

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

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|-----------------------|---------------|-------|
| ADOPTED | <u> </u> | (Y/N) |
| ADOPTED AS AMENDED | <u> </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u> </u> | (Y/N) |
| FAILED TO ADOPT | <u> </u> | (Y/N) |
| WITHDRAWN | <u> </u> | (Y/N) |
| OTHER | <u> </u> | |

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Botana offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (3) of section 744.309, Florida Statutes, is amended to read:

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

(3) DISQUALIFIED PERSONS.—

(a) The following persons are disqualified from being appointed a guardian under this section:

1. A ~~Ne~~ person who has been convicted of a felony, except as provided in paragraph (e).

2. A person ~~or~~ who, from any incapacity or illness, is incapable of discharging the duties of a guardian, or who is otherwise unsuitable to perform the duties of a guardian.

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17 3. ~~A, shall be appointed to act as guardian. Further, no~~
18 person who has been judicially determined to have committed
19 abuse, abandonment, or neglect against a child as defined in s.
20 39.01 or s. 984.03(1), (2), and (24).

21 4. A person, ~~or~~ who has been found guilty of, regardless
22 of adjudication, or entered a plea of nolo contendere or guilty
23 to, any offense prohibited under s. 435.04 or similar statute of
24 another jurisdiction, ~~shall be appointed to act as a guardian.~~

25 (b) Except as provided in subsection (5) or subsection
26 (6), a person who provides substantial services to the proposed
27 ward in a professional or business capacity, or a creditor of
28 the proposed ward, may not be appointed guardian and retain that
29 previous professional or business relationship.

30 (c) A person may not be appointed a guardian if he or she
31 is in the employ of any person, agency, government, or
32 corporation that provides service to the proposed ward in a
33 professional or business capacity, except that a person so
34 employed may be appointed if he or she is the spouse, adult
35 child, parent, or sibling of the proposed ward or the court
36 determines that the potential conflict of interest is
37 insubstantial and that the appointment would clearly be in the
38 proposed ward's best interest.

39 (d) The court may not appoint a guardian in any ~~other~~
40 circumstance in which a conflict of interest may occur.

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41 (e)1. Notwithstanding paragraph (a), a court may appoint a
42 person who has been convicted of a felony to serve as a guardian
43 if all of the following conditions are met:

44 a. The person is a parent of the proposed ward.

45 b. The person has disclosed his or her felony conviction to
46 the court.

47 c. The person's felony conviction, and all the terms and
48 conditions of the sentence, have been fulfilled, completed, or
49 terminated 10 years or more before the filing of the application
50 for appointment. For purposes of this sub-subparagraph, terms
51 and conditions of the sentence include, but are not limited to,
52 incarceration, parole, fines, restitution and financial
53 penalties, and any other conditions required for fulfillment of
54 the felony conviction.

55 d. The felony conviction did not involve financial
56 exploitation, breach of fiduciary duty, or any offense involving
57 financial harm or dishonesty to a vulnerable adult, as that term
58 is defined in section 415.102(28).

59 e. The court finds by clear and convincing evidence that
60 the person is otherwise qualified, suitable, and fit to serve as
61 a guardian under this chapter.

62 f. The court finds that the appointment is in the best
63 interests of the ward.

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65 2. The court must consider imposing additional requirements
66 on the guardian to safeguard the proposed ward and the proposed
67 ward's property, including but not limited to:

68 a. Requiring a bond to protect the ward's assets;

69 b. Imposing a court-approved budget of the ward's expenses;

70 and

71 c. Increasing the frequency of the guardian's plans and
72 accountings.

73 3. Nothing in this section requires the appointment of a
74 person who meets these criteria, and the court may deny an
75 appointment if it determines that the appointment would place the
76 ward's property or person at risk.

77 **Section 2. Subsection (9) of section 744.474, Florida**
78 **Statutes, is amended to read:**

79 744.474 Reasons for removal of guardian.—A guardian may be
80 removed for any of the following reasons, and the removal shall
81 be in addition to any other penalties prescribed by law:

82 (9) Conviction of a felony which occurs after the
83 guardianship appointment.

84 **Section 3.** This act shall take effect July 1, 2026.

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87 **T I T L E A M E N D M E N T**

88 Remove everything before the enacting clause and insert:

89 An act relating to persons disqualified from being

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90 appointed as a guardian; amending s. 744.309, F.S.;

91 authorizing a court to appoint a person who has been

92 convicted of a felony to be a guardian of a ward or

93 proposed ward under certain circumstances; requiring

94 the court to consider imposing additional safeguard

95 requirements on the guardian for the protection of the

96 ward; amending s. 744.474, F.S.; conforming a

97 provision to changes made by the act; providing an

98 effective date.

99