

By Senator Bradley

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1 A bill to be entitled
2 An act relating to guardianship; amending s. 744.2001,
3 F.S.; specifying circumstances under which the Office
4 of Public and Professional Guardians' executive
5 director's monitoring tool for ensuring compliance by
6 professional guardians may include a certain financial
7 audit; requiring the development of a tool utilizing
8 the clerks of the court to collect certain data;
9 creating s. 744.20042, F.S.; providing legislative
10 findings and intent; requiring the Department of
11 Elderly Affairs to collect, compile, maintain, and
12 manage certain data submitted by clerks of the court;
13 requiring clerks of the court to collect and report
14 monthly specified data related to guardianship cases
15 to the department; requiring the department to collect
16 specified data for certain guardians; requiring the
17 department to publish datasets in a specified manner
18 by certain dates; providing that certain information
19 remains confidential when reported to the department;
20 providing that the department may disclose such
21 information only under certain circumstances; creating
22 s. 744.20043, F.S.; requiring the department to create
23 and maintain a publicly available dashboard containing
24 certain information; providing a requirement for such
25 information; amending ss. 744.362, 744.363, 744.365,
26 and 744.367, F.S.; requiring a guardian, in an initial
27 guardianship report, an initial guardianship plan, a
28 verified inventory, or an annual guardianship report,
29 respectively, to submit certain information to the

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30 clerk of the court in a certain format; providing an
31 effective date.

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

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35 Section 1. Paragraph (a) of subsection (3) and subsection
36 (6) of section 744.2001, Florida Statutes, are amended to read:
37 744.2001 Office of Public and Professional Guardians.—There
38 is created the Office of Public and Professional Guardians
39 within the Department of Elderly Affairs.

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

43 (a) Developing and implementing a monitoring tool to ensure
44 compliance of professional guardians with the standards of
45 practice established by the Office of Public and Professional
46 Guardians. This monitoring tool may not include a financial
47 audit as required by the clerk of the circuit court under s.
48 744.368 unless the tool is primarily used by the clerk of the
49 court for auditing and reviewing purposes and the Department of
50 Elderly Affairs collects the data derived by the tool for
51 purposes pursuant to s. 744.20042.

52 (6) The executive director may conduct or contract for
53 demonstration projects authorized by the Department of Elderly
54 Affairs, within funds appropriated or through gifts, grants, or
55 contributions for such purposes, to determine the feasibility or
56 desirability of new concepts of organization, administration,
57 financing, or service delivery designed to preserve the civil
58 and constitutional rights of persons of marginal or diminished

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59 capacity. Any gifts, grants, or contributions for such purposes
60 shall be deposited in the Department of Elderly Affairs
61 Administrative Trust Fund. A tool to collect data utilizing the
62 clerks of the court must be developed in conjunction with a
63 guardian's duties pursuant to ss. 744.362, 744.363, 744.365, and
64 744.367 and the clerk of the court's duties in s. 744.368.

65 Section 2. Section 744.20042, Florida Statutes, is created
66 to read:

67 744.20042 Guardianship data collection and transparency.-

68 (1) LEGISLATIVE FINDINGS AND INTENT.-It is the intent of
69 the Legislature to create a model of uniform data collection
70 related to guardianship cases in this state by requiring local
71 clerks of the court to report complete, accurate, and timely
72 data and to make such data available to the public. The
73 Legislature finds that it is an important state interest to
74 implement a uniform data collection process and promote
75 guardianship case transparency.

76 (2) DEPARTMENT DUTIES.-The Department of Elderly Affairs
77 shall collect, compile, maintain, and manage data submitted by
78 clerks of the court pursuant to subsection (3).

79 (3) DATA COLLECTION AND REPORTING.-Beginning July 1, 2022,
80 an entity required to collect data in accordance with this
81 subsection shall collect the specified data relating to
82 guardianship cases open on or after July 1, 2022, and submit
83 such data in accordance with this subsection to the Department
84 of Elderly Affairs monthly for every guardianship proceeding in
85 a circuit court:

86 (a) Clerk of the court.-Each clerk of the court shall
87 collect the following data for each guardianship case that is

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88 active, or was active before such case was closed, within the
89 county:

90 1. Type of guardianship case, including whether it is a
91 guardianship over:

92 a. A minor with a developmental disability.

93 b. An adult with a developmental disability.

94 c. A minor which is unrelated to a developmental
95 disability.

96 d. An elderly person who has been deemed incapacitated by a
97 court.

98 e. A veteran pursuant to part VIII of this chapter.

99 2. The current case status, including whether the case is
100 open or pending or has been disposed of or closed.

