

1 A bill to be entitled
2 An act relating to guardianship proceedings; amending
3 s. 709.2109, F.S.; requiring the filing of a motion
4 before termination or suspension of a power of
5 attorney in proceedings to determine a principal's
6 incapacity or for appointment of a guardian advocate
7 under certain circumstances; amending ss. 744.107 and
8 744.1075, F.S.; authorizing a court to appoint the
9 office of criminal conflict and civil regional counsel
10 as a court monitor in guardianship proceedings;
11 amending s. 744.108, F.S.; providing that fees and
12 costs incurred by an attorney who has rendered
13 services to a ward in compensation proceedings are
14 payable from guardianship assets; providing that
15 expert testimony is not required in proceedings to
16 determine compensation for an attorney or guardian;
17 requiring a person offering expert testimony to
18 provide notice to interested persons; providing that
19 expert witness fees are recoverable by the prevailing
20 interested person; amending s. 744.3025, F.S.;
21 providing that a court may appoint a guardian ad litem
22 to represent a minor if necessary to protect the
23 minor's interest in a settlement; providing that a
24 settlement of a minor's claim is subject to certain
25 confidentiality provisions; amending s. 744.3031,
26 F.S.; requiring notification of an alleged

27 | incapacitated person and such person's attorney of a
28 | petition for appointment of an emergency temporary
29 | guardian before a hearing on the petition commences;
30 | amending s. 744.309, F.S.; providing that certain for-
31 | profit corporations may act as guardian of a person;
32 | providing conditions; requiring the posting and
33 | maintenance of a fiduciary bond; limiting liability;
34 | requiring the corporation to maintain certain
35 | insurance coverage; providing for certain
36 | grandfathered guardianships; amending s. 744.3115,
37 | F.S.; directing the court to specify authority for
38 | health care decisions with respect to a ward's advance
39 | directive; amending s. 744.312, F.S.; prohibiting a
40 | court from giving preference to the appointment of
41 | certain persons as guardians; providing requirements
42 | for the appointment of professional guardians;
43 | amending s. 744.3203, F.S.; providing grounds for
44 | filing a motion for suspension of a power of attorney
45 | before determination of incapacity; providing criteria
46 | for such motion; requiring a hearing under certain
47 | conditions; providing for the award of attorney fees
48 | and costs; amending s. 744.331, F.S.; directing the
49 | court to consider certain factors when determining
50 | incapacity; requiring that the examining committee be
51 | paid from state funds as court-appointed expert
52 | witnesses if a petition for incapacity is dismissed;

53 requiring that a petitioner reimburse the state for
54 such expert witness fees if the court finds the
55 petition to have been filed in bad faith; amending s.
56 744.344, F.S.; providing conditions under which the
57 court is authorized to appoint an emergency temporary
58 guardian; amending s. 744.345, F.S.; revising
59 provisions relating to letters of guardianship;
60 creating s. 744.359, F.S.; prohibiting abuse, neglect,
61 or exploitation of a ward by a guardian; requiring
62 reporting thereof to the Department of Children and
63 Families central abuse hotline; providing for
64 interpretation; amending s. 744.361, F.S.; providing
65 additional powers and duties of a guardian; amending
66 s. 744.367, F.S.; revising the period during which a
67 guardian must file an annual guardianship plan with
68 the court; amending s. 744.369, F.S.; providing for
69 the continuance of a guardian's authority to act under
70 an expired annual report under certain circumstances;
71 amending s. 744.3715, F.S.; providing that an
72 interested party may petition the court regarding a
73 guardian's failure to comply with the duties of a
74 guardian; amending s. 744.464, F.S.; establishing the
75 burden of proof for determining restoration of
76 capacity of a ward in pending guardianship cases;
77 requiring a court to advance such cases on the
78 calendar; providing applicability; providing an

79 | effective date.

