the date of the guardian's registration with the
1172 ~~Statewide Public Guardianship~~ Office of Public and Professional
1173 Guardians.

1174 (b) By October 1, 2016, the ~~Statewide Public Guardianship~~
1175 Office of Public and Professional Guardians shall adopt a rule
1176 detailing the acceptable methods for completing a credit
1177 investigation under this section. If appropriate, the ~~Statewide~~
1178 ~~Public Guardianship~~ Office of Public and Professional Guardians
1179 may administer credit investigations. If the office chooses to
1180 administer the credit investigation, the office may adopt a rule
1181 setting a fee, not to exceed \$25, to reimburse the costs
1182 associated with the administration of a credit investigation.

1183 (6) The ~~Statewide Public Guardianship~~ Office of Public and
1184 Professional Guardians may inspect at any time the results of
1185 any credit or criminal history record check of a public or
1186 professional guardian conducted under this section. The office
1187 shall maintain copies of the credit or criminal history record
1188 check results in the guardian's registration file. If the
1189 results of a credit or criminal investigation of a public or

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1190 professional guardian have not been forwarded to the ~~Statewide~~
1191 ~~Public Guardianship~~ Office of Public and Professional Guardians
1192 by the investigating agency, the clerk of the court shall
1193 forward copies of the results of the investigations to the
1194 office upon receiving them.

1195 Section 28. Section 744.701, Florida Statutes, is repealed.

1196 Section 29. Section 744.702, Florida Statutes, is repealed.

1197 Section 30. Section 744.7101, Florida Statutes, is
1198 repealed.

1199 Section 31. Section 744.711, Florida Statutes, is repealed.

1200 Section 32. Subsection (5) of section 400.148, Florida
1201 Statutes, is amended to read:

1202 400.148 Medicaid "Up-or-Out" Quality of Care Contract
1203 Management Program.—

1204 (5) The agency shall, jointly with the ~~Statewide Public~~
1205 ~~Guardianship~~ Office of Public and Professional Guardians,
1206 develop a system in the pilot project areas to identify Medicaid
1207 recipients who are residents of a participating nursing home or
1208 assisted living facility who have diminished ability to make
1209 their own decisions and who do not have relatives or family
1210 available to act as guardians in nursing homes listed on the
1211 Nursing Home Guide Watch List. The agency and the ~~Statewide~~
1212 ~~Public Guardianship~~ Office of Public and Professional Guardians
1213 shall give such residents priority for publicly funded
1214 guardianship services.

1215 Section 33. Paragraph (d) of subsection (3) of section
1216 744.331, Florida Statutes, is amended to read:

1217 744.331 Procedures to determine incapacity.—

1218 (3) EXAMINING COMMITTEE.—

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1219 (d) A member of an examining committee must complete a
1220 minimum of 4 hours of initial training. The person must complete
1221 2 hours of continuing education during each 2-year period after
1222 the initial training. The initial training and continuing
1223 education program must be developed under the supervision of the
1224 ~~Statewide Public Guardianship~~ Office of Public and Professional
1225 Guardians, in consultation with the Florida Conference of
1226 Circuit Court Judges; the Elder Law and the Real Property,
1227 Probate and Trust Law sections of The Florida Bar; and the
1228 Florida State Guardianship Association; ~~and the Florida~~
1229 ~~Guardianship Foundation~~. The court may waive the initial
1230 training requirement for a person who has served for not less
1231 than 5 years on examining committees. If a person wishes to
1232 obtain his or her continuing education on the Internet or by
1233 watching a video course, the person must first obtain the
1234 approval of the chief judge before taking an Internet or video
1235 course.

1236 Section 34. Paragraph (a) of subsection (1) of section
1237 20.415, Florida Statutes, is amended to read:

1238 20.415 Department of Elderly Affairs; trust funds.—The
1239 following trust funds shall be administered by the Department of
1240 Elderly Affairs:

1241 (1) Administrative Trust Fund.

1242 (a) Funds to be credited to and uses of the trust fund
1243 shall be administered in accordance with ss. 215.32, 744.534,
1244 and 744.2001 ~~744.7021~~.

1245 Section 35. Paragraph (e) of subsection (2) of section
1246 415.1102, Florida Statutes, is amended to read:

1247 415.1102 Adult protection teams.—

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1248 (2) Such teams may be composed of, but need not be limited
1249 to:

1250 (e) Public and professional guardians as described in part
1251 II ~~IX~~ of chapter 744.

