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1 A bill to be entitled

2 An act relating to public guardianship; amending s.
3 121.901, F.S.; correcting cross references; amending s.
4 393.063, F.S.; revising a definition; amending s. 393.12,
5 F.S.; providing that a guardian advocate is not required
6 to file an annual accounting under certain circumstances;
7 amending s. 709.08, F.S.; correcting cross references;
8 amending s. 744.102, F.S.; providing a definition;
9 amending s. 744.1083, F.S.; deleting a requirement for
10 background screening; requiring the Statewide Public
11 Guardianship Office to receive and review credit and
12 criminal investigations prior to registering a
13 professional guardian; authorizing the executive director
14 of the office to deny registration under certain
15 circumstances; amending s. 744.1085, F.S.; correcting a
16 cross reference; creating s. 744.3085, F.S.; authorizing a
17 circuit court to appoint a guardian advocate under certain
18 circumstances; amending s. 744.3135, F.S.; requiring the
19 clerk of the court to forward copies of credit and
20 criminal investigations of public and professional
21 guardians to the office to be maintained in the guardians'
22 files; amending s. 744.3678, F.S.; specifying
23 nonapplication of certain annual accounting requirements
24 to certain guardians under certain circumstances; amending
25 s. 744.7082, F.S.; providing a definition; requiring a
26 direct-support organization to operate under written
27 contract with the office; providing the requirements of
28 such contract; requiring the Secretary of Elderly Affairs
29 to appoint a board of directors for the direct-support

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30 organization; authorizing the Department of Elderly
 31 Affairs to allow the use of department facilities and
 32 property by the organization; authorizing the organization
 33 to hold moneys in a separate account; requiring an annual
 34 audit; authorizing judicial dissolution for corporations
 35 fraudulently representing themselves as direct-support
 36 organizations; creating s. 744.7101, F.S.; providing a
 37 popular name; creating s. 744.711, F.S.; providing
 38 legislative findings and intent; creating s. 744.712,
 39 F.S.; creating the Joining Forces for Public Guardianship
 40 matching grant program; providing a purpose; providing for
 41 distribution of grant funds; providing limitations on
 42 awards; providing requirements for disbursement of grant
 43 funds to prior awardees; requiring grant funds to be used
 44 for a certain purpose; providing that program
 45 implementation is subject to specific appropriation;
 46 creating s. 744.713, F.S.; requiring the office to
 47 administer the grant program; providing guidelines for
 48 such administration; creating s. 744.714, F.S.; providing
 49 eligibility requirements to receive grant funding;
 50 creating s. 744.715, F.S.; providing grant application
 51 requirements; requiring matching funds from local funding
 52 sources; providing effective dates.

53
 54 Be It Enacted by the Legislature of the State of Florida:

55
 56 Section 1. Paragraph (c) of subsection (8) of section
 57 121.091, Florida Statutes, is amended to read:

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58 121.091 Benefits payable under the system.--Benefits may
 59 not be paid under this section unless the member has terminated
 60 employment as provided in s. 121.021(39)(a) or begun
 61 participation in the Deferred Retirement Option Program as
 62 provided in subsection (13), and a proper application has been
 63 filed in the manner prescribed by the department. The department
 64 may cancel an application for retirement benefits when the
 65 member or beneficiary fails to timely provide the information
 66 and documents required by this chapter and the department's
 67 rules. The department shall adopt rules establishing procedures
 68 for application for retirement benefits and for the cancellation
 69 of such application when the required information or documents
 70 are not received.

71 (8) DESIGNATION OF BENEFICIARIES.--

72 (c) Notwithstanding the member's designation of benefits
 73 to be paid through a trust to a beneficiary that is a natural
 74 person as provided in s. 121.021(46), and notwithstanding the
 75 provisions of the trust, benefits shall be paid directly to the
 76 beneficiary if such person is no longer a minor or an
 77 incapacitated person as defined in s. 744.102(10) and (11).