80 |

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

82 |

83 | Section 1. Subsection (3) of section 709.2109, Florida
84 | Statutes, is amended to read:

85 | 709.2109 Termination or suspension of power of attorney or
86 | agent's authority.—

87 | (3) If any person initiates judicial proceedings to
88 | determine the principal's incapacity or for the appointment of a
89 | guardian advocate, the authority granted under the power of
90 | attorney is suspended until the petition is dismissed or
91 | withdrawn or the court enters an order authorizing the agent to
92 | exercise one or more powers granted under the power of attorney.
93 | However, if the agent named in the power of attorney is the
94 | principal's parent, spouse, child, or grandchild, the authority
95 | under the power of attorney is not suspended unless a verified
96 | motion in accordance with s. 744.3203 is also filed.

97 | (a) If an emergency arises after initiation of proceedings
98 | to determine incapacity and before adjudication regarding the
99 | principal's capacity, the agent may petition the court in which
100 | the proceeding is pending for authorization to exercise a power
101 | granted under the power of attorney. The petition must set forth
102 | the nature of the emergency, the property or matter involved,
103 | and the power to be exercised by the agent.

104 (b) Notwithstanding the provisions of this section, unless
 105 otherwise ordered by the court, a proceeding to determine
 106 incapacity does not affect the authority of the agent to make
 107 health care decisions for the principal, including, but not
 108 limited to, those provided in chapter 765. If the principal has
 109 executed a health care advance directive designating a health
 110 care surrogate, the terms of the directive control if the
 111 directive and the power of attorney are in conflict unless the
 112 power of attorney is later executed and expressly states
 113 otherwise.

114 Section 2. Subsection (5) is added to section 744.107,
 115 Florida Statutes, to read:

116 744.107 Court monitors.—

117 (5) The court may appoint the office of criminal conflict
 118 and civil regional counsel as monitor if the ward is indigent.

119 Section 3. Subsection (6) is added to section 744.1075,
 120 Florida Statutes, to read:

121 744.1075 Emergency court monitor.—

122 (6) The court may appoint the office of criminal conflict
 123 and civil regional counsel as monitor if the ward is indigent.

124 Section 4. Subsections (5) and (8) of section 744.108,
 125 Florida Statutes, are amended, and subsection (9) is added to
 126 that section, to read:

127 744.108 Guardian ~~Guardian's~~ and attorney ~~attorney's~~ fees
 128 and expenses.—

129 (5) All petitions for guardian ~~guardian's~~ and attorney

130 ~~attorney's~~ fees and expenses must be accompanied by an itemized
131 description of the services performed for the fees and expenses
132 sought to be recovered.

133 (8) When court proceedings are instituted to review or
134 determine a guardian's or an attorney's fees under subsection
135 (2), such proceedings are part of the guardianship
136 administration process and the costs, including costs and
137 attorney fees for the guardian's attorney, an attorney appointed
138 under s. 744.331(2), or an attorney who has rendered services to
139 the ward, shall be determined by the court and paid from the
140 assets of the guardianship estate unless the court finds the
141 requested compensation under subsection (2) to be substantially
142 unreasonable.

143 (9) The court may determine that a request for
144 compensation by the guardian, the guardian's attorney, a person
145 employed by the guardian, an attorney appointed under s.
146 744.331(2), or an attorney who has rendered services to the
147 ward, is reasonable without receiving expert testimony. A person
148 or party may offer expert testimony for or against a request for
149 compensation after giving notice to interested persons.
150 Reasonable expert witness fees shall be awarded by the court and
151 paid from the assets of the guardianship estate using the
152 standards in subsection (8).

153 Section 5. Section 744.3025, Florida Statutes, is amended
154 to read:

155 744.3025 Claims of minors.—

156 (1) (a) The court may appoint a guardian ad litem to
157 represent the minor's interest before approving a settlement of
158 the minor's portion of the claim in a ~~any~~ case in which a minor
159 has a claim for personal injury, property damage, wrongful
160 death, or other cause of action in which the gross settlement of
161 the claim exceeds \$15,000 if the court believes a guardian ad
162 litem is necessary to protect the minor's interest.

