

By Senator Yarborough

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1 A bill to be entitled
2 An act relating to guardianship of property; amending
3 s. 744.367, F.S.; requiring guardians of the property
4 to file quarterly, rather than annual, accounting
5 reports by specified dates; authorizing the court to
6 set a different quarterly schedule; requiring the
7 guardian to mail a copy of each quarterly accounting
8 to the ward's next of kin; requiring the first
9 quarterly accounting period to end within a certain
10 timeframe after letters of guardianship are issued;
11 amending s. 744.3678, F.S.; requiring guardians of the
12 property to file quarterly, rather than annual,
13 accounting reports; requiring the guardian to mail a
14 copy of each quarterly accounting to the ward's next
15 of kin; amending s. 744.3679, F.S.; authorizing
16 certain guardians to file each monthly statement of
17 the ward's account from the ward's financial
18 institution for the preceding quarter; amending s.
19 744.368, F.S.; conforming a provision to changes made
20 by the act; amending s. 744.381, F.S.; requiring the
21 court to appoint an appraiser to appraise the ward's
22 property; requiring all documentation, including bids
23 submitted to purchase such property, from the
24 appraiser to be retained in the court file; amending
25 s. 744.444, F.S.; conforming a provision to changes
26 made by the act; amending s. 744.474, F.S.; requiring
27 the court to refer certain guardians to the Department
28 of Law Enforcement for criminal investigation;
29 amending s. 393.12, F.S.; conforming a provision to

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30 changes made by the act; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Subsection (2), paragraph (a) of subsection (3),
35 and subsection (6) of section 744.367, Florida Statutes, are
36 amended to read:

37 744.367 Duty to file annual guardianship report.-

38 ~~(2) Unless the court requires or authorizes filing on a~~
39 ~~fiscal-year basis,~~ Each guardian of the property shall file with
40 the court an ~~annual~~ accounting on a quarterly basis ~~or before~~
41 ~~April 1 of each year.~~ The ~~annual~~ accounting must cover the
42 preceding 3 months and be filed on or before April 1, July 1,
43 October 1, and January 1 each year ~~calendar year.~~ ~~If~~ The court
44 ~~may require a guardian of the property to file the accounting on~~
45 ~~a different quarterly schedule, as long as the guardian is still~~
46 ~~required to file accountings at least four times each year. The~~
47 ~~guardian must mail a copy of each quarterly accounting to the~~
48 ~~ward's next of kin~~ ~~authorizes or directs filing on a fiscal-year~~
49 ~~basis, the annual accounting must be filed on or before the~~
50 ~~first day of the fourth month after the end of the fiscal year.~~

51 (3) (a) The annual guardianship report of a guardian of the
52 property must consist of each quarterly ~~an annual~~ accounting,
53 and the annual guardianship report of a guardian of the person
54 must consist of an annual guardianship plan. The annual
55 guardianship report of a guardian of the property and the annual
56 guardianship report of a guardian of the person must both
57 include a declaration of all remuneration received by the
58 guardian from any source for services rendered to or on behalf

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59 of the ward. As used in this paragraph, the term "remuneration"
60 means any payment or other benefit made directly or indirectly,
61 overtly or covertly, or in cash or in kind to the guardian.

62 ~~(6) Notwithstanding any other requirement of this section~~
63 ~~or unless otherwise directed by the court, the guardian of the~~
64 ~~property may file the first annual accounting on either a~~
65 ~~fiscal-year or calendar-year basis. Unless the court directs~~
66 ~~otherwise, the guardian shall notify the court as to the~~
67 ~~guardian's filing intention within 30 days from the date the~~
68 ~~guardian was issued the letter of guardianship. all subsequent~~
69 ~~annual~~ accountings must be filed on the same accounting schedule
70 ~~period~~ as the first year of quarterly accountings ~~annual~~
71 ~~accounting unless the court authorizes or directs otherwise. The~~
72 first quarterly accounting period must end within 3 months ~~±~~
73 ~~year~~ after the end of the month in which the letters of
74 guardianship were issued to the guardian of the property.

75 Section 2. Subsections (1), (2), and (4) of section
76 744.3678, Florida Statutes, are amended to read:

77 744.3678 Quarterly ~~Annual~~ accounting.—

78 (1) Each guardian of the property must file an ~~annual~~
79 accounting with the court on a quarterly basis and mail a copy
80 of each quarterly accounting to the ward's next of kin.

