

Committee Substitute for Senate Bill No. 1822

An act relating to adult protective services; amending s. 415.1045, F.S.; requiring the Department of Children and Family Services to enter into certain working agreements with local law enforcement agencies; requiring the Office of Program Policy Analysis and Government Accountability to review and report to the Legislature; amending s. 415.1102, F.S.; defining the term “multidisciplinary adult protection team”; providing for composition of such teams; requiring the department to report to the Legislature on the status of compliance with certain recommendations relating to the Adult Services Program and to analyze and provide a plan for the implementation of multidisciplinary adult protection teams; creating the Guardianship Task Force within the department; providing purpose; providing for staff, a chairperson, and membership of the task force; providing for organizations that appoint members to pay their expenses; providing duties of the task force; requiring a preliminary and a final report to the Governor and the Legislature; allowing the appointment of auxiliary members; providing a term of service; amending s. 744.7021, F.S.; providing that the executive director of the Statewide Public Guardianship Office shall be appointed by the Secretary of Elderly Affairs, rather than by the Governor; transferring certain responsibilities from the Statewide Public Guardianship Office to the Department of Elderly Affairs; providing an effective date.

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

Section 1. Subsection (6) of section 415.1045, Florida Statutes, is amended to read:

415.1045 Photographs, videotapes, and medical examinations; abrogation of privileged communications; confidential records and documents.—

(6) WORKING AGREEMENTS.—By March 1, 2004, the department shall enter into working agreements with the jurisdictionally responsible county sheriffs’ office or local police department that will be the lead agency when conducting any criminal investigation arising from an allegation of abuse, neglect, or exploitation of a vulnerable adult. The working agreement must specify how the requirements of this chapter will be met. The Office of Program Policy Analysis and Government Accountability shall conduct a review of the efficacy of the agreements and report its findings to the Legislature by March 1, 2005. For the purposes of such agreement, the jurisdictionally responsible law enforcement entity is authorized to share Florida criminal history and local criminal history information that is not otherwise exempt from s. 119.07(1) with the district personnel. A law enforcement entity entering into such agreement must comply with s. 943.0525. Criminal justice information provided by such law enforcement entity shall be used only for the purposes specified in the agreement and shall be provided at no charge. Notwithstanding any other provision of law, the Department of Law

Enforcement shall provide to the department electronic access to Florida criminal justice information which is lawfully available and not exempt from s. 119.07(1), only for the purpose of protective investigations and emergency placement. As a condition of access to such information, the department shall be required to execute an appropriate user agreement addressing the access, use, dissemination, and destruction of such information and to comply with all applicable laws and rules of the Department of Law Enforcement.

Section 2. Section 415.1102, Florida Statutes, is amended to read:

415.1102 Adult protection teams.—

(1) Subject to an appropriation, the department may develop, maintain, and coordinate the services of one or more multidisciplinary adult protection teams in each of the districts of the department. As used in this section, the term “multidisciplinary adult protection team” means a team of two or more persons who are trained in the prevention, identification, and treatment of abuse of elderly persons, as defined in s. 430.602, or of dependent persons and who are qualified to provide a broad range of services related to abuse of elderly or dependent persons.

(2) Such teams may be composed of, but need not be limited to:

(a) Psychiatrists, psychologists, or other trained counseling personnel;

(b) Police officers or other law enforcement officers;

(c) Medical personnel who have sufficient training to provide health services;

(d) Social workers who have experience or training in preventing the abuse of elderly or dependent persons; and

(e) Public guardians as described in part IX of chapter 744., representatives of appropriate health, mental health, social service, legal service, and law enforcement agencies.

(3) The department shall utilize and convene the teams to supplement the protective services activities of the protective services program of the department.

(4) This section does not prevent a person from reporting under s. 415.1034 all suspected or known cases of abuse, neglect, or exploitation of a vulnerable adult. The role of the teams is to support activities of the protective services program and to provide services deemed by the teams to be necessary and appropriate to abused, neglected, and exploited vulnerable adults upon referral. Services must be provided with the consent of the vulnerable adult or that person's guardian, or through court order.

(5) ~~If In all instances in which~~ an adult protection team is providing certain services to abused, neglected, or exploited vulnerable adults, other offices and units of the department shall avoid duplicating ~~the provisions of~~ those services.

Section 3. Given the serious and growing problem of elder abuse, by December 1, 2003, the Department of Children and Family Services shall report to the Legislature on the status of its compliance with all of the recommendations for improvement of the Adult Services Program included in Report No. 03-08 from the Office of Program Planning and Government Accountability. The department shall also analyze and include as part of this report a plan for implementing at least one multidisciplinary adult protection team, as defined in section 415.1102, Florida Statutes, in each of its districts.

Section 4. Guardianship Task Force; creation; membership, duties.—

(1) There is created within the Department of Elderly Affairs a Guardianship Task Force. The purpose of the task force is to examine guardianship and incapacity and make recommendations to the Governor and the Legislature for the improvement of guardianship and incapacity practice. The department shall staff the task force. The Secretary of Elderly Affairs shall appoint the chair of the task force. Members of the task force shall serve without compensation. Unless specified otherwise, task force members shall be appointed by the respective organizations that they represent.