163 (b) Except as provided in paragraph (e), the court shall
164 appoint a guardian ad litem to represent the minor's interest
165 before approving a settlement of the minor's claim in a ~~any~~ case
166 in which the gross settlement involving a minor equals or
167 exceeds \$50,000.

168 (c) The appointment of the guardian ad litem must be
169 without the necessity of bond or notice.

170 (d) The duty of the guardian ad litem is to protect the
171 minor's interests as described in the Florida Probate Rules.

172 (e) A court need not appoint a guardian ad litem for the
173 minor if a guardian of the minor has previously been appointed
174 and that guardian has no potential adverse interest to the
175 minor. ~~A court may appoint a guardian ad litem if the court~~
176 ~~believes a guardian ad litem is necessary to protect the~~
177 ~~interests of the minor.~~

178 (2) Unless waived, the court shall award reasonable fees
179 and costs to the guardian ad litem to be paid out of the gross
180 proceeds of the settlement.

181 (3) A settlement of a claim pursuant to this section is

182 subject to the confidentiality provisions of this chapter.

183 Section 6. Subsections (2) through (8) of section
184 744.3031, Florida Statutes, are renumbered as subsections (3)
185 through (9), respectively, and a new subsection (2) is added to
186 that section, to read:

187 744.3031 Emergency temporary guardianship.—

188 (2) Notice of filing of the petition for appointment of an
189 emergency temporary guardian and a hearing on the petition must
190 be served on the alleged incapacitated person and on the alleged
191 incapacitated person's attorney at least 24 hours before the
192 hearing on the petition is commenced, unless the petitioner
193 demonstrates that substantial harm to the alleged incapacitated
194 person would occur if the 24-hour notice is given.

195 Section 7. Subsection (7) is added to section 744.309,
196 Florida Statutes, to read:

197 744.309 Who may be appointed guardian of a resident ward.—

198 (7) FOR-PROFIT CORPORATE GUARDIAN.—A for-profit corporate
199 guardian existing under the laws of this state is qualified to
200 act as guardian of a ward if the entity is qualified to do
201 business in the state, is wholly owned by the person who is the
202 circuit's public guardian in the circuit where the corporate
203 guardian is appointed, and has met the registration requirements
204 of s. 744.1083, provided that the for-profit corporate guardian:

205 (a) Posts and maintains a blanket fiduciary bond of at
206 least \$250,000 with the clerk of the circuit court in the county
207 in which the corporate guardian has its principal place of

208 business. The corporate guardian shall provide proof of the
 209 fiduciary bond to the clerks of each additional circuit court in
 210 which he or she is serving as a guardian. The bond must cover
 211 all wards for whom the corporation has been appointed as a
 212 guardian at any given time. The liability of the provider of the
 213 bond is limited to the face value of the bond, regardless of the
 214 number of wards for whom the corporation is acting as a
 215 guardian. The terms of the bond must cover the acts or omissions
 216 of each agent or employee of the corporation who has direct
 217 contact with the ward or access to the assets of the
 218 guardianship. The bond must be payable to the Governor and his
 219 or her successors in office and be conditioned on the faithful
 220 performance of all duties of a guardian under this chapter. The
 221 bond is in lieu of and not in addition to the bond required
 222 under s. 744.1085 but is in addition to any bonds required under
 223 s. 744.351. The expenses incurred to satisfy the bonding
 224 requirements of this section may not be paid with the assets of
 225 any ward; or

226 (b) Maintains a liability insurance policy that covers any
 227 losses sustained by the guardianship caused by errors,
 228 omissions, or any intentional misconduct committed by the
 229 corporation's officers or agents. The policy must cover all
 230 wards for whom the corporation is acting as a guardian agent for
 231 losses up to \$250,000. The terms of the policy must cover acts
 232 or omissions of each agent or employee of the corporation who
 233 has direct contact with the principal or access to the assets of

234 the guardianship. The corporate guardian shall provide proof of
235 the fiduciary bond to the clerk of each additional circuit court
236 in which he or she is serving as a guardian. A for-profit
237 corporation appointed as guardian before July 1, 2015, is also
238 qualified to serve as a guardian in the particular guardianships
239 in which the corporation has already been appointed as guardian.

