

## CHAPTER 2016-40

### Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 232

An act relating to guardianship; providing directives to the Division of Law Revision and Information; amending s. 744.1012, F.S.; revising legislative intent; renumbering s. 744.201, F.S., relating to domicile of ward; renumbering and amending s. 744.202, F.S.; conforming a cross-reference; renumbering s. 744.2025, F.S., relating to change of ward's residence; renumbering and amending s. 744.7021, F.S.; renaming the Statewide Public Guardianship Office to the Office of Public and Professional Guardians; revising the duties and responsibilities of the executive director for the Office of Public and Professional Guardians; conforming provisions to changes made by the act; renumbering and amending s. 744.1083, F.S.; providing that a guardian has standing to seek judicial review pursuant to ch. 120, F.S., if his or her registration is denied; removing a provision authorizing the executive director to suspend or revoke the registration of a guardian who commits certain violations; removing the requirement of written notification to the chief judge of the judicial circuit upon the executive director's denial, suspension, or revocation of a registration; conforming provisions to changes made by the act; conforming a cross-reference; renumbering and amending s. 744.1085, F.S.; conforming provisions to changes made by the act; removing an obsolete provision; conforming a cross-reference; creating s. 744.2004, F.S.; requiring the Office of Public and Professional Guardians to establish certain procedures by a specified date; requiring the office to establish disciplinary proceedings, conduct hearings, and take administrative action pursuant to ch. 120, F.S.; requiring the Department of Elderly Affairs to provide certain written information in disciplinary proceedings; requiring that certain findings and recommendations be made within a certain time; requiring the office, under certain circumstances, to make a specified recommendation to a court of competent jurisdiction; requiring the office to report determination or suspicion of abuse to the Department of Children and Families' central abuse hotline under specified circumstances; requiring the Department of Elderly Affairs to adopt rules; creating s. 744.20041, F.S.; specifying the acts by a professional guardian that constitute grounds for the Office of Public and Professional Guardians to take specified disciplinary actions; specifying penalties that the Office of Public and Professional Guardians may impose; requiring the Office of Public and Professional Guardians to consider sanctions necessary to safeguard wards and to protect the public; requiring the Office of Public and Professional Guardians to adopt by rule and periodically review disciplinary guidelines; providing legislative intent for the disciplinary guidelines; requiring the Office of Public and Professional Guardians to designate by rule possible mitigating and aggravating circumstances and the variation and range of penalties; requiring an administrative law judge to follow the Office of Public and

Professional Guardians' disciplinary guidelines when recommending penalties; requiring the administrative law judge to provide written mitigating or aggravating circumstances under certain circumstances; authorizing the Office of Public and Professional Guardians to impose a penalty other than those in the disciplinary guidelines under certain circumstances; authorizing the Office of Public and Professional Guardians to seek an injunction or a writ of mandamus for specified violations; providing for permanent revocation of a professional guardian's registration by the Office of Public and Professional Guardians under certain circumstances; requiring the Office of Public and Professional Guardians to notify a court of the determination to suspend or revoke the professional guardian's registration under certain circumstances; providing that cross-references are considered a general reference for the purpose of incorporation by reference; requiring the Office of Public and Professional Guardians to adopt rules; renumbering and amending s. 744.344, F.S.; making technical changes; renumbering and amending s. 744.703, F.S.; conforming provisions to changes made by the act; renumbering ss. 744.704 and 744.705, F.S., relating to the powers and duties of public guardians and the costs of public guardians, respectively; renumbering and amending ss. 744.706 and 744.707, F.S.; conforming provisions to changes made by the act; renumbering s. 744.709, F.S., relating to surety bonds; renumbering and amending s. 744.708, F.S.; conforming provisions to changes made by the act; renumbering and amending s. 744.7081, F.S.; requiring that the Office of Public and Professional Guardians be provided financial audits upon its request as part of an investigation; conforming provisions to changes made by the act; renumbering and amending s. 744.7082, F.S.; conforming provisions to changes made by the act; renumbering and amending s. 744.712, F.S.; providing legislative intent; conforming provisions; renumbering and amending ss. 744.713, 744.714, and 744.715, F.S.; conforming provisions to changes made by the act; amending s. 744.3135, F.S.; requiring the office to adopt rules by a certain date; conforming provisions to changes made by the act; repealing s. 744.701, F.S., relating to a short title; repealing s. 744.702, F.S., relating to legislative intent; repealing s. 744.7101, F.S., relating to a short title; repealing s. 744.711, F.S., relating to legislative findings and intent; amending ss. 400.148 and 744.331, F.S.; conforming provisions to changes made by the act; amending ss. 20.415, 415.1102, 744.309, and 744.524, F.S.; conforming cross-references; making technical changes; providing an appropriation; providing an effective date.

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

Section 1. The Division of Law Revision and Information is directed to add ss. 744.1096-744.1098, Florida Statutes, created by this act, to part I of chapter 744, Florida Statutes.

Section 2. The Division of Law Revision and Information is directed to rename part II of chapter 744, Florida Statutes, entitled "VENUE," as

“PUBLIC AND PROFESSIONAL GUARDIANS,” consisting of ss. 744.2001-744.2109, Florida Statutes.

Section 3. The Division of Law Revision and Information is directed to remove part IX of chapter 744, Florida Statutes.

Section 4. Section 744.1012, Florida Statutes, is amended to read:

744.1012 Legislative intent.—The Legislature finds that:

(1) That Adjudicating a person totally incapacitated and in need of a guardian deprives such person of all her or his civil and legal rights and that such deprivation may be unnecessary.

(2) The Legislature further finds that It is desirable to make available the least restrictive form of guardianship to assist persons who are only partially incapable of caring for their needs and that alternatives to guardianship and less restrictive means of assistance, including, but not limited to, guardian advocates, be explored before a plenary guardian is appointed.

(3) By recognizing that every individual has unique needs and differing abilities, the Legislature declares that it is the purpose of this act to promote the public welfare by establishing a system that permits incapacitated persons to participate as fully as possible in all decisions affecting them; that assists such persons in meeting the essential requirements for their physical health and safety, in protecting their rights, in managing their financial resources, and in developing or regaining their abilities to the maximum extent possible; and that accomplishes these objectives through providing, in each case, the form of assistance that least interferes with the legal capacity of a person to act in her or his own behalf. This act shall be liberally construed to accomplish this purpose.