78 Section 2. Subsection (25) of section 393.063, Florida
 79 Statutes, is amended to read:

80 393.063 Definitions.--For the purposes of this chapter:

81 (25) "Guardian advocate" means a person appointed by an
 82 order of the ~~the circuit~~ court to represent a person with
 83 developmental disabilities ~~in any proceedings brought~~ pursuant
 84 to s. 393.12, ~~and excludes the use of the same term as applied~~
 85 ~~to a guardian advocate for mentally ill persons in chapter 394.~~

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86 Section 3. Paragraph (h) of subsection (2) of section
87 393.12, Florida Statutes, is amended to read:

88 393.12 Capacity; appointment of guardian advocate.--

89 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.--

90 (h) Powers and duties of guardian advocate.--A guardian
91 advocate for a person with developmental disabilities shall be a
92 ~~any~~ person or corporation qualified to act as guardian, with the
93 same powers, duties, and responsibilities required of a guardian
94 under pursuant to chapter 744 or those defined by court order
95 under pursuant to this section. However, a guardian advocate is
96 not required to file an annual accounting as required under s.
97 744.3678 if the court determines that the person with
98 developmental disabilities receives income only from social
99 security benefits and the guardian advocate is such person's
100 representative payee for such benefits.

101 Section 4. Subsection (1) and paragraphs (b), (d), and (f)
102 of subsection (4) of section 709.08, Florida Statutes, are
103 amended to read:

104 709.08 Durable power of attorney.--

105 (1) CREATION OF DURABLE POWER OF ATTORNEY.--A durable
106 power of attorney is a written power of attorney by which a
107 principal designates another as the principal's attorney in
108 fact. The durable power of attorney must be in writing, must be
109 executed with the same formalities required for the conveyance
110 of real property by Florida law, and must contain the words:
111 "This durable power of attorney is not affected by subsequent
112 incapacity of the principal except as provided in s. 709.08,
113 Florida Statutes"; or similar words that show the principal's
114 intent that the authority conferred is exercisable

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115 notwithstanding the principal's subsequent incapacity, except as
 116 otherwise provided by this section. The durable power of
 117 attorney is exercisable as of the date of execution; however, if
 118 the durable power of attorney is conditioned upon the
 119 principal's lack of capacity to manage property as defined in s.
 120 744.102(10)(a), the durable power of attorney is exercisable
 121 upon the delivery of affidavits in paragraphs (4)(c) and (d) to
 122 the third party.

123 (4) PROTECTION WITHOUT NOTICE; GOOD FAITH ACTS;
 124 AFFIDAVITS.--

125 (b) Any third party may rely upon the authority granted in
 126 a durable power of attorney that is conditioned on the
 127 principal's lack of capacity to manage property as defined in s.
 128 744.102(10)(a) only after receiving the affidavits provided in
 129 paragraphs (c) and (d), and such reliance shall end when the
 130 third party has received notice as provided in subsection (5).

131 (d) A determination that a principal lacks the capacity to
 132 manage property as defined in s. 744.102(10)(a) must be made and
 133 evidenced by the affidavit of a physician licensed to practice
 134 medicine pursuant to chapters 458 and 459 as of the date of the
 135 affidavit. A judicial determination that the principal lacks the
 136 capacity to manage property pursuant to chapter 744 is not
 137 required prior to the determination by the physician and the
 138 execution of the affidavit. For purposes of this section, the
 139 physician executing the affidavit must be the primary physician
 140 who has responsibility for the treatment and care of the
 141 principal. The affidavit executed by a physician must state
 142 where the physician is licensed to practice medicine, that the
 143 physician is the primary physician who has responsibility for

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144 the treatment and care of the principal, and that the physician
 145 believes that the principal lacks the capacity to manage
 146 property as defined in s. 744.102(10)(a). The affidavit may, but
 147 need not, be in the following form:

148
 149 STATE OF _____

150 COUNTY OF _____

151
 152 Before me, the undersigned authority, personally appeared
 153 ... (name of physician) ..., Affiant, who swore or affirmed
 154 that:

155 1. Affiant is a physician licensed to practice medicine in
 156 ... (name of state, territory, or foreign country)

157 2. Affiant is the primary physician who has responsibility
 158 for the treatment and care of ... (principal's name)

159 3. To the best of Affiant's knowledge after reasonable
 160 inquiry, Affiant believes that the principal lacks the capacity
 161 to manage property, including taking those actions necessary to
 162 obtain, administer, and dispose of real and personal property,
 163 intangible property, business property, benefits, and income.

164
 165
 166 _____
 167 ... (Affiant) ...