240 Section 8. Section 744.3115, Florida Statutes, is amended
241 to read:

242 744.3115 Advance directives for health care.—In each
243 proceeding in which a guardian is appointed under this chapter,
244 the court shall determine whether the ward, prior to incapacity,
245 has executed any valid advance directive under chapter 765. If
246 any advance directive exists, the court shall specify in its
247 order and letters of guardianship what authority, if any, the
248 guardian shall exercise over the ward with regard to health care
249 decisions and what authority, if any, the surrogate shall
250 continue to exercise over the ward with regard to health care
251 decisions ~~surrogate~~. Pursuant to the grounds listed in s.
252 765.105, the court, upon its own motion, may, with notice to the
253 surrogate and any other appropriate parties, modify or revoke
254 the authority of the surrogate to make health care decisions for
255 the ward. For purposes of this section, the term "health care
256 decision" has the same meaning as in s. 765.101.

257 Section 9. Section 744.312, Florida Statutes, is reordered
258 and amended to read:

259 744.312 Considerations in appointment of guardian.—

260 (1)~~(4)~~ If the person designated is qualified to serve
261 pursuant to s. 744.309, the court shall appoint any standby
262 guardian or preneed guardian, unless the court determines that
263 appointing such person is contrary to the best interests of the
264 ward.

265 (2)~~(1)~~ If a guardian cannot be appointed under subsection
266 (1) ~~Subject to the provisions of subsection (4)~~, the court may
267 appoint any person who is fit and proper and qualified to act as
268 guardian, whether related to the ward or not.

269 ~~(2)~~ The court shall give preference to the appointment of
270 a person who:

271 (a) Is related by blood or marriage to the ward;

272 (b) Has educational, professional, or business experience
273 relevant to the nature of the services sought to be provided;

274 (c) Has the capacity to manage the financial resources
275 involved; or

276 (d) Has the ability to meet the requirements of the law
277 and the unique needs of the individual case.

278 (3) The court shall also:

279 (a) Consider the wishes expressed by an incapacitated
280 person as to who shall be appointed guardian.†

281 (b) Consider the preference of a minor who is age 14 or
282 over as to who should be appointed guardian.†

283 (c) Consider any person designated as guardian in any will
284 in which the ward is a beneficiary.

285 (d) Consider the wishes of the ward's next of kin, when

286 the ward cannot express a preference.

287 (4) Except when a standby guardian or a preneed guardian
288 is appointed by the court:

289 (a) In each case when a court appoints a professional
290 guardian and does not use a rotation system for such
291 appointment, the court must make specific findings of fact
292 stating why the person was selected as guardian in the
293 particular matter involved. The findings must reference each of
294 the factors listed in subsections (2) and (3).

295 (b) An emergency temporary guardian who is a professional
296 guardian may not be appointed as the permanent guardian of a
297 ward unless one of the next of kin of the alleged incapacitated
298 person or the ward requests that the professional guardian be
299 appointed as permanent guardian. The court may waive the
300 limitations of this paragraph if the special requirements of the
301 guardianship demand that the court appoint a guardian because he
302 or she has special talent or specific prior experience. The
303 court must make specific findings of fact that justify a finding
304 that there are special requirements requiring an appointment
305 without reference to this limitation.

306 (5) The court may not give preference to the appointment
307 of a person under subsection (2) based solely on the fact that
308 such person was appointed by the court to serve as an emergency
309 temporary guardian.