(4) Private guardianship may be inadequate when there is no willing and responsible family member or friend, other person, bank, or corporation available to serve as guardian for an incapacitated person, and such person does not have adequate income or wealth for the compensation of a private guardian.

(5) Through the establishment of the Office of Public and Professional Guardians, the Legislature intends to permit the establishment of offices of public guardians for the purpose of providing guardianship services for incapacitated persons when no private guardian is available.

(6) A public guardian will be provided only to those persons whose needs cannot be met through less restrictive means of intervention. A public guardian may also serve in the capacity of a limited guardian or guardian advocate under s. 393.12 when the public guardian is the guardian of last resort as described in subsection (4).

Section 5. Section 744.201, Florida Statutes, is renumbered as section 744.1096, Florida Statutes.

Section 6. Section 744.202, Florida Statutes, is renumbered as section 744.1097, Florida Statutes, and subsection (3) of that section is amended, to read:

744.1097 ~~744.202~~ Venue.—

(3) When the residence of an incapacitated person is changed to another county, the guardian shall petition to have the venue of the guardianship changed to the county of the acquired residence, except as provided in s. 744.1098 s. 744.2025.

Section 7. Section 744.2025, Florida Statutes, is renumbered as section 744.1098, Florida Statutes.

Section 8. Section 744.7021, Florida Statutes, is renumbered as section 744.2001, Florida Statutes, and amended to read:

744.2001 ~~744.7021~~ Statewide Public Guardianship Office of Public and Professional Guardians.—There is hereby created the Statewide Public Guardianship Office of Public and Professional Guardians within the Department of Elderly Affairs.

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

(2) The executive director shall, within available resources;

(a) Have oversight responsibilities for all public and professional guardians.

(b) Establish standards of practice for public and professional guardians by rule, in consultation with professional guardianship associations and other interested stakeholders, no later than October 1, 2016. The executive director shall provide a draft of the standards to the Governor, the Legislature, and the secretary for review by August 1, 2016.

(c) Review and approve the standards and criteria for the education, registration, and certification of public and professional guardians in Florida.

(3) The executive director's oversight responsibilities of professional guardians must be finalized by October 1, 2016, and shall include, but are not limited to:

(a) Developing and implementing a monitoring tool to ensure compliance of professional guardians with the standards of practice established by the Office of Public and Professional Guardians. This monitoring tool may not include a financial audit as required by the clerk of the circuit court under s. 744.368.

(b) Developing procedures, in consultation with professional guardianship associations and other interested stakeholders, for the review of an allegation that a professional guardian has violated the standards of practice established by the Office of Public and Professional Guardians governing the conduct of professional guardians.

(c) Establishing disciplinary proceedings, conducting hearings, and taking administrative action pursuant to chapter 120.

(4) The executive director's oversight responsibilities of public guardians shall include, but are not limited to:

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

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

(c) Reviewing ~~The executive director shall review~~ the various methods of funding public guardianship programs, the kinds of services being provided by such programs, and the demographics of the wards. In addition, the executive director 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) By January 1 of each year, providing the executive director shall ~~provide~~ a status report and ~~provide further~~ recommendations to the secretary which ~~that~~ address the need for public guardianship services and related issues.

(e) Developing a guardianship training program curriculum that may be offered to all guardians, whether public or private.

(5)(e) The executive director may provide assistance to local governments or entities in pursuing grant opportunities. The executive director shall review and make recommendations in the annual report on the availability and efficacy of seeking Medicaid matching funds. The executive director 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, shall develop a guardianship training program curriculum that may be offered to all guardians whether public or private.~~

~~(6)(3)~~ The executive director 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.

Section 9. Section 744.1083, Florida Statutes, is renumbered as section 744.2002, Florida Statutes, subsections (1) through (5) of that section are amended, and subsections (7) and (10) of that section are republished, to read:

744.2002 ~~744.1083~~ Professional guardian registration.—

(1) A professional guardian must register with the ~~Statewide Public Guardianship Office~~ Office of Public and Professional Guardians established in part ~~II~~ IX of this chapter.

(2) Annual registration shall be made on forms furnished by the ~~Statewide Public Guardianship Office~~ Office of Public and Professional Guardians and accompanied by the applicable registration fee as determined by rule. The fee may not exceed \$100.

(3) Registration must include the following:

(a) Sufficient information to identify the professional guardian, as follows:

1. If the professional guardian is a natural person, the name, address, date of birth, and employer identification or social security number of the person.

2. If the professional guardian is a partnership or association, the name, address, and employer identification number of the entity.

(b) Documentation that the bonding and educational requirements of ~~s. 744.2003~~ s. 744.1085 have been met.

(c) Sufficient information to distinguish a guardian providing guardianship services as a public guardian, individually, through partnership, corporation, or any other business organization.

(4) Prior to registering a professional guardian, the ~~Statewide Public Guardianship Office~~ Office of Public and Professional Guardians must receive and review copies of the credit and criminal investigations conducted under s.

744.3135. The credit and criminal investigations must have been completed within the previous 2 years.

(5) The executive director of the office may deny registration to a professional guardian if the executive director determines that the guardian's proposed registration, including the guardian's credit or criminal investigations, indicates that registering the professional guardian would violate any provision of this chapter. If a guardian's proposed registration is denied, the guardian has standing to seek judicial review of the denial pursuant to chapter 120 ~~If a guardian who is currently registered with the office violates a provision of this chapter, the executive director of the office may suspend or revoke the guardian's registration. If the executive director denies registration to a professional guardian or suspends or revokes a professional guardian's registration, the Statewide Public Guardianship Office must send written notification of the denial, suspension, or revocation to the chief judge of each judicial circuit in which the guardian was serving on the day of the office's decision to deny, suspend, or revoke the registration.~~

(7) A trust company, a state banking corporation or state savings association authorized and qualified to exercise fiduciary powers in this state, or a national banking association or federal savings and loan association authorized and qualified to exercise fiduciary powers in this state, may, but is not required to, register as a professional guardian under this section. If a trust company, state banking corporation, state savings association, national banking association, or federal savings and loan association described in this subsection elects to register as a professional guardian under this subsection, the requirements of subsections (3) and (4) do not apply and the registration must include only the name, address, and employer identification number of the registrant, the name and address of its registered agent, if any, and the documentation described in paragraph (3)(b).