1252 Section 36. Paragraph (a) of subsection (7) of section
1253 744.309, Florida Statutes, is amended to read:

1254 744.309 Who may be appointed guardian of a resident ward.—

1255 (7) FOR-PROFIT CORPORATE GUARDIAN.—A for-profit corporate
1256 guardian existing under the laws of this state is qualified to
1257 act as guardian of a ward if the entity is qualified to do
1258 business in the state, is wholly owned by the person who is the
1259 circuit's public guardian in the circuit where the corporate
1260 guardian is appointed, has met the registration requirements of
1261 s. 744.2002 ~~s. 744.1083~~, and posts and maintains a bond or
1262 insurance policy under paragraph (a).

1263 (a) The for-profit corporate guardian must meet one of the
1264 following requirements:

1265 1. Post and maintain a blanket fiduciary bond of at least
1266 \$250,000 with the clerk of the circuit court in the county in
1267 which the corporate guardian has its principal place of
1268 business. The corporate guardian shall provide proof of the
1269 fiduciary bond to the clerks of each additional circuit court in
1270 which he or she is serving as a guardian. The bond must cover
1271 all wards for whom the corporation has been appointed as a
1272 guardian at any given time. The liability of the provider of the
1273 bond is limited to the face value of the bond, regardless of the
1274 number of wards for whom the corporation is acting as a
1275 guardian. The terms of the bond must cover the acts or omissions
1276 of each agent or employee of the corporation who has direct

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1277 contact with the ward or access to the assets of the
1278 guardianship. The bond must be payable to the Governor and his
1279 or her successors in office and be conditioned on the faithful
1280 performance of all duties of a guardian under this chapter. The
1281 bond is in lieu of and not in addition to the bond required
1282 under s. 744.2003 ~~s. 744.1085~~ but is in addition to any bonds
1283 required under s. 744.351. The expenses incurred to satisfy the
1284 bonding requirements of this section may not be paid with the
1285 assets of any ward; or

1286 2. Maintain a liability insurance policy that covers any
1287 losses sustained by the guardianship caused by errors,
1288 omissions, or any intentional misconduct committed by the
1289 corporation's officers or agents. The policy must cover all
1290 wards for whom the corporation is acting as a guardian for
1291 losses up to \$250,000. The terms of the policy must cover acts
1292 or omissions of each agent or employee of the corporation who
1293 has direct contact with the ward or access to the assets of the
1294 guardianship. The corporate guardian shall provide proof of the
1295 policy to the clerk of each circuit court in which he or she is
1296 serving as a guardian.

1297 Section 37. Section 744.524, Florida Statutes, is amended
1298 to read:

1299 744.524 Termination of guardianship on change of domicile
1300 of resident ward.—When the domicile of a resident ward has
1301 changed as provided in s. 744.1098 ~~s. 744.2025~~, and the foreign
1302 court having jurisdiction over the ward at the ward's new
1303 domicile has appointed a guardian and that guardian has
1304 qualified and posted a bond in an amount required by the foreign
1305 court, the guardian in this state may file her or his final

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1306 report and close the guardianship in this state. The guardian of
1307 the property in this state shall cause a notice to be published
1308 once a week for 2 consecutive weeks, in a newspaper of general
1309 circulation published in the county, that she or he has filed
1310 her or his accounting and will apply for discharge on a day
1311 certain and that jurisdiction of the ward will be transferred to
1312 the state of foreign jurisdiction. If an objection is filed to
1313 the termination of the guardianship in this state, the court
1314 shall hear the objection and enter an order either sustaining or
1315 overruling the objection. Upon the disposition of all objections
1316 filed, or if no objection is filed, final settlement shall be
1317 made by the Florida guardian. On proof that the remaining
1318 property in the guardianship has been received by the foreign
1319 guardian, the guardian of the property in this state shall be
1320 discharged. The entry of the order terminating the guardianship
1321 in this state shall not exonerate the guardian or the guardian's
1322 surety from any liability previously incurred.

1323 Section 38. For the 2016-2017 fiscal year, six full-time
1324 equivalent positions, with associated salary rate of 242,345,
1325 are authorized and the sums of \$698,153 in recurring funds and
1326 \$123,517 in nonrecurring funds from the General Revenue Fund are
1327 hereby appropriated to the Department of Elder Affairs for the
1328 purpose of implementing the requirements of the act.

1329 Section 39. This act shall take effect upon becoming a law.