310 Section 10. Section 744.3203, Florida Statutes, is created
311 to read:

312 744.3203 Suspension of power of attorney before incapacity
313 determination.—

314 (1) At any time during proceedings to determine incapacity
315 but before the entry of an order determining incapacity, the
316 authority granted under an alleged incapacitated person's power
317 of attorney to a parent, spouse, child, or grandchild is
318 suspended when the petitioner files a motion stating that a
319 specific power of attorney should be suspended for any of the
320 following grounds:

321 (a) The agent's decisions are not in accord with the
322 alleged incapacitated person's known desires.

323 (b) The power of attorney is invalid.

324 (c) The agent has failed to discharge his or her duties or
325 incapacity or illness renders the agent incapable of discharging
326 duties.

327 (d) The agent has abused powers.

328 (e) There is a danger that the property of the alleged
329 incapacitated person may be wasted, misappropriated, or lost
330 unless the authority under the power of attorney is suspended.

331
332 Grounds for suspending a power of attorney do not include the
333 existence of a dispute between the agent and the petitioner
334 which is more appropriate for resolution in some other forum or
335 a legal proceeding other than a guardianship proceeding.

336 (2) The motion must:

337 (a) Identify one or more of the grounds in subsection (1);

338 (b) Include specific statements of fact showing that
339 grounds exist to justify the relief sought; and

340 (c) Include the following statement: "Under penalties of
341 perjury, I declare that I have read the foregoing motion and
342 that the facts stated in it are true to the best of my knowledge
343 and belief," followed by the signature of the petitioner.

344 (3) Upon the filing of a response to the motion by the
345 agent under the power of attorney, the court shall schedule the
346 motion for an expedited hearing. Unless an emergency arises and
347 the agent's response sets forth the nature of the emergency, the
348 property or matter involved, and the power to be exercised by
349 the agent, notice must be given to all interested persons, the
350 alleged incapacitated person, and the alleged incapacitated
351 person's attorney. The court order following the hearing must
352 set forth what powers the agent is permitted to exercise, if
353 any, pending the outcome of the petition to determine
354 incapacity.

355 (4) In addition to any other remedy authorized by law, a
356 court may award reasonable attorney fees and costs to an agent
357 who successfully challenges the suspension of the power of
358 attorney if the petitioner's motion was made in bad faith.

359 (5) The suspension of authority granted to persons other
360 than a parent, spouse, child, or grandchild shall be as provided
361 in s. 709.2109.

362 Section 11. Subsection (6) and paragraph (c) of subsection
363 (7) of section 744.331, Florida Statutes, are amended to read:

364 744.331 Procedures to determine incapacity.—

365 (6) ORDER DETERMINING INCAPACITY.—If, after making
366 findings of fact on the basis of clear and convincing evidence,
367 the court finds that a person is incapacitated with respect to
368 the exercise of a particular right, or all rights, the court
369 shall enter a written order determining such incapacity. In
370 determining incapacity, the court shall consider the person's
371 unique needs and abilities and may only remove those rights that
372 the court finds the person does not have the capacity to
373 exercise. A person is determined to be incapacitated only with
374 respect to those rights specified in the order.

375 (a) The court shall make the following findings:

376 1. The exact nature and scope of the person's
377 incapacities;

378 2. The exact areas in which the person lacks capacity to
379 make informed decisions about care and treatment services or to
380 meet the essential requirements for her or his physical or
381 mental health or safety;

382 3. The specific legal disabilities to which the person is
383 subject; and

384 4. The specific rights that the person is incapable of
385 exercising.

386 (b) When an order determines that a person is incapable of
387 exercising delegable rights, the court must consider and find
388 whether there is an alternative to guardianship that will
389 sufficiently address the problems of the incapacitated person. ~~A~~

390 ~~guardian must be appointed to exercise the incapacitated~~
391 ~~person's delegable rights unless the court finds there is an~~
392 ~~alternative.~~ A guardian may not be appointed if the court finds
393 there is an alternative to guardianship which will sufficiently
394 address the problems of the incapacitated person. If the court
395 finds there is not an alternative to guardianship that
396 sufficiently addresses the problems of the incapacitated person,
397 a guardian must be appointed to exercise the incapacitated
398 person's delegable rights.