(10) A state college or university or an independent college or university that is located and chartered in Florida, that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and that confers degrees as defined in s. 1005.02(7) may, but is not required to, register as a professional guardian under this section. If a state college or university or independent college or university elects to register as a professional guardian under this subsection, the requirements of subsections (3) and (4) do not apply and the registration must include only the name, address, and employer identification number of the registrant.

Section 10. Section 744.1085, Florida Statutes, is renumbered as section 744.2003, Florida Statutes, subsections (3), (6), and (9) of that section are amended, and subsection (8) of that section is republished, to read:

744.2003 ~~744.1085~~ Regulation of professional guardians; application; bond required; educational requirements.—

(3) Each professional guardian defined in s. 744.102(17) and public guardian must receive a minimum of 40 hours of instruction and training. 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 or offered by the Statewide Public Guardianship Office of Public and Professional Guardians. 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 or an institution acting as guardian under s. 744.2002(7).

(6) ~~After July 1, 2005,~~ Each professional guardian ~~is shall be~~ required to demonstrate competency to act as a professional guardian by taking an examination approved by the Department of Elderly Affairs.

(a) The Department of Elderly Affairs shall determine the minimum examination score necessary for passage of guardianship examinations.

(b) The Department of Elderly Affairs shall determine the procedure for administration of the examination.

(c) The Department of Elderly Affairs or its contractor shall charge an examination fee for the actual costs of the development and the administration of the examination. The examination fee for a guardian may, not to exceed \$500.

(d) The Department of Elderly Affairs may recognize passage of a national guardianship examination in lieu of all or part of the examination approved by the Department of Elderly Affairs, except that all professional guardians must take and pass an approved examination section related to Florida law and procedure.

(8) The Department of Elderly Affairs shall waive the examination requirement in subsection (6) if a professional guardian can provide:

(a) Proof that the guardian has actively acted as a professional guardian for 5 years or more; and

(b) A letter from a circuit judge before whom the professional guardian practiced at least 1 year which states that the professional guardian had demonstrated to the court competency as a professional guardian.

(9) ~~After July 1, 2004,~~ The court may ~~shall~~ not appoint any professional guardian who ~~is has not~~ registered by the Office of Public and Professional Guardians ~~met the requirements of this section and s. 744.1083.~~

Section 11. Section 744.2004, Florida Statutes, is created to read:

744.2004 Complaints; disciplinary proceedings; penalties; enforcement.



(1) By October 1, 2016, the Office of Public and Professional Guardians shall establish procedures to:

(a) Review and, if determined legally sufficient, investigate any complaint that a professional guardian has violated the standards of practice established by the Office of Public and Professional Guardians governing the conduct of professional guardians. A complaint is legally sufficient if it contains ultimate facts that show a violation of a standard of practice by a professional guardian has occurred.

(b) Initiate an investigation no later than 10 business days after the Office of Public and Professional Guardians receives a complaint.

(c) Complete and provide initial investigative findings and recommendations, if any, to the professional guardian and the person who filed the complaint within 60 days after receipt.

(d) Obtain supporting information or documentation to determine the legal sufficiency of a complaint.

(e) Interview a ward, family member, or interested party to determine the legal sufficiency of a complaint.

(f) Dismiss any complaint if, at any time after legal sufficiency is determined, it is found there is insufficient evidence to support the allegations contained in the complaint.

(g) Coordinate, to the greatest extent possible, with the clerks of court to avoid duplication of duties with regard to the financial audits prepared by the clerks pursuant to s. 744.368.

(2) The Office of Public and Professional Guardians shall establish disciplinary proceedings, conduct hearings, and take administrative action pursuant to chapter 120. Disciplinary actions may include, but are not limited to, requiring a professional guardian to participate in additional educational courses provided or approved by the Office of Public and Professional Guardians, imposing additional monitoring by the office of the guardianships to which the professional guardian is appointed, and suspension or revocation of a professional guardian's registration.

(3) In any disciplinary proceeding that may result in the suspension or revocation of a professional guardian's registration, the Department of Elderly Affairs shall provide the professional guardian and the person who filed the complaint:

(a) A written explanation of how an administrative complaint is resolved by the disciplinary process.

(b) A written explanation of how and when the person may participate in the disciplinary process.

(c) A written notice of any hearing before the Division of Administrative Hearings at which final agency action may be taken.

(4) If the office makes a final determination to suspend or revoke the professional guardian's registration, it must provide such determination to the court of competent jurisdiction for any guardianship case to which the professional guardian is currently appointed.

(5) If the office determines or has reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited as a result of a filed complaint or during the course of an investigation of a complaint, it shall immediately report such determination or suspicion to the central abuse hotline established and maintained by the Department of Children and Families pursuant to s. 415.103.

(6) By October 1, 2016, the Department of Elderly Affairs shall adopt rules to implement the provisions of this section.

Section 12. Section 744.20041, Florida Statutes, is created to read:

744.20041 Grounds for discipline; penalties; enforcement.—

(1) The following acts by a professional guardian shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of guardianship.

(b) Violating any rule governing guardians or guardianships adopted by the Office of Public and Professional Guardians.

(c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of or the ability to practice as a professional guardian.

(d) Failing to comply with the educational course requirements contained in s. 744.2003.

(e) Having a registration, a license, or the authority to practice a regulated profession revoked, suspended, or otherwise acted against, including the denial of registration or licensure, by the registering or licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation under Florida law. The registering or licensing authority's acceptance of a relinquishment of registration or licensure, stipulation, consent order, or other settlement offered in response to or in anticipation of the filing of charges against the registration or license shall be construed as an action against the registration or license.

(f) Knowingly filing a false report or complaint with the Office of Public and Professional Guardians against another guardian.

(g) Attempting to obtain, obtaining, or renewing a registration or license to practice a profession by bribery, by fraudulent misrepresentation, or as a result of an error by the Office of Public and Professional Guardians which is known and not disclosed to the Office of Public and Professional Guardians.

(h) Failing to report to the Office of Public and Professional Guardians any person who the professional guardian knows is in violation of this chapter or the rules of the Office of Public and Professional Guardians.

(i) Failing to perform any statutory or legal obligation placed upon a professional guardian.

(j) Making or filing a report or record that the professional guardian knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person's attempt to do so. Such reports or records shall include only those that are signed in the guardian's capacity as a professional guardian.