168
 169 Sworn to (or affirmed) and subscribed before me this ...
 170 (day of) ... (month) ..., ... (year) ..., by ... (name
 171 of person making statement) ...

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173 ... (Signature of Notary Public-State of Florida) ...

174

175 ... (Print, Type, or Stamp Commissioned Name of Notary Public)

176 ...

177

178 Personally Known OR Produced Identification

179 ... (Type of Identification Produced) ...

180

181 (f) A third party may not rely on the authority granted in
 182 a durable power of attorney conditioned on the principal's lack
 183 of capacity to manage property as defined in s. 744.102~~(10)(a)~~
 184 when any affidavit presented has been executed more than 6
 185 months prior to the first presentation of the durable power of
 186 attorney to the third party.

187 Section 5. Subsections (10) through (19) of section
 188 744.102, Florida Statutes, are renumbered as subsections (11)
 189 through (20), respectively, and a new subsection (10) is added
 190 to said section, to read:

191 744.102 Definitions.--As used in this chapter, the term:

192 (10) "Guardian advocate" means a person appointed by an
 193 order of the court to represent a person with developmental
 194 disabilities as provided in s. 393.12. The term does not apply
 195 to a guardian advocate appointed for a person determined
 196 incompetent to consent to treatment as provided in s. 394.4598.

197 Section 6. Section 744.1083, Florida Statutes, is amended
 198 to read:

199 744.1083 Professional guardian registration.--

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200 (1) A professional guardian must register with the
 201 Statewide Public Guardianship Office established in part IX of
 202 this chapter.

203 (2) Annual registration shall be made on forms furnished
 204 by the Statewide Public Guardianship Office and accompanied by
 205 the applicable registration fee as determined by rule. The ~~Such~~
 206 fee shall not exceed \$100.

207 (3) Registration must include the following:

208 (a) If the professional guardian is a natural person, the
 209 name, address, date of birth, and employer identification or
 210 social security number of the professional guardian.

211 (b) If the professional guardian is a partnership or
 212 association, the name, address, and date of birth of every
 213 member, and the employer identification number of the
 214 partnership or association.

215 (c) If the professional guardian is a corporation, the
 216 name, address, and employer identification number of the
 217 corporation; the name, address, and date of birth of each of its
 218 directors and officers; the name of its resident agent; and the
 219 name, address, and date of birth of each person having at least
 220 a 10-percent interest in the corporation.

221 (d) The name, address, date of birth, and employer
 222 identification number, if applicable, of each person providing
 223 guardian-delegated financial or personal guardianship services
 224 for wards.

225 (e) Documentation that the bonding and educational
 226 requirements of s. 744.1085 have been met, ~~and that background~~
 227 ~~screening has been conducted pursuant to s. 744.3135. Compliance~~

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228 ~~with this section shall constitute compliance with the~~
 229 ~~attestation requirement of s. 435.04(5).~~

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

234 (4) Prior to registering a professional guardian, the
 235 Statewide Public Guardianship Office must receive and review
 236 copies of the credit and criminal investigations conducted
 237 pursuant to s. 744.3135. Such credit and criminal investigations
 238 must have been completed within the previous 2 years.

239 (5) The executive director of the office may deny
 240 registration to a professional guardian if the executive
 241 director determines that the guardian's proposed registration,
 242 including the guardian's credit or criminal investigations,
 243 indicates that registering the professional guardian would
 244 violate any provision of this chapter. If the executive director
 245 denies registration to a professional guardian, the office must
 246 send written notification of the denial to the chief judge of
 247 each judicial circuit in which the guardian was serving as of
 248 the day of the office's decision to deny registration.

249 ~~(6)(4)~~ The Department of Elderly Affairs may adopt rules
 250 necessary to administer this section.

251 ~~(7)(5)~~ A trust company, a state banking corporation or
 252 state savings association authorized and qualified to exercise
 253 fiduciary powers in this state, or a national banking
 254 association or federal savings and loan association authorized
 255 and qualified to exercise fiduciary powers in this state, may,
 256 but is ~~shall~~ not ~~be~~ required to, register as a professional

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257 guardian under this section. If a trust company, state banking
 258 corporation, state savings association, national banking
 259 association, or federal savings and loan association described
 260 in this subsection elects to register as a professional guardian
 261 under this subsection, the requirements of subsection (3) do
 262 ~~shall~~ not apply and the registration must ~~shall~~ include only the
 263 name, address, and employer identification number of the
 264 registrant, the name and address of its registered agent, if
 265 any, and the documentation described in paragraph (3)(e).