399 (c) In determining that a person is totally incapacitated,
400 the order must contain findings of fact demonstrating that the
401 individual is totally without capacity to care for herself or
402 himself or her or his property.

403 (d) An order adjudicating a person to be incapacitated
404 constitutes proof of such incapacity until further order of the
405 court.

406 (e) After the order determining that the person is
407 incapacitated has been filed with the clerk, it must be served
408 on the incapacitated person. The person is deemed incapacitated
409 only to the extent of the findings of the court. The filing of
410 the order is notice of the incapacity. An incapacitated person
411 retains all rights not specifically removed by the court.

412 (f) Upon the filing of a verified statement by an
413 interested person stating:

414 1. That he or she has a good faith belief that the alleged
415 incapacitated person's trust, trust amendment, or durable power

416 of attorney is invalid; and

417 2. A reasonable factual basis for that belief,

418
 419 the trust, trust amendment, or durable power of attorney shall
 420 not be deemed to be an alternative to the appointment of a
 421 guardian. The appointment of a guardian does not limit the
 422 court's power to determine that certain authority granted by a
 423 durable power of attorney is to remain exercisable by the agent
 424 ~~attorney in fact.~~

425 (7) FEES.—

426 (c) If the petition is dismissed or denied:~~r~~

427 1. The fees of the examining committee shall be paid upon
 428 court order as expert witness fees under s. 29.004(6).

429 2. Costs and attorney ~~attorney's~~ fees of the proceeding
 430 may be assessed against the petitioner if the court finds the
 431 petition to have been filed in bad faith. The petitioner shall
 432 also reimburse the state courts system for any amounts paid
 433 under subparagraph 1. upon such a finding.

434 Section 12. Subsection (4) of section 744.344, Florida
 435 Statutes, is amended to read:

436 744.344 Order of appointment.—

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

442 Section 13. Section 744.345, Florida Statutes, is amended
 443 to read:

444 744.345 Letters of guardianship.—Letters of guardianship
 445 shall be issued to the guardian and shall specify whether the
 446 guardianship pertains to the person, or the property, or both,
 447 of the ward. The letters must state whether the guardianship is
 448 plenary or limited, and, if limited, the letters must state the
 449 powers and duties of the guardian. ~~If the guardianship is~~
 450 ~~limited,~~ The letters shall state whether or not and to what
 451 extent the guardian is authorized to act on behalf of the ward
 452 with regard to any advance directive previously executed by the
 453 ward.

454 Section 14. Section 744.359, Florida Statutes, is created
 455 to read:

456 744.359 Abuse, neglect, or exploitation by a guardian.—
 457 (1) A guardian may not abuse, neglect, or exploit a ward.
 458 (2) A guardian has committed exploitation when the
 459 guardian:
 460 (a) Commits fraud in obtaining appointment as a guardian;
 461 (b) Abuses his or her powers; or
 462 (c) Wastes, embezzles, or intentionally mismanages the
 463 assets of the ward.
 464 (3) A person who believes that a guardian is abusing,
 465 neglecting, or exploiting a ward shall report the incident to
 466 the central abuse hotline of the Department of Children and
 467 Families.

468 (4) This section shall be interpreted in conformity with
469 s. 825.103.

470 Section 15. Section 744.361, Florida Statutes, is amended
471 to read:

472 744.361 Powers and duties of guardian.—

473 (1) The guardian of an incapacitated person is a fiduciary
474 and may exercise only those rights that have been removed from
475 the ward and delegated to the guardian. The guardian of a minor
476 shall exercise the powers of a plenary guardian.

477 (2) The guardian shall act within the scope of the
478 authority granted by the court and as provided by law.

479 (3) The guardian shall act in good faith.

480 (4) A guardian may not act in a manner that is contrary to
481 the ward's best interests under the circumstances.

482 (5) A guardian who has special skills or expertise, or is
483 appointed in reliance upon the guardian's representation that
484 the guardian has special skills or expertise, shall use those
485 special skills or expertise when acting on behalf of the ward.