(k) Using the position of guardian for the purpose of financial gain by a professional guardian or a third party, other than the funds awarded to the professional guardian by the court pursuant to s. 744.108.

(l) Violating a lawful order of the Office of Public and Professional Guardians or failing to comply with a lawfully issued subpoena of the Office of Public and Professional Guardians.

(m) Improperly interfering with an investigation or inspection authorized by statute or rule or with any disciplinary proceeding.

(n) Using the guardian relationship to engage or attempt to engage the ward, or an immediate family member or a representative of the ward, in verbal, written, electronic, or physical sexual activity.

(o) Failing to report to the Office of Public and Professional Guardians in writing within 30 days after being convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

(p) Being unable to perform the functions of a professional guardian with reasonable skill by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of substance or as a result of any mental or physical condition.

(q) Failing to post and maintain a blanket fiduciary bond pursuant to s. 744.1085.

(r) Failing to maintain all records pertaining to a guardianship for a reasonable time after the court has closed the guardianship matter.

(s) Violating any provision of this chapter or any rule adopted pursuant thereto.

(2) When the Office of Public and Professional Guardians finds a professional guardian guilty of violating subsection (1), it may enter an order imposing one or more of the following penalties:

- (a) Refusal to register an applicant as a professional guardian.
- (b) Suspension or permanent revocation of a professional guardian's registration.
- (c) Issuance of a reprimand or letter of concern.
- (d) Requirement that the professional guardian undergo treatment, attend continuing education courses, submit to reexamination, or satisfy any terms that are reasonably tailored to the violations found.
- (e) Requirement that the professional guardian pay restitution of any funds obtained, disbursed, or obtained through a violation of any statute, rule, or other legal authority to a ward or the ward's estate, if applicable.
- (f) Requirement that the professional guardian undergo remedial education.

(3) In determining what action is appropriate, the Office of Public and Professional Guardians must first consider what sanctions are necessary to safeguard wards and to protect the public. Only after those sanctions have been imposed may the Office of Public and Professional Guardians consider and include in the order requirements designed to mitigate the circumstances and rehabilitate the professional guardian.

(4) The Office of Public and Professional Guardians shall adopt by rule and periodically review the disciplinary guidelines applicable to each ground for disciplinary action that may be imposed by the Office of Public and Professional Guardians pursuant to this chapter.

(5) It is the intent of the Legislature that the disciplinary guidelines specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses and that minor violations be distinguished from those which endanger the health, safety, or welfare of a ward or the public; that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct; and that such penalties be consistently applied by the Office of Public and Professional Guardians.

(6) The Office of Public and Professional Guardians shall by rule designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

(a) An administrative law judge, in recommending penalties in any recommended order, must follow the disciplinary guidelines established by the Office of Public and Professional Guardians and must state in writing any mitigating or aggravating circumstance upon which a recommended

penalty is based if such circumstance causes the administrative law judge to recommend a penalty other than that provided in the disciplinary guidelines.

(b) The Office of Public and Professional Guardians may impose a penalty other than those provided for in the disciplinary guidelines upon a specific finding in the final order of mitigating or aggravating circumstances.

(7) In addition to, or in lieu of, any other remedy or criminal prosecution, the Office of Public and Professional Guardians may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provision of this chapter or any provision of law with respect to professional guardians or the rules adopted pursuant thereto.

(8) Notwithstanding chapter 120, if the Office of Public and Professional Guardians determines that revocation of a professional guardian's registration is the appropriate penalty, the revocation is permanent.

(9) If the Office of Public and Professional Guardians makes a final determination to suspend or revoke the professional guardian's registration, the office must provide the determination to the court of competent jurisdiction for any guardianship case to which the professional guardian is currently appointed.

(10) The purpose of this section is to facilitate uniform discipline for those actions made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

(11) The Office of Public and Professional Guardians shall adopt rules to administer this section.

Section 13. Section 744.344, Florida Statutes, is renumbered as section 744.2005, Florida Statutes, and amended to read:

744.2005 ~~744.344~~ Order of appointment.—

(1) The court may hear testimony on the question of who is entitled to preference in the appointment of a guardian. Any interested person may intervene in the proceedings.

(2) The order appointing a guardian must state the nature of the guardianship as either plenary or limited. If limited, the order must state that the guardian may exercise only those delegable rights which have been removed from the incapacitated person and specifically delegated to the guardian. The order shall state the specific powers and duties of the guardian.

~~(3)~~(2) The order appointing a guardian must be consistent with the incapacitated person's welfare and safety, must be the least restrictive

appropriate alternative, and must reserve to the incapacitated person the right to make decisions in all matters commensurate with the person's ability to do so.

(4)(3) If a petition for appointment of a guardian has been filed, an order appointing a guardian must be issued contemporaneously with the order adjudicating the person incapacitated. The order must specify the amount of the bond to be given by the guardian and must state specifically whether the guardian must place all, or part, of the property of the ward in a restricted account in a financial institution designated pursuant to s. 69.031.

(5)(4) If a petition for the appointment of a guardian has not been filed or ruled upon at the time of the hearing on the petition to determine capacity, the court may appoint an emergency temporary guardian in the manner and for the purposes specified in s. 744.3031.

(6)(5) A plenary guardian shall exercise all delegable rights and powers of the incapacitated person.

(7)(6) A person for whom a limited guardian has been appointed retains all legal rights except those that ~~which~~ have been specifically granted to the guardian in the court's written order.

Section 14. Section 744.703, Florida Statutes, is renumbered as section 744.2006, Florida Statutes, and subsections (1) and (6) of that section are amended, to read:

744.2006 744.703 Office of Public and Professional Guardians ~~guardian~~; appointment, notification.—

(1) The executive director of the Statewide Public Guardianship Office of Public and Professional Guardians, after consultation with the chief judge and other circuit judges within the judicial circuit and with appropriate advocacy groups and individuals and organizations who are knowledgeable about the needs of incapacitated persons, may establish, within a county in the judicial circuit or within the judicial circuit, one or more offices of public guardian and if so established, shall create a list of persons best qualified to serve as the public guardian, who have been investigated pursuant to s. 744.3135. The public guardian must have knowledge of the legal process and knowledge of social services available to meet the needs of incapacitated persons. The public guardian shall maintain a staff or contract with professionally qualified individuals to carry out the guardianship functions, including an attorney who has experience in probate areas and another person who has a master's degree in social work, or a gerontologist, psychologist, registered nurse, or nurse practitioner. A public guardian that is a nonprofit corporate guardian under s. 744.309(5) must receive tax-exempt status from the United States Internal Revenue Service.

