

Bill No. SB 64

Barcode 883104

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Campbell) recommended the following amendment:

Senate Amendment (with title amendment)

On page 2, between lines 7 and 8,

insert:

Section 2. Section 744.107, Florida Statutes, is amended to read:

744.107 Court monitors.--

(1) The court may, upon inquiry from any interested person or upon its own motion in any proceeding over which it has jurisdiction, appoint a monitor. The court may not appoint as a monitor a family member or any person having a personal interest in the proceedings. The order of appointment shall be served upon the guardian, the ward, and such other persons as the court may determine.

(2) The monitor may investigate, seek information, examine documents, or interview the ward and shall report to the court his or her findings. The report shall be verified and shall be served on the guardian, the ward, and such other

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1 persons as the court may determine.

2 (3) If it appears from the monitor's report that
 3 further action by the court to protect the interests of the
 4 ward is necessary, the court shall, after a hearing with
 5 notice, enter any order necessary to protect the ward or the
 6 ward's estate, including an order amending the plan, requiring
 7 an accounting, requiring the production of assets, freezing
 8 assets, suspending the guardian, or removing a guardian. The
 9 court shall not appoint as a monitor a family member or any
 10 person with a personal interest in the proceedings.

11 (4) Unless otherwise prohibited by law, a monitor may
 12 be allowed a reasonable fee as determined by the court and
 13 paid from the property of the ward. A ~~no~~ full-time state,
 14 county, or municipal employee or officer ~~may not shall~~ be paid
 15 a fee for such investigation and report. If the court finds
 16 the motion for court monitor to have been filed in bad faith,
 17 the costs of the proceeding, including attorney's fees, may be
 18 assessed against the movant.

19 Section 3. Section 744.1075, Florida Statutes, is
 20 created to read:

21 744.1075 Emergency court monitor.--

22 (1) A court, upon inquiry from any interested person
 23 or upon its own motion in any proceeding over which it has
 24 jurisdiction, may appoint a court monitor on an emergency
 25 basis without notice. The court must specifically find that
 26 there appears to be imminent danger that the physical or
 27 mental health or safety of the ward will be seriously impaired
 28 or that the ward's property is in danger of being wasted,
 29 misappropriated, or lost unless immediate action is taken. The
 30 scope of the matters to be investigated and the powers and
 31 duties of the monitor must be specifically enumerated by court

1 order.

2 (2) Within 15 days after the entry of the order of
3 appointment, the monitor shall file his or her report of
4 findings and recommendations to the court. The report must be
5 verified and may be supported by documents or other evidence.

6 (3) Upon review of the report, the court shall
7 determine whether there is probable cause to take further
8 action to protect the person or property of the ward. If the
9 court does not find any probable cause, the court shall issue
10 an order finding no probable cause and discharge the monitor.

11 (4) If the court finds probable cause, it shall issue
12 an order to show cause directed to the guardian or other
13 respondent stating the essential facts constituting the
14 conduct charged and requiring the respondent to appear before
15 the court to show cause why the court should not take further
16 action. The order shall specify the time and place of the
17 hearing allowing a reasonable period of time for the
18 preparation of a defense after service of the order.

19 (5) The authority of a monitor appointed under this
20 section expires 60 days after the date of appointment or upon
21 a finding of no probable cause, whichever occurs first. The
22 authority of the monitor may be extended for an additional 30
23 days upon a showing that the emergency conditions continue to
24 exist.

25 (6) At any time before the hearing on the order to
26 show cause, the court may issue a temporary injunction, a
27 restraining order, an order freezing assets, an order
28 suspending a guardian, an order appointing a guardian ad
29 litem, or other appropriate order to protect the physical or
30 mental health or safety or property of the ward. A copy of all
31 such orders or injunctions shall be transmitted by the court

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1 or under its direction to all parties at the time of entry of
2 the order or injunction.

3 (7) Following a hearing on the order to show cause,
4 the court may impose sanctions on the guardian or his or her
5 attorney or other respondent or take any other action
6 authorized by law, including entering a judgment of contempt,
7 ordering an accounting, freezing assets, referring the case to
8 local law enforcement agencies or the state attorney, filing a
9 complaint for abuse, neglect, or exploitation with the
10 Department of Children and Family Services, or initiating
11 proceedings to remove a guardian.

12 (8) Unless otherwise prohibited by law, a court
13 monitor may receive a reasonable fee as determined by the
14 court and paid from the property of the ward. A full-time
15 state, county, or municipal employee or officer may not be
16 paid a fee for such investigation and report. If the court
17 finds the motion for court monitor to have been filed in bad
18 faith, the cost of the proceeding, including attorney's fees,
19 may be assessed against the movant.

20
21 (Redesignate subsequent sections.)

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23

24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 On page 1, line 6, after first the semicolon,
27
28 insert:
29 amending s. 744.107, F.S.; revising provisions
30 relating to court monitors; requiring orders of
31 appointment and monitors' reports to be served

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1 upon certain persons; authorizing the court to
2 determine which persons may inspect certain
3 orders or reports; authorizing the court to
4 enter any order necessary to protect a ward or
5 ward's estate; requiring notice and a hearing;
6 authorizing a court to assess certain costs and
7 attorney's fees under certain circumstances;
8 creating s. 744.1075, F.S.; authorizing a court
9 to appoint a court monitor on an emergency
10 basis under certain circumstances; requiring
11 the court to make certain findings; requiring
12 the monitor to report findings and
13 recommendations; providing duties of the court
14 relating to probable cause for the emergency
15 appointment; authorizing the court to determine
16 which persons may inspect certain orders or
17 reports; providing requirements for a court
18 order to show cause for the emergency
19 appointment; specifying a time period for a
20 monitor's authority; providing for extending
21 such time period; authorizing the court to
22 issue certain injunctions or orders for certain
23 purposes; requiring the court to provide copies
24 of such injunctions or orders to all parties;
25 authorizing the court to impose sanctions or
26 take certain enforcement actions; providing for
27 payment of reasonable fees to the monitor;
28 prohibiting certain persons from receiving
29 certain fees; authorizing a court to assess
30 certain costs and attorney's fees under certain
31 circumstances;