81 (2) The quarterly ~~annual~~ accounting must include:

82 (a) A full and correct account of the receipts and
83 disbursements of all of the ward's property over which the
84 guardian has control and a statement of the ward's property on
85 hand at the end of each ~~the~~ accounting period. This paragraph
86 does not apply to any property or any trust of which the ward is
87 a beneficiary but which is not under the control or

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88 administration of the guardian.

89 (b) A copy of the statements ~~annual or year-end statement~~
90 of all of the ward's cash accounts from each of the institutions
91 where the cash is deposited.

92 (4) The guardian shall pay from the ward's estate to the
93 clerk of the circuit court a fee based upon the following
94 graduated fee schedule, upon the filing of the quarterly
95 accounting ~~annual financial return~~, for the auditing of the
96 quarterly accounting ~~return~~:

97 (a) For estates with a value of \$25,000 or less the clerk
98 of the court may charge a fee of up to \$20, from which the clerk
99 shall remit \$5 to the Department of Revenue for deposit into the
100 General Revenue Fund.

101 (b) For estates with a value of more than \$25,000 up to and
102 including \$100,000 the clerk of the court may charge a fee of up
103 to \$85, from which the clerk shall remit \$10 to the Department
104 of Revenue for deposit into the General Revenue Fund.

105 (c) For estates with a value of more than \$100,000 up to
106 and including \$500,000 the clerk of the court may charge a fee
107 of up to \$170, from which the clerk shall remit \$20 to the
108 Department of Revenue for deposit into the General Revenue Fund.

109 (d) For estates with a value in excess of \$500,000 the
110 clerk of the court may charge a fee of up to \$250, from which
111 the clerk shall remit \$25 to the Department of Revenue for
112 deposit into the General Revenue Fund.

113
114 Upon petition by the guardian, the court may waive the auditing
115 fee upon a showing of insufficient funds in the ward's estate.
116 Any guardian unable to pay the auditing fee may petition the

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117 court for a waiver of the fee. The court may waive the fee after
118 it has reviewed the documentation filed by the guardian in
119 support of the waiver.

120 Section 3. Subsections (1) and (3) of section 744.3679,
121 Florida Statutes, are amended to read:

122 744.3679 Simplified accounting procedures in certain
123 cases.—

124 (1) In a guardianship of property, when all property of the
125 estate is in designated depositories under s. 69.031 and the
126 only transactions that occur in that account are interest
127 accrual, deposits from a settlement, or financial institution
128 service charges, the guardian may elect to file an accounting
129 consisting of both of the following:

130 (a) The original or a certified copy of each monthly
131 statement ~~the year-end statement~~ of the ward's account from the
132 financial institution for the preceding quarter. ~~and~~

133 (b) A statement by the guardian under penalty of perjury
134 that the guardian has custody and control of the ward's property
135 as shown in the monthly statements ~~year-end statement~~.

136 (3) The guardian need not be represented by an attorney in
137 order to file the quarterly accountings ~~annual accounting~~
138 allowed by subsection (1).

139 Section 4. Paragraph (f) of subsection (1) of section
140 744.368, Florida Statutes, is amended to read:

141 744.368 Responsibilities of the clerk of the circuit
142 court.—

143 (1) In addition to the duty to serve as the custodian of
144 the guardianship files, the clerk shall review each initial and
145 annual guardianship report to ensure that it contains

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146 information about the ward addressing, as appropriate:

147 (f) The initial verified inventory or the quarterly
148 accountings ~~annual accounting~~.

149 Section 5. Section 744.381, Florida Statutes, is amended to
150 read:

151 744.381 Appraisals. ~~When~~ The court must appoint an
152 appraiser ~~deems it necessary, appraisers may be appointed~~ to
153 appraise the property of the ward that is subject to the
154 guardianship. All documentation provided to the guardian by the
155 appraiser must be retained in the court file. If the property of
156 the ward is sold, all bids submitted to purchase such property
157 must be retained in the court file.

158 Section 6. Subsection (16) of section 744.444, Florida
159 Statutes, is amended to read:

160 744.444 Power of guardian without court approval. ~~Without~~
161 obtaining court approval, a plenary guardian of the property, or
162 a limited guardian of the property within the powers granted by
163 the order appointing the guardian or an approved annual or
164 amended guardianship report, may:

165 (16) Pay or reimburse costs incurred and reasonable fees or
166 compensation to persons, including attorneys, employed by the
167 guardian pursuant to subsection (13) from the assets of the
168 guardianship estate, subject to obtaining court approval of the
169 quarterly accountings ~~annual accounting~~.