(6) Public guardians who have been previously appointed by a chief judge prior to the effective date of this act pursuant to this section may

continue in their positions until the expiration of their term pursuant to their agreement. However, oversight of all public guardians shall transfer to the Statewide Public Guardianship Office of Public and Professional Guardians upon the effective date of this act. The executive director of the Statewide Public Guardianship Office of Public and Professional Guardians shall be responsible for all future appointments of public guardians pursuant to this act.

Section 15. Section 744.704, Florida Statutes, is renumbered as section 744.2007, Florida Statutes.

Section 16. Section 744.705, Florida Statutes, is renumbered as section 744.2008, Florida Statutes.

Section 17. Section 744.706, Florida Statutes, is renumbered as section 744.2009, Florida Statutes, and amended to read:

744.2009 744.706 Preparation of budget.—Each public guardian, whether funded in whole or in part by money raised through local efforts, grants, or any other source or whether funded in whole or in part by the state, shall prepare a budget for the operation of the office of public guardian to be submitted to the Statewide Public Guardianship Office of Public and Professional Guardians. As appropriate, the Statewide Public Guardianship Office of Public and Professional Guardians will include such budgetary information in the Department of Elderly Affairs' legislative budget request. The office of public guardian shall be operated within the limitations of the General Appropriations Act and any other funds appropriated by the Legislature to that particular judicial circuit, subject to the provisions of chapter 216. The Department of Elderly Affairs shall make a separate and distinct request for an appropriation for the Statewide Public Guardianship Office of Public and Professional Guardians. However, this section may shall not be construed to preclude the financing of any operations of the office of the public guardian by moneys raised through local effort or through the efforts of the Statewide Public Guardianship Office of Public and Professional Guardians.

Section 18. Section 744.707, Florida Statutes, is renumbered as section 744.2101, Florida Statutes, and amended to read:

744.2101 744.707 Procedures and rules.—The public guardian, subject to the oversight of the Statewide Public Guardianship Office of Public and Professional Guardians, is authorized to:

- (1) Formulate and adopt necessary procedures to assure the efficient conduct of the affairs of the ward and general administration of the office and staff.
- (2) Contract for services necessary to discharge the duties of the office.
- (3) Accept the services of volunteer persons or organizations and provide reimbursement for proper and necessary expenses.

Section 19. Section 744.709, Florida Statutes, is renumbered as section 744.2102, Florida Statutes.

Section 20. Section 744.708, Florida Statutes, is renumbered as section 744.2103, Florida Statutes, and subsections (3), (4), (5), and (7) of that section are amended, to read:

744.2103 744.708 Reports and standards.—

(3) A public guardian shall file an annual report on the operations of the office of public guardian, in writing, by September 1 for the preceding fiscal year with the ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians, which shall have responsibility for supervision of the operations of the office of public guardian.

(4) Within 6 months of his or her appointment as guardian of a ward, the public guardian shall submit to the clerk of the court for placement in the ward's guardianship file and to the executive director of the ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians a report on his or her efforts to locate a family member or friend, other person, bank, or corporation to act as guardian of the ward and a report on the ward's potential to be restored to capacity.

(5)(a) Each office of public guardian shall undergo an independent audit by a qualified certified public accountant at least once every 2 years. A copy of the audit report shall be submitted to the ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians.

(b) In addition to regular monitoring activities, the ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians shall conduct an investigation into the practices of each office of public guardian related to the managing of each ward's personal affairs and property. If feasible, the investigation shall be conducted in conjunction with the financial audit of each office of public guardian under paragraph (a).

(7) The ratio for professional staff to wards shall be 1 professional to 40 wards. The ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians may increase or decrease the ratio after consultation with the local public guardian and the chief judge of the circuit court. The basis for the decision to increase or decrease the prescribed ratio must be included in the annual report to the secretary.

Section 21. Section 744.7081, Florida Statutes, is renumbered as section 744.2104, Florida Statutes, and amended to read:

744.2104 ~~744.7081~~ Access to records by ~~the Statewide Public Guardianship Office~~ of Public and Professional Guardians; confidentiality.—

(1) Notwithstanding any other provision of law to the contrary, any medical, financial, or mental health records held by an agency, or the court and its agencies, or financial audits prepared by the clerk of the court



pursuant to s. 744.368 and held by the court, which are necessary as part of an investigation of a guardian as a result of a complaint filed with the Office of Public and Professional Guardians to evaluate the public guardianship system, to assess the need for additional public guardianship, or to develop required reports, shall be provided to the Statewide Public Guardianship Office of Public and Professional Guardians upon that office's request. Any confidential or exempt information provided to the Statewide Public Guardianship Office of Public and Professional Guardians shall continue to be held confidential or exempt as otherwise provided by law.

(2) All records held by the ~~Statewide Public Guardianship~~ Office of Public and Professional Guardians relating to the medical, financial, or mental health of vulnerable adults as defined in chapter 415, persons with a developmental disability as defined in chapter 393, or persons with a mental illness as defined in chapter 394, shall be confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Section 22. Section 744.7082, Florida Statutes, is renumbered as section 744.2105, Florida Statutes, and subsections (1) through (5) and (8) of that section are amended, to read:

744.2105 ~~744.7082~~ Direct-support organization; definition; use of property; board of directors; audit; dissolution.—

(1) DEFINITION.—As used in this section, the term “direct-support organization” means an organization whose sole purpose is to support the ~~Statewide Public Guardianship~~ Office of Public and Professional Guardians and is:

(a) A not-for-profit corporation incorporated under chapter 617 and approved by the Department of State;

(b) Organized and operated to conduct programs and activities; to raise funds; to request and receive grants, gifts, and bequests of moneys; to acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and to make expenditures to or for the direct or indirect benefit of the ~~Statewide Public Guardianship~~ Office of Public and Professional Guardians; and

(c) Determined by the ~~Statewide Public Guardianship~~ Office of Public and Professional Guardians to be consistent with the goals of the office, in the best interests of the state, and in accordance with the adopted goals and mission of the Department of Elderly Affairs and the ~~Statewide Public Guardianship~~ Office of Public and Professional Guardians.