486 ~~(6)~~ (2) The guardian shall file an initial guardianship
487 report in accordance with s. 744.362.

488 ~~(7)~~ (3) The guardian shall file a guardianship report
489 annually in accordance with s. 744.367.

490 ~~(8)~~ (4) The guardian of the person shall implement the
491 guardianship plan.

492 ~~(9)~~ (5) When two or more guardians have been appointed, the
493 guardians shall consult with each other.

494 (10)~~(6)~~ A guardian who is given authority over any
 495 property of the ward shall:

496 (a) Protect and preserve the property and invest it
 497 prudently as provided in chapter 518, apply it as provided in s.
 498 744.397, and keep clear, distinct, and accurate records of the
 499 administration of the ward's property ~~account for it faithfully.~~

500 (b) Perform all other duties required of him or her by
 501 law.

502 (c) At the termination of the guardianship, deliver the
 503 property of the ward to the person lawfully entitled to it.

504 (11)~~(7)~~ The guardian shall observe the standards in
 505 dealing with the guardianship property that would be observed by
 506 a prudent person dealing with the property of another, ~~and, if~~
 507 ~~the guardian has special skills or is named guardian on the~~
 508 ~~basis of representations of special skills or expertise, he or~~
 509 ~~she is under a duty to use those skills.~~

510 (12)~~(8)~~ The guardian, if authorized by the court, shall
 511 take possession of all of the ward's property and of the rents,
 512 income, issues, and profits from it, whether accruing before or
 513 after the guardian's appointment, and of the proceeds arising
 514 from the sale, lease, or mortgage of the property or of any
 515 part. All of the property and the rents, income, issues, and
 516 profits from it are assets in the hands of the guardian for the
 517 payment of debts, taxes, claims, charges, and expenses of the
 518 guardianship and for the care, support, maintenance, and
 519 education of the ward or the ward's dependents, as provided for

520 under the terms of the guardianship plan or by law.

521 (13) Recognizing that every individual has unique needs
522 and abilities, a guardian who is given authority over a ward's
523 person shall, as appropriate under the circumstances:

524 (a) Consider the expressed desires of the ward as known by
525 the guardian when making decisions that affect the ward.

526 (b) Allow the ward to maintain contact with family and
527 friends unless the guardian believes that such contact may cause
528 harm to the ward.

529 (c) Not restrict the physical liberty of the ward more
530 than reasonably necessary to protect the ward or another person
531 from serious physical injury, illness, or disease.

532 (d) Assist the ward in developing or regaining his or her
533 own capacity, if medically possible.

534 (e) Notify the court if the guardian believes that the
535 ward has regained capacity and that one or more of the rights
536 that have been removed should be restored to the ward.

537 (f) To the extent applicable, make provision for the
538 medical, mental, rehabilitative, or personal care services for
539 the welfare of the ward.

540 (g) To the extent applicable, acquire a clear
541 understanding of the risks and benefits of a recommended course
542 of health care treatment before making a health care decision.

543 (h) Evaluate the ward's medical and health care options,
544 financial resources, and desires when making residential
545 decisions that are best suited for the current needs of the

546 ward.

547 (i) Advocate on behalf of the ward in institutional and
548 other residential settings.

549 ~~(14)(9)~~ A professional guardian must ensure that each of
550 the guardian's wards is personally visited by the guardian or
551 one of the guardian's professional staff at least once each
552 calendar quarter. During the personal visit, the guardian or the
553 guardian's professional staff person shall assess:

554 (a) The ward's physical appearance and condition.

555 (b) The appropriateness of the ward's current living
556 situation.

557 (c) The need for any additional services and the necessity
558 for continuation of existing services, taking into consideration
559 all aspects of social, psychological, educational, direct
560 service, health, and personal care needs.

561 (d) The nature and extent of visitation and communication
562 with the ward's family and friends.

