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CS/CS/CS/HB 1349, Engrossed 1

2022 Legislature

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2 An act relating to guardianship data transparency;
3 creating s. 744.2112, F.S.; requiring the Florida
4 Clerks of Court Operations Corporation and the clerks
5 of court to establish a statewide database of
6 guardianship data; providing requirements for the
7 database; specifying restrictions on accessing the
8 database; specifying duties of the corporation
9 relating to uploading certain database information to
10 a certain website and generating and publishing
11 certain reports; providing requirements for the
12 website; requiring the Office of Public and
13 Professional Guardians to share certain data;
14 requiring the corporation to compile and report
15 certain data to the Office of Program Policy Analysis
16 and Government Accountability (OPPAGA) at specified
17 intervals; requiring certain data to be produced in a
18 certain format; requiring OPPAGA to analyze data and
19 prepare reports containing certain information;
20 requiring such reports to be provided to the Governor
21 and the Legislature at specified intervals; providing
22 requirements and prohibitions of such reports;
23 amending s. 744.2001, F.S.; requiring the office to
24 publish online profiles of registered professional
25 guardians on or before a certain date; requiring the

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26 online profiles to contain certain information;
 27 prohibiting the Department of Elderly Affairs from
 28 populating the profiles with certain information;
 29 authorizing the department to adopt rules; providing
 30 appropriations; providing an effective date.

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32 Be It Enacted by the Legislature of the State of Florida:

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34 Section 1. Section 744.2112, Florida Statutes, is created
 35 to read:

36 744.2112 Guardianship information and transparency.-

37 (1) The Florida Clerks of Court Operations Corporation and
 38 the clerks of court shall establish a statewide database of
 39 guardian and guardianship case information to facilitate
 40 improving court oversight of guardianship cases. The database
 41 may not be operational for end users until on or after July 1,
 42 2023. The database must meet interoperability standards defined
 43 by the Florida Courts Technology Commission so that each circuit
 44 court can easily access the information for regular use in
 45 judicial proceedings under this chapter. The database must
 46 include, at a minimum, the following:

47 (a) The registration status of each professional guardian.

48 (b) The substantiated disciplinary history of each
 49 professional guardian.

50 (c) The status of each guardian's compliance with the

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51 statutory qualifications for guardianship under s. 744.2003 or
 52 s. 744.3145.

53 (d) The status of statutorily required reports and
 54 submissions under chapter 744.

55 (2) (a) Except as provided under paragraph (3) (b), the
 56 database shall be accessible only by members of the judiciary,
 57 their direct staff, and court personnel and clerks of court
 58 personnel authorized by a judge to assist with guardianship
 59 matters. The database must restrict access to the information
 60 necessary to perform such individual's duties, but in no way
 61 restrict access by judges or magistrates.

62 (b) The database must be searchable by, at a minimum, the
 63 name of the petitioner, ward, guardian, and legal counsel for
 64 all parties; the demographic information of the ward; the
 65 location of the guardian's office; the name of the judge and the
 66 circuit in which the case is brought; and the number of wards
 67 served by each guardian, by ward county of residence.

68 (3) The Florida Clerks of Court Operations Corporation
 69 shall:

70 (a) Upload certain professional guardian information from
 71 the database to a webpage accessible to the general public in a
 72 searchable format. Such professional guardian information must
 73 be limited to the names of professional guardians and current
 74 data regarding the number of wards served by each guardian, the
 75 counties of residence of such wards and the number of wards

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76 residing in each county, and whether the wards are under limited
77 or plenary guardianships. Personal identifying information of
78 wards may not be included in the data that is searchable under
79 this paragraph.

80 (b) Generate monthly reports of statewide, circuit-level,
81 and county-level statistical data to provide assistance to the
82 courts and the Department of Elderly Affairs and to provide
83 transparency to the public and the Legislature regarding the
84 state's guardianship system. The monthly reports shall include
85 only aggregated and deidentified data. The Florida Clerks of
86 Court Operations Corporation shall publish the statistical data
87 reports monthly on the webpage under paragraph (a).

88 (c) Generate reports using information in the database at
89 the request of the Legislature, the judiciary, or the Department
90 of Elderly Affairs.

91 (4) The Office of Public and Professional Guardians is
92 directed to share professional guardian registration and
93 disciplinary action information for the purposes of this
94 section.

95 (5)(a) Beginning July 1, 2024, and annually thereafter
96 through July 1, 2027, the Florida Clerks of Court Operations
97 Corporation must compile and report data collected by the clerks
98 of court and the Department of Elderly Affairs and maintained in
99 the database to the Office of Program Policy Analysis and
100 Government Accountability (OPPAGA).

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101 (b) OPPAGA must analyze the consolidated data compiled in
 102 accordance with paragraph (a) to evaluate trends in the use of
 103 guardianships in this state and to conduct a comparative
 104 analysis of guardianship laws in other states. OPPAGA must
 105 consult with the Office of the State Courts Administrator, the
 106 Florida Clerks of Court Operations Corporation, the clerks of
 107 court, and the Department of Elderly Affairs during its
 108 analysis. OPPAGA shall submit a report containing its findings
 109 and recommendations to the Governor, the President of the
 110 Senate, and the Speaker of the House of Representatives by
 111 October 15, 2024, and annually thereafter through October 15,
 112 2027.

113 (c) The data compiled and used for the reports required
 114 under this subsection must be produced in a statewide, circuit-
 115 level, and county-level statistical format. Such reports must
 116 include only aggregated and deidentified data and may not
 117 contain personal identifying information of wards.

118 Section 2. Subsection (7) is added to section 744.2001,
 119 Florida Statutes, to read:

120 744.2001 Office of Public and Professional Guardians.—
 121 There is created the Office of Public and Professional Guardians
 122 within the Department of Elderly Affairs.

123 (7) (a) On or before July 1, 2023, the Office of Public and
 124 Professional Guardians shall publish on its website a profile of
 125 each registered professional guardian. The profiles must be

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126 accessible and searchable by the public and must include, at a
 127 minimum, the following information:

128 1. The guardian's name and business address.

129 2. Whether the guardian meets the education and bonding
 130 requirements under s. 744.2003.

131 3. The number and type of substantiated complaints against
 132 the guardian.

133 4. Any disciplinary actions taken by the Department of
 134 Elderly Affairs against the guardian.

135 (b) The Department of Elderly Affairs may not populate the
 136 professional guardian profiles with information from the
 137 database established in s. 744.2112.

138 (c) The Department of Elderly Affairs may adopt rules
 139 necessary to implement this subsection.

140 Section 3. For the 2022-2023 fiscal year, the sum of
 141 \$2,400,000 in nonrecurring funds is appropriated from the
 142 General Revenue Fund to the Justice Administrative Commission
 143 for distribution to the Florida Clerks of Court Operations
 144 Corporation for the purpose of implementing this act.

145 Section 4. For the 2022-2023 fiscal year, the sums of
 146 \$40,000 in recurring funds and \$300,000 in nonrecurring funds
 147 are appropriated from the General Revenue Fund to the Department
 148 of Elderly Affairs for the purpose of implementing this act.

149 Section 5. This act shall take effect July 1, 2022.