(2) CONTRACT.—The direct-support organization shall operate under a written contract with the ~~Statewide Public Guardianship~~ Office of Public and Professional Guardians. The written contract must provide for:

(a) Certification by the ~~Statewide Public Guardianship~~ Office of Public and Professional Guardians that the direct-support organization is

complying with the terms of the contract and is doing so consistent with the goals and purposes of the office and in the best interests of the state. This certification must be made annually and reported in the official minutes of a meeting of the direct-support organization.

(b) The reversion of moneys and property held in trust by the direct-support organization:

1. To the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ if the direct-support organization is no longer approved to operate for the office;

2. To the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ if the direct-support organization ceases to exist;

3. To the Department of Elderly Affairs if the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ ceases to exist; or

4. To the state if the Department of Elderly Affairs ceases to exist.

The fiscal year of the direct-support organization shall begin on July 1 of each year and end on June 30 of the following year.

(c) The disclosure of the material provisions of the contract, and the distinction between the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ and the direct-support organization, to donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications.

(3) BOARD OF DIRECTORS.—The Secretary of Elderly Affairs shall appoint a board of directors for the direct-support organization from a list of nominees submitted by the executive director of the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~.

(4) USE OF PROPERTY.—The Department of Elderly Affairs may permit, without charge, appropriate use of fixed property and facilities of the department or the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ by the direct-support organization. The department may prescribe any condition with which the direct-support organization must comply in order to use fixed property or facilities of the department or the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~.

(5) MONEYS.—Any moneys may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the written contract with the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~. Expenditures of the direct-support organization shall be expressly used to support the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~. The expenditures of the direct-support organization may not be used for the purpose of lobbying as defined in s. 11.045.

(8) DISSOLUTION.—~~A~~ After July 1, 2004, any not-for-profit corporation incorporated under chapter 617 that is determined by a circuit court to be representing itself as a direct-support organization created under this section, but that does not have a written contract with the Statewide Public Guardianship Office of Public and Professional Guardians in compliance with this section, is considered to meet the grounds for a judicial dissolution described in s. 617.1430(1)(a). The Statewide Public Guardianship Office of Public and Professional Guardians shall be the recipient for all assets held by the dissolved corporation which accrued during the period that the dissolved corporation represented itself as a direct-support organization created under this section.

Section 23. Section 744.712, Florida Statutes, is renumbered as section 744.2106, Florida Statutes, and amended to read:

~~744.2106~~ ~~744.712~~ Joining Forces for Public Guardianship grant program; purpose.—The Legislature establishes the Joining Forces for Public Guardianship matching grant program for the purpose of assisting counties to establish and fund community-supported public guardianship programs. The Joining Forces for Public Guardianship matching grant program shall be established and administered by the Statewide Public Guardianship Office of Public and Professional Guardians within the Department of Elderly Affairs. The purpose of the program is to provide startup funding to encourage communities to develop and administer locally funded and supported public guardianship programs to address the needs of indigent and incapacitated residents.

(1) ~~The Statewide Public Guardianship Office of Public and Professional Guardians~~ may distribute the grant funds as follows:

(a) As initial startup funding to encourage counties that have no office of public guardian to establish an office, or as initial startup funding to open an additional office of public guardian within a county whose public guardianship needs require more than one office of public guardian.

(b) As support funding to operational offices of public guardian that demonstrate a necessity for funds to meet the public guardianship needs of a particular geographic area in the state which the office serves.

(c) To assist counties that have an operating public guardianship program but that propose to expand the geographic area or population of persons they serve, or to develop and administer innovative programs to increase access to public guardianship in this state.

Notwithstanding this subsection, the executive director of the office may award emergency grants if he or she determines that the award is in the best interests of public guardianship in this state. Before making an emergency grant, the executive director must obtain the written approval of the Secretary of Elderly Affairs. Subsections (2), (3), and (4) do not apply to the distribution of emergency grant funds.

(2) One or more grants may be awarded within a county. However, a county may not receive an award that equals, or multiple awards that cumulatively equal, more than 20 percent of the total amount of grant funds appropriated during any fiscal year.

(3) If an applicant is eligible and meets the requirements to receive grant funds more than once, the ~~Statewide Public Guardianship~~ Office of Public and Professional Guardians shall award funds to prior awardees in the following manner:

(a) In the second year that grant funds are awarded, the cumulative sum of the award provided to one or more applicants within the same county may not exceed 75 percent of the total amount of grant funds awarded within that county in year one.

(b) In the third year that grant funds are awarded, the cumulative sum of the award provided to one or more applicants within the same county may not exceed 60 percent of the total amount of grant funds awarded within that county in year one.

(c) In the fourth year that grant funds are awarded, the cumulative sum of the award provided to one or more applicants within the same county may not exceed 45 percent of the total amount of grant funds awarded within that county in year one.

(d) In the fifth year that grant funds are awarded, the cumulative sum of the award provided to one or more applicants within the same county may not exceed 30 percent of the total amount of grant funds awarded within that county in year one.

(e) In the sixth year that grant funds are awarded, the cumulative sum of the award provided to one or more applicants within the same county may not exceed 15 percent of the total amount of grant funds awarded within that county in year one.

The ~~Statewide Public Guardianship~~ Office of Public and Professional Guardians may not award grant funds to any applicant within a county that has received grant funds for more than 6 years.

(4) Grant funds shall be used only to provide direct services to indigent wards, except that up to 10 percent of the grant funds may be retained by the awardee for administrative expenses.

(5) Implementation of the program is subject to a specific appropriation by the Legislature in the General Appropriations Act.

Section 24. Section 744.713, Florida Statutes, is renumbered as section 744.2107, Florida Statutes, and amended to read:

744.2107 ~~744.713~~ Program administration; duties of the ~~Statewide Public Guardianship~~ Office of Public and Professional Guardians.—The

Statewide Public Guardianship Office of Public and Professional Guardians shall administer the grant program. The office shall:

- (1) Publicize the availability of grant funds to entities that may be eligible for the funds.
- (2) Establish an application process for submitting a grant proposal.
- (3) Request, receive, and review proposals from applicants seeking grant funds.
- (4) Determine the amount of grant funds each awardee may receive and award grant funds to applicants.
- (5) Develop a monitoring process to evaluate grant awardees, which may include an annual monitoring visit to each awardee’s local office.
- (6) Ensure that persons or organizations awarded grant funds meet and adhere to the requirements of this act.