266 (8)~~(6)~~ The Department of Elderly Affairs may contract with
 267 the Florida Guardianship Foundation or other not-for-profit
 268 entity to register professional guardians.

269 (9)~~(7)~~ The department or its contractor shall ensure that
 270 the clerks of the court and the chief judge of each judicial
 271 circuit receive information about each registered professional
 272 guardian.

273 (10)~~(8)~~ A state college or university or an independent
 274 college or university as described in ~~pursuant to~~ s.
 275 1009.98(3)(a), may, but is ~~shall~~ not be required to, register as
 276 a professional guardian under this section. If a state college
 277 or university or independent college or university elects to
 278 register as a professional guardian under this subsection, the
 279 requirements of subsection (3) do ~~shall~~ not apply and the
 280 registration must ~~shall~~ include only the name, address, and
 281 employer identification number of the registrant.

282 Section 7. Subsection (3) of section 744.1085, Florida
 283 Statutes, is amended to read:

284 744.1085 Regulation of professional guardians;
 285 application; bond required; educational requirements.--

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286 (3) Each professional guardian defined in s. 744.102~~(15)~~
 287 and public guardian must receive a minimum of 40 hours of
 288 instruction and training. Each professional guardian must
 289 receive a minimum of 16 hours of continuing education every 2
 290 calendar years after the year in which the initial 40-hour
 291 educational requirement is met. The instruction and education
 292 must be completed through a course approved or offered by the
 293 Statewide Public Guardianship Office. The expenses incurred to
 294 satisfy the educational requirements prescribed in this section
 295 may not be paid with the assets of any ward. This subsection
 296 does not apply to any attorney who is licensed to practice law
 297 in this state.

298 Section 8. Section 744.3085, Florida Statutes, is created
 299 to read:

300 744.3085 Guardian advocates.--A circuit court may appoint
 301 a guardian advocate, without an adjudication of incapacity, for
 302 a person with developmental disabilities if the person lacks the
 303 capacity to do some, but not all, of the tasks necessary to care
 304 for his or her person, property, or estate, or if the person has
 305 voluntarily petitioned for the appointment of a guardian
 306 advocate. Unless otherwise specified, the proceeding shall be
 307 governed by the Florida Probate Rules. In accordance with the
 308 legislative intent of this chapter, courts are encouraged to
 309 consider appointing a guardian advocate, when appropriate, as a
 310 less restrictive form of guardianship.

311 Section 9. Section 744.3135, Florida Statutes, as amended
 312 by chapter 2003-402, Laws of Florida, is amended to read:

313 744.3135 Credit and criminal investigation.--The court may
 314 require a nonprofessional guardian and shall require a

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315 professional or public guardian, and all employees of a
316 professional guardian who have a fiduciary responsibility to a
317 ward, to submit, at their own expense, to an investigation of
318 the guardian's credit history and to undergo level 2 background
319 screening as required under s. 435.04. The clerk of the court
320 shall obtain fingerprint cards from the Federal Bureau of
321 Investigation and make them available to guardians. Any guardian
322 who is so required shall have his or her fingerprints taken and
323 forward the proper fingerprint card along with the necessary fee
324 to the Florida Department of Law Enforcement for processing. The
325 professional guardian shall pay to the clerk of the court a fee
326 of up to \$7.50 for handling and processing professional guardian
327 files. The results of the fingerprint checks shall be forwarded
328 to the clerk of court who shall maintain the results in a
329 guardian file and shall make the results available to the court.
330 If credit or criminal investigations are required, the court
331 must consider the results of the investigations in appointing a
332 guardian. Guardians and all employees of a professional guardian
333 who have a fiduciary responsibility to a ward, so appointed,
334 must resubmit, at their own expense, to an investigation of
335 credit history, and undergo level 1 background screening as
336 required under s. 435.03, every 2 years after the date of their
337 appointment. The court must consider the results of these
338 investigations in reappointing a guardian.

339 (1) Upon receiving the results of a credit or criminal
340 investigation of any public or professional guardian, the clerk
341 of the court shall forward copies of the results to the
342 Statewide Public Guardianship Office to be maintained in the
343 guardian's registration file.