101 3. Information related to the participants of the
102 guardianship case, including:

103 a. For the ward:

104 (I) Identifying information, including date of birth, race,
105 ethnicity, and gender.

106 (II) Zip code of the last known mailing address.

107 (III) Marital status.

108 (IV) Residential status, including whether he or she
109 resides in:

110 (A) A home owned by the ward.

111 (B) A home of a family member or friend. A family member
112 includes a spouse, former spouse, noncohabitating partner,
113 person related by blood or marriage, person who is presently
114 residing with the ward as if a family or who resided together in
115 the past as if a family, and person who has a child in common
116 with the ward regardless of whether they have been married or

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117 have resided together at any time.

118 (C) A community residential home licensed under chapter
119 419.

120 (D) An assisted living facility licensed under chapter 429.

121 (E) A nursing home or related health care facility licensed
122 under chapter 400.

123 (F) A correctional facility or institution governed by
124 chapter 944.

125 (G) A juvenile detention or residential commitment facility
126 governed by chapter 985.

127 (V) Whether the ward has been found to be indigent under s.
128 27.52, including specifically if such determination was made at
129 the time the petition was alleged or at any time during the
130 proceedings.

131 (VI) The date of the ward's death, if applicable.

132 b. For the guardian:

133 (I) The name of the guardian.

134 (II) The zip code of the last mailing address of the
135 guardian.

136 (III) The relationship status of the guardian to the ward,
137 including whether he or she is:

138 (A) A nonprofessional.

139 (B) A state registered professional guardian.

140 (C) A public guardian.

141 (D) An attorney.

142 (IV) Whether the guardian is the representative payee for
143 the ward.

144 (V) The type of guardian serving the guardianship case,
145 including whether he or she is:

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- 146 (A) A guardian advocate.
- 147 (B) A voluntary guardian.
- 148 (C) An emergency temporary guardian.
- 149 (VI) The number of cases in the county in which the
150 guardian currently represents a ward.
- 151 (VII) The number of cases from which the guardian has been
152 removed for cause in a judicial circuit, if applicable.
- 153 (VIII) Whether the guardianship is over the person but not
154 the property.
- 155 4. Information related to the attorneys representing any
156 participant of the case, including:
- 157 a. Name of attorney and his or her bar number.
- 158 b. Whether the attorney has withdrawn from representation
159 of the specified participant.
- 160 5. Information related to court dates and motions,
161 including:
- 162 a. The date of any court appearance and the type of
163 proceedings scheduled for each date reported.
- 164 b. Each scheduled trial date, if applicable.
- 165 c. Dismissal date and each hearing date, if applicable.
- 166 d. The type of the initial pleading and date such pleading
167 was filed, including a petition:
- 168 (I) Alleging an incapacitated person.
- 169 (II) For emergency temporary guardianship.
- 170 (III) To appoint a successor guardian.
- 171 (IV) For limited guardianship.
- 172 (V) Not otherwise specified in this sub-subparagraph.
- 173 e. The party filing the initial pleading, including whether
174 the petitioner is:

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- 175 (I) A family member or friend.
176 (II) A professional guardian.
177 (III) A public guardian.
178 (IV) An attorney.
179 (V) The Department of Children and Families.
180 (VI) A hospital licensed under chapter 395.
181 (VII) Any other person not specified in this sub-
182 subparagraph.
- 183 f. The reason stated in the pleading to support the
184 petition for guardianship, including:
- 185 (I) Medical condition.
186 (II) Financial exploitation.
187 (III) Other exploitation.
188 (IV) Disability.
189 (V) Abuse.
190 (VI) Neglect or abandonment.
191 (VII) Substance abuse.
192 (VIII) Any other reason not specified in this sub-
193 subparagraph.
- 194 g. Information related to the hearing and order of
195 incapacity, including:
- 196 (I) The date of the hearing.
197 (II) The date of the order appointing a guardian, if
198 applicable.
- 199 (III) Whether the order is for limited or plenary
200 guardianship.
- 201 h. Information related to court monitoring, including:
202 (I) Whether trust assets exist.
203 (II) Whether the guardian appointed has completed his or

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204 her initial and continuing education requirements.

205 (III) Whether a credit history investigation pursuant to s.

206 744.3135 has been completed or waived, if applicable.

207 (IV) Whether a level 2 background screening pursuant to s.

208 744.3135 has been completed or waived, if applicable.

209 i. Information related to the reason for closure or

210 disposition of the case, including:

211 (I) Restoration of rights of the ward.

212 (II) The ward reaching the age of majority.

