

CHAPTER 97-161

Committee Substitute for House Bill Nos. 719, 1223, and 1439

An act relating to guardians; creating s. 744.1085, F.S.; providing for the regulation of professional guardians; providing for a bond; providing educational requirements; authorizing issuance of a blanket fiduciary bond; amending s. 744.3135, F.S.; requiring criminal history and credit check; providing for waiver; amending s. 744.3145, F.S.; excluding professional guardians from certain educational requirements; amending s. 744.3675, F.S.; revising language with respect to the annual guardianship plan; amending s. 744.454, F.S.; forbidding professional guardian from purchasing property or borrowing money from his ward; providing an effective date.

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

Section 1. Section 744.1085, Florida Statutes, is created to read:

744.1085 Regulation of professional guardians; application; bond required; educational requirements; audits.—

(1) The provisions of this section are in addition to and supplemental to any other provision of the Florida Guardianship Law, except s. 744.3145.

(2) Each professional guardian who files a petition for appointment after October 1, 1997, shall post a blanket fiduciary bond with the clerk of the circuit court in the county in which the guardian's primary place of business is located. The guardian shall provide proof of the fiduciary bond to the clerks of each additional circuit court in which he or she is serving as a professional guardian. The bond shall be maintained by the guardian in an amount not less than \$50,000. The bond must cover all wards for whom the guardian has been appointed at any given time. The liability of the provider of the bond is limited to the face amount of the bond, regardless of the number of wards for whom the professional guardian has been appointed. The act or omissions of each employee of a professional guardian who has direct contact with the ward or access to the ward's assets is covered by the terms of such bond. The bond must be payable to the Governor of the State of Florida and his or her successors in office and conditioned on the faithful performance of all duties by the guardian. In form, the bond must be joint and several. The bond is in addition to any bonds required under s. 744.351. This subsection does not apply to any attorney who is licensed to practice law in this state and who is in good standing, to any financial institution as defined in s. 744.309(4), or a public guardian. The expenses incurred to satisfy the bonding requirements prescribed in this section may not be paid with the assets of any ward.

(3) Each professional guardian defined in s. 744.102(15), on October 1, 1997, must receive a minimum of 40 hours of instruction and training by October 1, 1998, or within 1 year after becoming a professional guardian, whichever occurs later. Each professional guardian must receive a minimum

of 16 hours of continuing education every 2 calendar years after the year in which the initial 40-hour educational requirement is met. The instruction and education must be completed through a course approved by the chief judge of the circuit court and taught by a court-approved organization. The expenses incurred to satisfy the educational requirements prescribed in this section may not be paid with the assets of any ward. This subsection does not apply to any attorney who is licensed to practice law in this state.

Section 2. Section 744.3135, Florida Statutes, is amended to read:

744.3135 Credit and criminal investigation.—The court may require a prospective guardian and shall require a professional guardian, to submit, at his or her own expense, to an investigation of the prospective guardian's credit history and ~~or~~ an investigatory check by the National Crime Information Center and the Florida Crime Information Center systems by means of fingerprint checks by the Department of Law Enforcement and the Federal Bureau of Investigation or both. ~~The court may order these investigations if it deems it necessary. The court shall waive the credit and criminal investigation for a guardian who is the spouse or child of the ward.~~

Section 3. Subsection (6) is added to section 744.3145, Florida Statutes, to read:

744.3145 Guardian education requirements.—

(6) The provisions of this section do not apply to professional guardians.

Section 4. Paragraph (b) of subsection (1) of section 744.3675, Florida Statutes, 1996 Supplement, is amended to read:

744.3675 Annual guardianship plan.—Each guardian of the person must file with the court an annual guardianship plan which updates information about the condition of the ward. The annual plan must specify the current needs of the ward and how those needs are proposed to be met in the coming year.

(1) Each plan must, if applicable, include:

(b) Information concerning the medical condition and needs of the ward, including:

1. A resume of any professional medical treatment given to the ward during the preceding year;

2. The report of a physician who examined the ward no more than 90 days before the beginning ~~end~~ of the applicable reporting ~~report~~ period. Such report must contain an evaluation of the ward's condition and a statement of the current level of capacity of the ward; and

3. The plan for provision of medical, mental health, and rehabilitative services in the coming year.

Section 5. Section 744.454, Florida Statutes, 1996 Supplement, is amended to read:

744.454 Guardian forbidden to borrow or purchase; exceptions.—A professional guardian may not purchase property or borrow money from his or her ward, unless A guardian who is not a professional guardian may do so if:

(1) A court by written order authorizes the sale or loan after a hearing to which interested persons were given notice; or

(2) The property is sold at public sale and the guardian is a spouse, parent, child, brother, or sister of the ward or a cotenant of the ward in the property to be sold.

Section 6. This act shall take effect October 1, 1997.

Approved by the Governor May 29, 1997.

Filed in Office Secretary of State May 29, 1997.