

1999 Assembly Bill 742

Date of enactment: **May 17, 2000**
Date of publication*: **June 1, 2000**

1999 WISCONSIN ACT 183

AN ACT to create 880.24 (3) of the statutes; **relating to:** requiring payment from a ward's estate of reasonable attorney fees and costs for successful petitioners in incompetency and guardianship proceedings.

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

SECTION 1. 880.24 (3) of the statutes is created to read:

880.24(3) FEES AND COSTS OF PETITIONER. (a) Except as provided in par. (b), when a guardian is appointed, the court shall award from the ward's estate payment of the petitioner's reasonable attorney fees and costs, including those fees and costs, if any, related to protective placement of the ward, unless the court finds, after considering all of the following, that it would be inequitable to do so:

1. The petitioner's interest in the matter, including any conflict of interest that the petitioner may have had in pursuing the guardianship.

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

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.

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

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.

* Section 991.11, WISCONSIN STATUTES 1997-98 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].