Section 25. Section 744.714, Florida Statutes, is renumbered as section 744.2108, Florida Statutes, and paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of that section are amended, to read:

744.2108 ~~744.714~~ Eligibility.—

- (1) Any person or organization that has not been awarded a grant must meet all of the following conditions to be eligible to receive a grant:
  - (b) The applicant must have already been appointed by, or is pending appointment by, the Statewide Public Guardianship Office of Public and Professional Guardians to become an office of public guardian in this state.
- (2) Any person or organization that has been awarded a grant must meet all of the following conditions to be eligible to receive another grant:
  - (b) The applicant must have been appointed by, or is pending reappointment by, the Statewide Public Guardianship Office of Public and Professional Guardians to be an office of public guardian in this state.

Section 26. Section 744.715, Florida Statutes, is renumbered as section 744.2109, Florida Statutes, and amended to read:

744.2109 ~~744.715~~ Grant application requirements; review criteria; awards process.—Grant applications must be submitted to the Statewide Public Guardianship Office of Public and Professional Guardians for review and approval.

- (1) A grant application must contain:
  - (a) The specific amount of funds being requested.

(b) The proposed annual budget for the office of public guardian for which the applicant is applying on behalf of, including all sources of funding, and a detailed report of proposed expenditures, including administrative costs.

(c) The total number of wards the applicant intends to serve during the grant period.

(d) Evidence that the applicant has:

1. Attempted to procure funds and has exhausted all possible other sources of funding; or

2. Procured funds from local sources, but the total amount of the funds collected or pledged is not sufficient to meet the need for public guardianship in the geographic area that the applicant intends to serve.

(e) An agreement or confirmation from a local funding source, such as a county, municipality, or any other public or private organization, that the local funding source will contribute matching funds to the public guardianship program totaling not less than \$1 for every \$1 of grant funds awarded. For purposes of this section, an applicant may provide evidence of agreements or confirmations from multiple local funding sources showing that the local funding sources will pool their contributed matching funds to the public guardianship program for a combined total of not less than \$1 for every \$1 of grant funds awarded. In-kind contributions, such as materials, commodities, office space, or other types of facilities, personnel services, or other items as determined by rule shall be considered by the office and may be counted as part or all of the local matching funds.

(f) A detailed plan describing how the office of public guardian for which the applicant is applying on behalf of will be funded in future years.

(g) Any other information determined by rule as necessary to assist in evaluating grant applicants.

(2) If the ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians determines that an applicant meets the requirements for an award of grant funds, the office may award the applicant any amount of grant funds the executive director deems appropriate, if the amount awarded meets the requirements of this act. The office may adopt a rule allocating the maximum allowable amount of grant funds which may be expended on any ward.

(3) A grant awardee must submit a new grant application for each year of additional funding.

(4)(a) In the first year of the Joining Forces for Public Guardianship program's existence, the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ shall give priority in awarding grant funds to those entities that:

1. Are operating as appointed offices of public guardians in this state;
2. Meet all of the requirements for being awarded a grant under this act; and
3. Demonstrate a need for grant funds during the current fiscal year due to a loss of local funding formerly raised through court filing fees.

(b) In each fiscal year after the first year that grant funds are distributed, the ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians may give priority to awarding grant funds to those entities that:

1. Meet all of the requirements of ~~this section and ss. 744.2106, 744.2107, and 744.2108~~ this act for being awarded grant funds; and
2. Submit with their application an agreement or confirmation from a local funding source, such as a county, municipality, or any other public or private organization, that the local funding source will contribute matching funds totaling an amount equal to or exceeding \$2 for every \$1 of grant funds awarded by the office. An entity may submit with its application agreements or confirmations from multiple local funding sources showing that the local funding sources will pool their contributed matching funds to the public guardianship program for a combined total of not less than \$2 for every \$1 of grant funds awarded. In-kind contributions allowable under this section shall be evaluated by the ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians and may be counted as part or all of the local matching funds.

Section 27. Subsection (3), paragraph (c) of subsection (4), and subsections (5) and (6) of section 744.3135, Florida Statutes, are amended to read:

744.3135 Credit and criminal investigation.—

(3) For professional guardians, the court and the ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians shall accept the satisfactory completion of a criminal history record check by any method described in this subsection. A professional guardian satisfies the requirements of this section by undergoing an electronic fingerprint criminal history record check. A professional guardian may use any electronic fingerprinting equipment used for criminal history record checks. By October 1, 2016, the ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians shall adopt a rule detailing the acceptable methods for completing an electronic fingerprint criminal history record check under this section. The professional guardian shall pay the actual costs incurred by the Federal Bureau of Investigation and the Department of Law Enforcement for the criminal history record check. The entity completing the record check must immediately send the results of the criminal history record check to the clerk of the court and the ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians. The clerk of the court shall maintain the

results in the professional guardian's file and shall make the results available to the court.

(4)

(c) The Department of Law Enforcement shall search all arrest fingerprints received under s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under paragraph (b). Any arrest record that is identified with the fingerprints of a person described in this paragraph must be reported to the clerk of court. The clerk of court must forward any arrest record received for a professional guardian to the ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians within 5 days. Each professional guardian who elects to submit fingerprint information electronically shall participate in this search process by paying an annual fee to the ~~Statewide Public Guardianship Office~~ of Public and Professional Guardians of the Department of Elderly Affairs and by informing the clerk of court and the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ of any change in the status of his or her guardianship appointment. The amount of the annual fee to be imposed for performing these searches and the procedures for the retention of professional guardian fingerprints and the dissemination of search results shall be established by rule of the Department of Law Enforcement. At least once every 5 years, the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ must request that the Department of Law Enforcement forward the fingerprints maintained under this section to the Federal Bureau of Investigation.

(5)(a) A professional guardian, and each employee of a professional guardian who has a fiduciary responsibility to a ward, must complete, at his or her own expense, an investigation of his or her credit history before and at least once every 2 years after the date of the guardian's registration with the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~.

(b) By October 1, 2016, the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ shall adopt a rule detailing the acceptable methods for completing a credit investigation under this section. If appropriate, the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ may administer credit investigations. If the office chooses to administer the credit investigation, the office may adopt a rule setting a fee, not to exceed \$25, to reimburse the costs associated with the administration of a credit investigation.

