1999 ASSEMBLY BILL 742

1	$\operatorname{An}\operatorname{ACT}$ to create 880.24 (3) of the statutes; relating to: requiring payment from
2	a ward's estate of reasonable attorney fees and costs for successful petitioners
3	in incompetency and guardianship proceedings.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4	SECTION 1. 880.24 (3) of the statutes is created to read:
5	880.24 (3) FEES AND COSTS OF PETITIONER. (a) Except as provided in par. (b),
6	when a guardian is appointed, the court shall award from the ward's estate payment
7	of the petitioner's reasonable attorney fees and costs, including those fees and costs,
8	if any, related to protective placement of the ward, unless the court finds, after
9	considering all of the following, that it would be inequitable to do so:
10	1. The petitioner's interest in the matter, including any conflict of interest that
11	the petitioner may have had in pursuing the guardianship.

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2. The ability of the ward's estate to pay the petitioner's reasonable attorney
 fees and costs.

- 3 3. Whether the guardianship was contested and, if so, the nature of the contest.
 - 4. Any other factors that the court considers to be relevant.

5 (b) If the court finds that the ward had executed a durable power of attorney 6 under s. 243.07 or a power of attorney for health care under s. 155.05 or had engaged 7 in other advance planning to avoid guardianship, the court may not make the award 8 specified in par. (a).

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SECTION 2. Initial applicability.

(1) This act first applies to petitions filed under section 880.07 (1) of the statutes
that are pending on the effective date of this subsection.

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(END)