(2) Members shall serve without compensation. Any member of the committee who is a public employee is entitled to reimbursement for per diem and travel expenses by his or her employer, and the cost of each member's participation must be borne by the organization that appointed the member.

(3) The Guardianship Task Force shall identify the characteristics of Florida guardianship practice. It shall also identify guardianship best practices and recommend specific statutory and other changes for achieving such best practices and for achieving citizen access to quality guardianship services. The task force shall submit a preliminary report to the Governor, the Secretary of Elderly Affairs and the Legislature no later than January 1, 2004, and shall submit a final report no later than January 1, 2005.

(4) The Guardianship Task Force shall consist of 10 members as follows: a judge who has experience sitting in guardianship proceedings appointed by the Florida Conference of Circuit Judges, a representative of the Association of Clerks of Court, a professor of law who has experience in elder issues appointed by the Secretary of Elderly Affairs, a representative of the Florida State Guardianship Association, a representative of the Florida Guardianship Foundation, a representative of the Real Property and Probate Section of The Florida Bar, a representative of the Elder Law Section of The Florida Bar, a professional who has experience in examining and determining incapacity, a representative of the Florida Bankers' Association and a citizen/consumer appointed by the Florida AARP (American Association of Retired Persons).

(5) The Guardianship Task Force may appoint auxiliary members based on their expertise to assist the task force in carrying out its duties.

(6) The task force is terminated May 6, 2005.

Section 5. Section 744.7021, Florida Statutes, is amended to read:

744.7021 Statewide Public Guardianship Office.—There is hereby created the Statewide Public Guardianship Office within the Department of Elderly Affairs. ~~The Department of Elderly Affairs shall provide administrative support and service to the office to the extent requested by the executive director within the available resources of the department. The Statewide Public Guardianship Office may request the assistance of the Inspector General of the Department of Elderly Affairs in providing auditing services, and the Office of General Counsel of the department may provide assistance in rulemaking and other matters as needed to assist the Statewide Public Guardianship Office. The Statewide Public Guardianship Office shall not be subject to control, supervision, or direction by the Department of Elderly Affairs in the performance of its duties.~~

(1) ~~The Secretary of Elderly Affairs shall appoint the executive director, who shall be the head of the Statewide Public Guardianship Office is the executive director, who shall be appointed by the Governor. The executive director must be a member of The Florida Bar, knowledgeable of licensed attorney with a background in guardianship law and knowledge of the social services available to meet the needs of incapacitated persons, shall serve on a full-time basis, and shall personally, or through representatives of the office, carry out the purposes and functions of the Statewide Public Guardianship Office in accordance with state and federal law. The executive director shall serve at the pleasure of and report to the Secretary Governor.~~

(2) ~~The executive director Statewide Public Guardianship Office shall, within available resources, have oversight responsibilities for all public guardians.~~

(a) ~~The executive director office shall review the current public guardian programs in Florida and other states.~~

(b) ~~The executive director office, in consultation with local guardianship offices, shall develop statewide performance measures and standards.~~

(c) ~~The executive director office shall review the various methods of funding guardianship programs, the kinds of services being provided by such programs, and the demographics of the wards. In addition, the executive director office shall review and make recommendations regarding the feasibility of recovering a portion or all of the costs of providing public guardianship services from the assets or income of the wards.~~

(d) ~~No later than October 1, 2000, the office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court an interim report describing the progress of the office in meeting the goals as described in this section. No later than October 1, 2001, the office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court a proposed public guardianship plan including alternatives for meeting the state's guardianship needs. This plan may include recommendations for less than the entire state, may include a phase-in system, and shall include estimates of the cost of each of the~~

alternatives. By January 1, 2004, and by January 1 of each year thereafter, the executive director office shall provide a status report and provide further recommendations to the Secretary that address the need for public guardianship services and related issues.

(e) The executive director office may provide assistance to local governments or entities in pursuing grant opportunities. The executive director office shall review and make recommendations in the annual report on the availability and efficacy of seeking Medicaid matching funds. The executive director office shall diligently seek ways to use existing programs and services to meet the needs of public wards.

(f) ~~The executive director, in consultation with the Florida Guardianship Foundation office shall develop a guardianship training program curriculum that. The training program may be offered to all guardians whether public or private. The office shall establish a curriculum committee to develop the training program specified in this part. The curriculum committee shall include, but not be limited to, probate judges. A fee may be charged to private guardians in order to defray the cost of providing the training. In addition, a fee may be charged to any training provider for up to the actual cost of the review and approval of their curriculum. Any fees collected pursuant to this paragraph shall be deposited in the Department of Elderly Affairs Administrative Trust Fund to be used for the guardianship training program.~~

(3) The executive director office may conduct or contract for demonstration projects authorized by the Department of Elderly Affairs, within funds appropriated or through gifts, grants, or contributions for such purposes, to determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights of persons of marginal or diminished capacity. Any gifts, grants, or contributions for such purposes shall be deposited in the Department of Elderly Affairs Administrative Trust Fund.

(4) The Department of Elderly Affairs office has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to carry out the provisions of this section.

Section 6. This act shall take effect July 1, 2003.

Approved by the Governor June 26, 2003.

Filed in Office Secretary of State June 26, 2003.