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344 (2) This section does ~~shall~~ not apply to a professional
 345 guardian, or to the employees of a professional guardian, that
 346 is a trust company, a state banking corporation or state savings
 347 association authorized and qualified to exercise fiduciary
 348 powers in this state, or a national banking association or
 349 federal savings and loan association authorized and qualified to
 350 exercise fiduciary powers in this state.

351 Section 10. Subsection (5) is added to section 744.3678,
 352 Florida Statutes, to read:

353 744.3678 Annual accounting.--

354 (5) This section does not apply if the court determines
 355 that the ward receives income only from government benefits and
 356 the guardian is such ward's representative payee for such
 357 benefits.

358 Section 11. Effective upon this act becoming a law,
 359 section 744.7082, Florida Statutes, is amended to read:

360 (Substantial rewording of section. See
 361 s. 744.7082, F.S., for present text.)

362 744.7082 Direct-support organization; definition; use of
 363 property; board of directors; audit; dissolution.--

364 (1) DEFINITION.--As used in this section, the term
 365 "direct-support organization" means an organization whose sole
 366 purpose is to support the Statewide Public Guardianship Office
 367 and is:

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

370 (b) Organized and operated to conduct programs and
 371 activities; raise funds; request and receive grants, gifts, and
 372 bequests of moneys; acquire, receive, hold, invest, and

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373 administer, in its own name, securities, funds, objects of
 374 value, or other property, real or personal; and make
 375 expenditures to or for the direct or indirect benefit of the
 376 Statewide Public Guardianship Office.

377 (c) Determined by the Statewide Public Guardianship Office
 378 to be consistent with the goals of the office, in the best
 379 interests of the state, and in accordance with the adopted goals
 380 and mission of the Department of Elderly Affairs and the
 381 Statewide Public Guardianship Office.

382 (2) CONTRACT.--The direct-support organization shall
 383 operate under a written contract with the Statewide Public
 384 Guardianship Office. The written contract must provide for:

385 (a) Certification by the Statewide Public Guardianship
 386 Office that the direct-support organization is complying with
 387 the terms of the contract and is doing so consistent with the
 388 goals and purposes of the office and in the best interests of
 389 the state. This certification must be made annually and reported
 390 in the official minutes of a meeting of the direct-support
 391 organization.

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

394 1. To the Statewide Public Guardianship Office if the
 395 direct-support organization is no longer approved to operate for
 396 the office;

397 2. To the Statewide Public Guardianship Office if the
 398 direct-support organization ceases to exist;

399 3. To the Department of Elderly Affairs if the Statewide
 400 Public Guardianship Office ceases to exist; or

401 4. To the state if the Department of Elderly Affairs

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402 ceases to exist.

403
 404 The fiscal year of the direct-support organization shall begin
 405 on July 1 of each year and end on June 30 of the following year.

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

411 (3) BOARD OF DIRECTORS.--The Secretary of Elderly Affairs
 412 shall appoint a board of directors for the direct-support
 413 organization from a list of nominees submitted by the executive
 414 director of the Statewide Public Guardianship Office.

415 (4) USE OF PROPERTY.--The Department of Elderly Affairs
 416 may permit, without charge, appropriate use of fixed property
 417 and facilities of the department or the Statewide Public
 418 Guardianship Office by the direct-support organization. The
 419 department may prescribe any condition with which the direct-
 420 support organization must comply in order to use fixed property
 421 or facilities of the department or the Statewide Public
 422 Guardianship Office.

423 (5) MONEYS.--Any moneys may be held in a separate
 424 depository account in the name of the direct-support
 425 organization and subject to the provisions of the written
 426 contract with the Statewide Public Guardianship Office.
 427 Expenditures of the direct-support organization shall be
 428 expressly used to support the Statewide Public Guardianship
 429 Office. The expenditures of the direct-support organization may
 430 not be used for the purpose of lobbying as defined in s. 11.045.

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431 (6) AUDIT.--The direct-support organization shall provide
 432 for an annual financial audit in accordance with s. 215.981.

