

By Senator Bradley

6-01020B-26

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A bill to be entitled

An act relating to persons disqualified from being appointed as a guardian; amending s. 744.309, F.S.; authorizing a court to appoint a person who has been convicted of a felony to be a guardian of a ward or proposed ward under certain circumstances; amending s. 744.474, F.S.; conforming a provision to changes made by the act; providing an effective date.

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

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 ~~no~~ person who has been convicted of a felony within the 10 years before the appointment of a guardian.

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.

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

4. A person, ~~or~~ who has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.04 or similar statute of

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another jurisdiction, ~~shall be appointed to act as a guardian.~~

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

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

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

(e) A court may appoint a person who has been convicted of a felony to serve as a guardian if all of the following conditions are met:

1. The person is the parent, child, sibling, spouse, grandparent, or grandchild of the proposed ward.

2. The person has disclosed his or her felony conviction to the court.

3. The felony conviction occurred more than 10 years before the appointment of the person as a guardian.

4. The person would otherwise be eligible to serve as a guardian under this chapter.

5. After reviewing the person's qualifications, the court

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59 determines that, despite the felony conviction, the person is  
60 able to carry out in an appropriate manner all of the  
61 requirements and responsibilities of a guardian and act in the  
62 proposed ward's best interest.

63 Section 2. Subsection (9) of section 744.474, Florida  
64 Statutes, is amended to read:

65 744.474 Reasons for removal of guardian.—A guardian may be  
66 removed for any of the following reasons, and the removal shall  
67 be in addition to any other penalties prescribed by law:

68 (9) Conviction of a felony, unless the court determines  
69 that all of the conditions of s. 744.309(3)(e) are met.

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