170 Section 7. Section 744.474, Florida Statutes, is amended to
171 read:

172 744.474 Reasons for removal of guardian. ~~—~~

173 (1) A guardian may be removed for any of the following
174 reasons, and the removal is ~~shall be~~ in addition to any other

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175 penalties prescribed by law:

176 (a)~~(1)~~ Fraud in obtaining her or his appointment.

177 (b)~~(2)~~ Failure to discharge her or his duties.

178 (c)~~(3)~~ Abuse of her or his powers.

179 (d)~~(4)~~ An incapacity or illness, including substance abuse,
180 which renders the guardian incapable of discharging her or his
181 duties.

182 (e)~~(5)~~ Failure to comply with any order of the court.

183 (f)~~(6)~~ Failure to return schedules of property sold or
184 accounts of sales of property or to produce and exhibit the
185 ward's assets when so required.

186 (g)~~(7)~~ The wasting, embezzlement, or other mismanagement of
187 the ward's property.

188 (h)~~(8)~~ Failure to give bond or security for any purpose
189 when required by the court or failure to file with the annual
190 guardianship plan the evidence required by s. 744.351 that the
191 sureties on her or his bond are alive and solvent.

192 (i)~~(9)~~ Conviction of a felony.

193 (j)~~(10)~~ Appointment of a receiver, trustee in bankruptcy,
194 or liquidator for any corporate guardian.

195 (k)~~(11)~~ Development of a conflict of interest between the
196 ward and the guardian.

197 (l)~~(12)~~ Having been found guilty of, regardless of
198 adjudication, or entered a plea of nolo contendere or guilty to,
199 any offense prohibited under s. 435.04 or similar statute of
200 another jurisdiction.

201 (m)~~(13)~~ A material failure to comply with the guardianship
202 report by the guardian.

203 (n)~~(14)~~ A failure to comply with the rules for timely

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204 filing the initial and annual guardianship reports.

205 ~~(o)(15)~~ A failure to fulfill the guardianship education
206 requirements.

207 ~~(p)(16)~~ The improper management of the ward's assets.

208 ~~(q)(17)~~ A material change in the ward's financial
209 circumstances such that the guardian is no longer qualified to
210 manage the finances of the ward, or the previous degree of
211 management is no longer required.

212 ~~(r)(18)~~ After appointment, the guardian becomes a
213 disqualified person as set forth in s. 744.309(3).

214 ~~(s)(19)~~ Upon a showing by a person who did not receive
215 notice of the petition for adjudication of incapacity, when such
216 notice is required, or who is related to the ward within the
217 relationships specified for nonresident relatives in ss.
218 744.309(2) and 744.312(2) and who has not previously been
219 rejected by the court as a guardian that the current guardian is
220 not a family member and paragraph (t) ~~subsection (20)~~ applies.

221 ~~(t)(20)~~ Upon a showing that removal of the current guardian
222 is in the best interest of the ward. In determining whether a
223 guardian who is related by blood or marriage to the ward is to
224 be removed, there shall be a rebuttable presumption that the
225 guardian is acting in the best interests of the ward.

226 ~~(u)(21)~~ A bad faith failure to submit guardianship records
227 during the audit pursuant to s. 744.368.

228 (2) If the court removes a guardian who is an attorney
229 licensed by The Florida Bar based on paragraph (c), paragraph
230 (g), or paragraph (p), or upon a finding by the court that the
231 guardian is misappropriating the assets or property of the ward,
232 the court must refer the guardian to the Department of Law

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233 Enforcement for criminal investigation.

234 Section 8. Subsection (10) of section 393.12, Florida
235 Statutes, is amended to read:

236 393.12 Capacity; appointment of guardian advocate.—

237 (10) POWERS AND DUTIES OF GUARDIAN ADVOCATE.—A guardian
238 advocate for a person with a developmental disability shall be a
239 person or corporation qualified to act as guardian, with the
240 same powers, duties, and responsibilities required of a guardian
241 under chapter 744 or those defined by court order under this
242 section. However, a guardian advocate may not be required to
243 file a quarterly ~~an annual~~ accounting under s. 744.3678 if the
244 court determines that the person with a developmental disability
245 receives income only from Social Security benefits and the
246 guardian advocate is the person's representative payee for the
247 benefits.

248 Section 9. This act shall take effect July 1, 2025.