213 (III) The death of the ward.

214 (IV) Transfer of the case to another jurisdiction.

215 (V) Expiration of the emergency temporary guardianship

216 order.

217 (VI) Dismissal of the case, including:

218 (A) A less restrictive alternative implemented; or

219 (B) Other reason.

220 6. Information related to the examining committee assigned

221 to the underlying incapacity hearing for each case, including:

222 a. The name of each expert witness serving on the examining

223 committee.

224 b. The number of guardianship cases each expert witness on

225 the examining committee has worked on in the past 10 years.

226 c. The number of guardianship cases in which each expert

227 witness on the examining committee has recommended the

228 appointment of a guardian.

229 (b) Department of Elderly Affairs.—The Department of

230 Elderly Affairs shall collect the following data, as applicable,

231 for all professional guardians registered with the department

232 and any guardian identified in reports submitted by a clerk of

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- 233 the court, including all of the following:
- 234 1. Legal name and registration number of the guardian.
 - 235 2. Eligibility status to serve as a professional guardian.
 - 236 3. Mailing and e-mail address of the guardian.
 - 237 4. Counties where the guardian is appointed to open
 - 238 guardianship cases.
 - 239 5. Year in which the guardian was first registered.
 - 240 6. Agency or firm where the guardian is employed, if
 - 241 applicable.
 - 242 7. Statewide investigation alliance-substantiated
 - 243 allegations, if applicable.
 - 244 8. Ten-year disciplinary history, if applicable.
 - 245 9. Number of cases where the guardian has been removed from
 - 246 the case for cause, if applicable.
 - 247 10. Number of cases in each judicial circuit where the
 - 248 guardian has been removed from a case for cause, if applicable.
- 249 (4) DATA PUBLICLY AVAILABLE.—Beginning January 1, 2023, the
- 250 department shall publish datasets in its possession, except
- 251 information otherwise exempt from s. 119.071, in a modern, open,
- 252 electronic format that is machine-readable and readily
- 253 accessible by the public on the department’s website. Beginning
- 254 March 1, 2023, and monthly thereafter, the department shall
- 255 publish the data received under subsection (3), except
- 256 information otherwise exempt from s. 119.071(1), in the same
- 257 modern, open, electronic format that is machine-readable and
- 258 readily accessible to the public on the department’s website.
- 259 The published data must be searchable, at a minimum, by data
- 260 elements, county, and circuit.
- 261 (5) CONFIDENTIALITY.—Information collected by any reporting

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262 agency which is exempt from s. 119.071(1) when held by that
263 agency remains exempt from s. 119.071(1) when submitted to and
264 held by the Department of Elderly Affairs under this section.
265 The Department of Elderly Affairs may disclose such information
266 only if the agency submitting the information grants permission
267 in writing to disclose the exempt information.

268 Section 3. Section 744.20043, Florida Statutes, is created
269 to read:

270 744.20043 Guardianship dashboard.—The department shall
271 create and maintain a publicly available dashboard containing
272 certain real-time data elements to promote transparency and
273 accountability in accordance with s. 744.20042(3) while
274 protecting a ward's right to privacy. The information must
275 include the data points collected and reported in accordance
276 with s. 744.20042 and be searchable by such data points and
277 percentage of total data reported for each data point.

278 Section 4. Subsection (3) is added to section 744.362,
279 Florida Statutes, to read:

280 744.362 Initial guardianship report.—

281 (3) A guardian shall submit to the clerk of the court
282 information pursuant to s. 744.20042 in an electronic format
283 developed and approved by the Department of Elderly Affairs.

284 Section 5. Subsection (7) is added to section 744.363,
285 Florida Statutes, to read:

286 744.363 Initial guardianship plan.—

287 (7) The guardian shall submit to the clerk of the court
288 information pursuant to s. 744.20042 in an electronic format
289 developed and approved by the Department of Elderly Affairs.

290 Section 6. Subsection (7) is added to section 744.365,

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291 Florida Statutes, to read:

292 744.365 Verified inventory.-

293 (7) DATA REPORTING.-The guardian shall submit to the clerk
294 of the court information pursuant to s. 744.20042 in an
295 electronic format developed and approved by the Department of
296 Elderly Affairs.

297 Section 7. Subsection (7) is added to section 744.367,
298 Florida Statutes, to read:

299 744.367 Duty to file annual guardianship report.-

300 (7) The guardian shall submit to the clerk of the court
301 information pursuant to s. 744.20042 in an electronic format
302 developed and approved by the Department of Elderly Affairs.

303 Section 8. This act shall take effect July 1, 2022.