(6) The ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ may inspect at any time the results of any credit or criminal history record check of a public or professional guardian conducted under this section. The office shall maintain copies of the credit or criminal history record check results in the guardian's registration file. If the results of a credit or criminal investigation of a public or professional guardian have not been forwarded to the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ by the investigating agency, the clerk of the court



shall forward copies of the results of the investigations to the office upon receiving them.

Section 28. Section 744.701, Florida Statutes, is repealed.

Section 29. Section 744.702, Florida Statutes, is repealed.

Section 30. Section 744.7101, Florida Statutes, is repealed.

Section 31. Section 744.711, Florida Statutes, is repealed.

Section 32. Subsection (5) of section 400.148, Florida Statutes, is amended to read:

400.148 Medicaid “Up-or-Out” Quality of Care Contract Management Program.—

(5) The agency shall, jointly with the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~, develop a system in the pilot project areas to identify Medicaid recipients who are residents of a participating nursing home or assisted living facility who have diminished ability to make their own decisions and who do not have relatives or family available to act as guardians in nursing homes listed on the Nursing Home Guide Watch List. The agency and the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~ shall give such residents priority for publicly funded guardianship services.

Section 33. Paragraph (d) of subsection (3) of section 744.331, Florida Statutes, is amended to read:

744.331 Procedures to determine incapacity.—

(3) EXAMINING COMMITTEE.—

(d) A member of an examining committee must complete a minimum of 4 hours of initial training. The person must complete 2 hours of continuing education during each 2-year period after the initial training. The initial training and continuing education program must be developed under the supervision of the ~~Statewide Public Guardianship Office of Public and Professional Guardians~~, in consultation with the Florida Conference of Circuit Court Judges; the Elder Law and the Real Property, Probate and Trust Law sections of The Florida Bar; and the Florida State Guardianship Association; ~~and the Florida Guardianship Foundation~~. The court may waive the initial training requirement for a person who has served for not less than 5 years on examining committees. If a person wishes to obtain his or her continuing education on the Internet or by watching a video course, the person must first obtain the approval of the chief judge before taking an Internet or video course.

Section 34. Paragraph (a) of subsection (1) of section 20.415, Florida Statutes, is amended to read:

20.415 Department of Elderly Affairs; trust funds.—The following trust funds shall be administered by the Department of Elderly Affairs:

(1) Administrative Trust Fund.

(a) Funds to be credited to and uses of the trust fund shall be administered in accordance with ss. 215.32, 744.534, and 744.2001 ~~744.7021~~.

Section 35. Paragraph (e) of subsection (2) of section 415.1102, Florida Statutes, is amended to read:

415.1102 Adult protection teams.—

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

(e) Public and professional guardians as described in part II ~~IX~~ of chapter 744.

Section 36. Paragraph (a) of subsection (7) of section 744.309, Florida Statutes, is amended to read:

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

(7) FOR-PROFIT CORPORATE GUARDIAN.—A for-profit corporate guardian existing under the laws of this state is qualified to act as guardian of a ward if the entity is qualified to do business in the state, is wholly owned by the person who is the circuit's public guardian in the circuit where the corporate guardian is appointed, has met the registration requirements of s. 744.2002 ~~s. 744.1083~~, and posts and maintains a bond or insurance policy under paragraph (a).

(a) The for-profit corporate guardian must meet one of the following requirements:

1. Post and maintain a blanket fiduciary bond of at least \$250,000 with the clerk of the circuit court in the county in which the corporate guardian has its principal place of business. The corporate 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 guardian. The bond must cover all wards for whom the corporation has been appointed as a guardian at any given time. The liability of the provider of the bond is limited to the face value of the bond, regardless of the number of wards for whom the corporation is acting as a guardian. The terms of the bond must cover the acts or omissions of each agent or employee of the corporation who has direct contact with the ward or access to the assets of the guardianship. The bond must be payable to the Governor and his or her successors in office and be conditioned on the faithful performance of all duties of a guardian under this chapter. The bond is in lieu of and not in addition to the bond required under s. 744.2003 ~~s. 744.1085~~ but is in addition to any bonds required under s. 744.351. The

expenses incurred to satisfy the bonding requirements of this section may not be paid with the assets of any ward; or

2. Maintain a liability insurance policy that covers any losses sustained by the guardianship caused by errors, omissions, or any intentional misconduct committed by the corporation's officers or agents. The policy must cover all wards for whom the corporation is acting as a guardian for losses up to \$250,000. The terms of the policy must cover acts or omissions of each agent or employee of the corporation who has direct contact with the ward or access to the assets of the guardianship. The corporate guardian shall provide proof of the policy to the clerk of each circuit court in which he or she is serving as a guardian.

Section 37. Section 744.524, Florida Statutes, is amended to read:

744.524 Termination of guardianship on change of domicile of resident ward.—When the domicile of a resident ward has changed as provided in s. 744.1098 ~~s. 744.2025~~, and the foreign court having jurisdiction over the ward at the ward's new domicile has appointed a guardian and that guardian has qualified and posted a bond in an amount required by the foreign court, the guardian in this state may file her or his final report and close the guardianship in this state. The guardian of the property in this state shall cause a notice to be published once a week for 2 consecutive weeks, in a newspaper of general circulation published in the county, that she or he has filed her or his accounting and will apply for discharge on a day certain and that jurisdiction of the ward will be transferred to the state of foreign jurisdiction. If an objection is filed to the termination of the guardianship in this state, the court shall hear the objection and enter an order either sustaining or overruling the objection. Upon the disposition of all objections filed, or if no objection is filed, final settlement shall be made by the Florida guardian. On proof that the remaining property in the guardianship has been received by the foreign guardian, the guardian of the property in this state shall be discharged. The entry of the order terminating the guardianship in this state shall not exonerate the guardian or the guardian's surety from any liability previously incurred.

Section 38. For the 2016-2017 fiscal year, six full-time equivalent positions, with associated salary rate of 242,345, are authorized and the sums of \$698,153 in recurring funds and \$123,517 in nonrecurring funds from the General Revenue Fund are hereby appropriated to the Department of Elder Affairs for the purpose of implementing the requirements of the act.

Section 39. This act shall take effect upon becoming a law.

Approved by the Governor March 10, 2016.

Filed in Office Secretary of State March 10, 2016.