563
564 This subsection does not apply to a professional guardian who
565 has been appointed only as guardian of the property.

566 Section 16. Subsection (1) of section 744.367, Florida
567 Statutes, is amended to read:

568 744.367 Duty to file annual guardianship report.—

569 (1) Unless the court requires filing on a calendar-year
570 basis, each guardian of the person shall file with the court an
571 annual guardianship plan at least 60 days, but no more than

572 ~~within~~ 90 days, before ~~after~~ the last day of the anniversary
 573 month that the letters of guardianship were signed, and the plan
 574 must cover the coming fiscal year, ending on the last day in
 575 such anniversary month. If the court requires calendar-year
 576 filing, the guardianship plan for the forthcoming calendar year
 577 must be filed on or after September 1 but no later than December
 578 1 of the current year ~~before April 1 of each year.~~

579 Section 17. Subsection (8) of section 744.369, Florida
 580 Statutes, is amended to read:

581 744.369 Judicial review of guardianship reports.—

582 (8) The approved report constitutes the authority for the
 583 guardian to act in the forthcoming year. The powers of the
 584 guardian are limited by the terms of the report. The annual
 585 report may not grant additional authority to the guardian
 586 without a hearing, as provided for in s. 744.331, to determine
 587 that the ward is incapacitated to act in that matter. Unless the
 588 court orders otherwise, the guardian may continue to act under
 589 authority of the last-approved report until the forthcoming
 590 year's report is approved.

591 Section 18. Subsection (1) of section 744.3715, Florida
 592 Statutes, is amended to read:

593 744.3715 Petition for interim judicial review.—

594 (1) At any time, any interested person, including the
 595 ward, may petition the court for review alleging that the
 596 guardian is not complying with the guardianship plan, ~~or~~ is
 597 exceeding his or her authority under the guardianship plan, is

598 acting in a manner contrary to s. 744.361, is denying visitation
599 between the ward and his or her relatives in violation of s.
600 744.361(13), or ~~and the guardian~~ is not acting in the best
601 interest of the ward. The petition for review must state the
602 nature of the objection to the guardian's action or proposed
603 action. Upon the filing of any such petition, the court shall
604 review the petition and act upon it expeditiously.

605 Section 19. Paragraphs (a) and (b) of subsection (3) of
606 section 744.464, Florida Statutes, are amended, and subsection
607 (4) is added to that section, to read:

608 744.464 Restoration to capacity.—

609 (3) ORDER OF RESTORATION.—

610 (a) If no objections are filed, and the court is satisfied
611 that ~~with~~ the medical examination establishes by a preponderance
612 of the evidence that restoration of all or some of the ward's
613 rights is appropriate, the court shall enter an order of
614 restoration of capacity, restoring all or some of the rights
615 which were removed from the ward in accordance with those
616 findings. ~~The order must be issued within 30 days after the~~
617 ~~medical report is filed.~~

618 (b) At the conclusion of a hearing, conducted pursuant to
619 s. 744.1095, the court shall make specific findings of fact and,
620 based on a preponderance of the evidence, enter an order either
621 denying the suggestion of capacity or restoring all or some of
622 the rights which were removed from the ward. The ward has the
623 burden of proving by a preponderance of the evidence that the

624 restoration of capacity is warranted.

625 (4) TIMELINESS OF HEARING.—The court shall give priority
626 to any suggestion of capacity and shall advance the cause on the
627 calendar.

628 Section 20. Sections 709.2109 and 744.3203, Florida
629 Statutes, as created by this act, apply to all proceedings filed
630 on or after July 1, 2015. The amendments made by this act to ss.
631 744.107, 744.1075, 744.108, 744.3025, 744.3031, 744.309,
632 744.3115, 744.312, 744.331, 744.344, 744.345, 744.359, 744.361,
633 744.367, 744.369, 744.3715, and 744.464, Florida Statutes, apply
634 to all proceedings pending on July 1, 2015.

635 Section 21. This act shall take effect July 1, 2015.