433 (7) DISSOLUTION.--After July 1, 2004, any not-for-profit
 434 corporation incorporated under chapter 617 that is determined by
 435 a circuit court to be representing itself as a direct-support
 436 organization created under this section, but that does not have
 437 a written contract with the Statewide Public Guardianship Office
 438 in compliance with this section, is considered to meet the
 439 grounds for a judicial dissolution described in s.
 440 617.1430(1)(a). The Statewide Public Guardianship Office shall
 441 be the recipient for all assets held by the dissolved
 442 corporation that accrued during the period that the dissolved
 443 corporation represented itself as a direct-support organization
 444 created under this section.

445 Section 12. Section 744.7101, Florida Statutes, is created
 446 to read:

447 744.7101 Popular name.--Sections 744.7101-744.715 may be
 448 referred to by the popular name the "Joining Forces for Public
 449 Guardianship Act."

450 Section 13. Section 744.711, Florida Statutes, is created
 451 to read:

452 744.711 Legislative findings and intent.--The Legislature
 453 finds that public guardianship programs are necessary to ensure
 454 that the rights and best interests of Florida's vulnerable
 455 indigent and incapacitated residents are protected. In addition,
 456 the Legislature finds that the best solution to this problem is
 457 to encourage each county to establish, through the Statewide
 458 Public Guardianship Office, a local office of public guardian
 459 for the purpose of providing guardianship services to

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460 incapacitated persons when a private guardian is not available.
 461 Therefore, the Legislature intends to establish the Joining
 462 Forces for Public Guardianship matching grant program for the
 463 purpose of assisting counties to establish and fund community-
 464 supported public guardianship programs.

465 Section 14. Section 744.712, Florida Statutes, is created
 466 to read:

467 744.712 Joining Forces for Public Guardianship matching
 468 grant program; purpose.--The Joining Forces for Public
 469 Guardianship matching grant program shall be established and
 470 administered by the Statewide Public Guardianship Office within
 471 the Department of Elderly Affairs. The purpose of the program is
 472 to provide startup funding to encourage communities to develop
 473 and administer locally funded and supported public guardianship
 474 programs to address the needs of indigent and incapacitated
 475 residents.

476 (1) The Statewide Public Guardianship Office may
 477 distribute the grant funds as follows:

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

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

487 (c) To assist counties that have an operating public
 488 guardianship program but that propose to expand the geographic

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489 area or population of persons they serve, or to develop and
 490 administer innovative programs to increase access to public
 491 guardianship in this state.

492
 493 Notwithstanding this subsection, the executive director of the
 494 office may award emergency grants if he or she determines that
 495 the award is in the best interests of public guardianship in
 496 this state. Before making an emergency grant, the executive
 497 director must obtain the written approval of the Secretary of
 498 Elderly Affairs. Subsections (2), (3), and (4) do not apply to
 499 the distribution of emergency grant funds.

500 (2) One or more grants may be awarded within a county.
 501 However, a county may not receive an award that equals, or
 502 multiple awards that cumulatively equal, more than 10 percent of
 503 the total amount of grant funds appropriated during any fiscal
 504 year.

505 (3) If an applicant is eligible and meets the requirements
 506 to receive multiple grant funds, the Statewide Public
 507 Guardianship Office shall award funds to prior awardees in the
 508 following manner:

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

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

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518 year.

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

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

529 (e) In the sixth and subsequent years that grant funds are
 530 awarded, the cumulative sum of the awards provided to one or
 531 more applicants within the same county may not exceed 15 percent
 532 of the total amount of grant funds awarded within that county in
 533 the first year.

534
 535 The Statewide Public Guardianship Office may not award grant
 536 funds to any applicant within a county that has received grant
 537 funds for 6 or more years.

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

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

545 Section 15. Section 744.713, Florida Statutes, is created
 546 to read:

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- 547 744.713 Program administration; duties of the Statewide
 548 Public Guardianship Office.--The Statewide Public Guardianship
 549 Office shall administer the grant program. The office shall:
 550 (1) Publicize the availability of grant funds to entities
 551 that may be eligible for the funds.
 552 (2) Establish an application process for submitting a
 553 grant proposal.
 554 (3) Request, receive, and review proposals from applicants
 555 seeking grant funds.
 556 (4) Determine the amount of grant funds each awardee may
 557 receive and award grant funds to applicants.
 558 (5) Develop a monitoring process to evaluate grant
 559 awardees, which may include an annual monitoring visit to each
 560 awardee's local office.
 561 (6) Ensure that persons or organizations awarded grant
 562 funds meet and adhere to the requirements of this act.
 563 (7) Adopt rules as necessary to administer the grant
 564 program and this act.

565 Section 16. Section 744.714, Florida Statutes, is created
 566 to read:

- 567 744.714 Eligibility.--
 568 (1) Any person or organization that has not been awarded a
 569 grant must meet all of the following conditions to be eligible
 570 to receive a grant:
 571 (a) The applicant must meet, or directly employ staff that
 572 meets, the minimum qualifications for a public guardian under
 573 this chapter.
 574 (b) The applicant must have been appointed by, or is
 575 pending appointment by, the Statewide Public Guardianship Office

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576 to become an office of public guardian in this state.

577 (2) In addition to the requirements of subsection (1), to
 578 be eligible for another grant any person or organization that
 579 has been awarded a previous grant must have achieved a
 580 satisfactory monitoring score during the applicant's most recent
 581 evaluation.

582 Section 17. Section 744.715, Florida Statutes, is created
 583 to read:

584 744.715 Grant application requirements; review criteria;
 585 awards process.--Grant applications must be submitted to the
 586 Statewide Public Guardianship Office for review and approval.

587 (1) A grant application must contain:

588 (a) The specific amount of grant funds being requested.

589 (b) The applicant's proposed annual budget for the office
 590 of public guardian, including all sources of funding, and a
 591 detailed report of proposed expenditures, including
 592 administrative costs.

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

595 (d) Evidence that the applicant has:

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

598 2. Procured funds from local sources, but the total amount
 599 of the funds collected or pledged is insufficient to meet the
 600 need for public guardianship in the geographic area that the
 601 applicant intends to serve.

602 (e) An agreement or confirmation from a local funding
 603 source, such as a county or local government, that the local
 604 funding source will contribute matching funds to the public

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605 guardianship program totaling not less than \$1 for every \$1 of
606 grant funds awarded. For purposes of this section, an applicant
607 may provide evidence of agreements or confirmations from
608 multiple local funding sources showing that the local funding
609 sources will pool their contributed matching funds to the public
610 guardianship program for a combined total of not less than \$1
611 for every \$1 of grant funds awarded. In-kind contributions, such
612 as materials, commodities, office space, or other types of
613 facilities, personnel services, or other items as determined by
614 rule shall be considered by the office and may be counted as
615 part or all of the local matching funds.

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

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

621 (2) If the Statewide Public Guardianship Office determines
622 that an applicant meets the requirements for an award of grant
623 funds, the office may award the applicant any amount of grant
624 funds the executive director deems appropriate, if the amount
625 awarded meets the requirements of this act. The office may adopt
626 a rule allocating the maximum allowable amount of grant funds
627 that may be expended on any ward.

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

630 (4)(a) In the first year of the Joining Forces for Public
631 Guardianship matching grant program's existence, the Statewide
632 Public Guardianship Office shall give priority in awarding grant
633 funds to those entities that:

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634 1. Are operating as appointed offices of public guardians
 635 in this state.

636 2. Meet all of the requirements for being awarded a grant
 637 under this act.

638 3. Demonstrate a need for grant funds during the current
 639 fiscal year due to a loss of local funding formerly raised
 640 through court filing fees.

641 (b) In each fiscal year after the first year that grant
 642 funds are distributed, the Statewide Public Guardianship Office
 643 may give priority to awarding grant funds to those entities
 644 that:

645 1. Meet all of the requirements of this act for being
 646 awarded grant funds.

647 2. Submit with their application an agreement or
 648 confirmation from a local funding source, such as a county or
 649 local government, that the local funding source will contribute
 650 matching funds totaling an amount equal to or exceeding \$2 for
 651 every \$1 of grant funds awarded by the office. An entity may
 652 submit with its application agreements or confirmations from
 653 multiple local funding sources showing that the local funding
 654 sources will pool their contributed matching funds to the public
 655 guardianship program for a combined total of not less than \$2
 656 for every \$1 of grant funds awarded. In-kind contributions
 657 allowable under this section shall be evaluated by the Statewide
 658 Public Guardianship Office and may be counted as part or all of
 659 the local matching funds.

660 Section 18. Except as otherwise provided herein, this act
 661 shall take effect July 1, 2004.