

SENATE BILL 391

1 **SECTION 192.** 758.19 (6) (d) 1. of the statutes is amended to read:

2 758.19 (6) (d) 1. The total cost of guardian ad litem compensation that the
3 county incurred under chs. 48, 54, 55, 767, 880 and 938 and ch. 880, 2003 stats., in
4 the previous calendar year.

5 **SECTION 193.** 758.19 (6) (d) 2. of the statutes is amended to read:

6 758.19 (6) (d) 2. The total guardian ad litem compensation that the county
7 initially paid under chs. 48, 54, 55, 767, 880 and 938 and ch. 880, 2003 stats., and that
8 was recovered in the previous calendar year by the county from another responsible
9 person.

10 **SECTION 194.** 765.11 (1) of the statutes is amended to read:

11 765.11 (1) If any parent, grandparent, child, or natural guardian of a minor
12 applicant for a marriage license, any brother, sister, or guardian of either of the
13 applicants for a marriage license, either of the applicants, the district attorney, or a
14 circuit court commissioner believes that the statements of the application are false
15 or insufficient, or that ~~the applicants or either of them are~~ an applicant is adjudicated
16 incompetent without the right to marry, that person may file with the court having
17 probate jurisdiction in the county in which the marriage license is applied for, a
18 petition under oath, setting forth the grounds of objection to the marriage, and
19 asking for an order requiring the parties making ~~such~~ the application to show cause
20 why the marriage license should not be refused. Whereupon, the court, if satisfied
21 that the grounds of objection are prima facie valid, shall issue an order to show cause
22 as aforesaid, returnable as the court directs, but not more than 14 days after the date
23 of the order, which shall be served forthwith upon the applicants for the marriage
24 license residing in the state, and upon the clerk before whom the application has been
25 made, and shall operate as a stay upon the issuance of the marriage license until

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1 further ordered; if either or both of the applicants are nonresidents of the state the
2 order shall be served ~~forthwith~~ immediately upon the nonresident by publication of
3 a class 1 notice, under ch. 985, in the county ~~wherein~~ in which the application is
4 pending, and by mailing a copy thereof to the nonresident at the address contained
5 in the application.

6 **SECTION 195.** 766.51 (7) of the statutes is amended to read:

7 766.51 (7) A court may appoint a conservator or guardian under ch. 880 54 to
8 exercise a disabled spouse's right to manage and control marital property.

9 **SECTION 196.** 767.29 (3) (a) of the statutes is amended to read:

10 767.29 (3) (a) If maintenance payments or support money, or both, is ordered
11 to be paid for the benefit of any ~~person,~~ individual who is committed by court order
12 to an institution or is in confinement, or whose legal custody is vested by court order
13 under ch. 48 or 938 in an agency, department ~~or,~~ relative, or other entity, the court
14 or a circuit court commissioner may order ~~such~~ the maintenance payments or
15 support money to be paid to the relative ~~or,~~ agency, institution, welfare department,
16 or other entity having the legal or actual custody of ~~said person~~ the individual, and
17 to be used for the latter's care and maintenance, without the appointment of a
18 guardian ~~under ch. 880~~ in this state.

19 **SECTION 197.** 786.01 of the statutes is amended to read:

20 **786.01 Conveyance of lands held in trust by persons under disability.**

21 Whenever any minor or ~~person~~ individual adjudicated incompetent ~~to manage his or~~
22 ~~her affairs~~ is seized or possessed of any lands or interest in any lands by way of
23 mortgage or in trust only for others, the circuit court of the proper county may, upon
24 the petition of the guardian of the minor or individual adjudicated incompetent
25 ~~person~~ or of any person in any way interested in the real estate, make an order

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1 authorizing or compelling the minor or individual adjudicated incompetent ~~person~~
2 to convey and assure the lands or interest in the lands to any person entitled thereto,
3 in such manner as the court directs.

4 **SECTION 198.** 786.02 of the statutes is amended to read:

5 **786.02 Specific performance of ~~incompetent's~~ contract of individual**
6 **adjudicated incompetent.** A circuit court may authorize or compel the specific
7 performance of any contract made by any ~~person who becomes~~ individual who is
8 adjudicated incompetent before ~~the performance thereof of the contract,~~ on the
9 complaint or petition of the guardian of the individual adjudicated incompetent
10 ~~person~~ or of any other person interested in the contract.

11 **SECTION 199.** 786.03 of the statutes is amended to read:

12 **786.03 Specific performance; order; appeal.** No order authorizing or
13 directing any such conveyance or the performance of any such contract shall be made
14 until after hearing the parties and being satisfied that such conveyance ought to be
15 made or such contract ought to be performed. The court may, by such order, direct
16 the guardian of such individual adjudicated incompetent ~~person,~~ or a special
17 guardian appointed in such proceeding, to do any act which is necessary to carry such
18 order into effect. The court may further direct that the reasonable expenses of the
19 proceedings be paid out of the proceeds of the sale. No appeal shall lie from such
20 order unless notice of intention to appeal shall be filed with the court within 10 days
21 after date of the order. The court may enforce such order by any proper proceedings.

22 **SECTION 200.** 786.04 of the statutes is amended to read:

23 **786.04 Specific performance; conveyance; warranties.** The court may
24 require the guardian to convey the real estate which such individual adjudicated
25 incompetent ~~person~~ might or ought to have conveyed if still competent. Where such

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1 ~~incompetent person~~ individual contracted before incompetency to convey real estate
2 by warranty deed, the guardian shall convey by warranty deed subject to any
3 exceptions set forth in the ~~incompetent's~~ individual's contract to convey. The
4 guardian shall not be personally liable because of any breach of such warranty, but
5 such warranty deed shall have the same effect for all purposes as if the individual
6 adjudicated incompetent had executed it at such time while competent. This section
7 is applicable where an individual adjudicated incompetent before incompetency
8 made an assignment of a contract to convey real estate but did not deed to the
9 assignee the title to the premises covered by the contract.

10 **SECTION 201.** 786.05 of the statutes is amended to read:

11 **786.05 Specific performance; recording order; effect.** A certified copy of
12 such judgment directing such conveyance, which is recorded in the office of the
13 register of deeds in the county where the lands lie, shall be prima facie evidence of
14 the correctness of the proceedings and of the authority of the guardian to convey.
15 Every such conveyance shall be as effectual in passing the estate as if the individual
16 adjudicated incompetent were then competent and executed the conveyance.

17 **SECTION 202.** 786.06 (intro.) of the statutes is amended to read:

18 **786.06 Realty of wards; grounds for mortgage, sale, lease.** (intro.) Any
19 real estate, or interest therein belonging to a minor or to ~~a person~~ an individual
20 adjudicated incompetent ~~to manage personal affairs~~ may be sold, mortgaged or
21 leased:

22 **SECTION 203.** 786.06 (1) of the statutes is amended to read:

23 **786.06 (1)** When the personal property and the income of the real estate of such
24 minor or individual adjudicated incompetent ~~person~~ are together insufficient for the

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1 payment of his or her debts or for the maintenance and education of himself or herself
2 and family;

3 **SECTION 204.** 786.06 (2) of the statutes is amended to read:

4 786.06 (2) When the interests of such minor or individual adjudicated
5 incompetent ~~person~~ require or will be substantially promoted by such disposition on
6 account of such real estate or interest therein being exposed to waste or dilapidation,
7 or being unproductive, or for other peculiar reasons or circumstances.

8 **SECTION 205.** 786.07 of the statutes is amended to read:

9 **786.07 Realty of wards or ~~incompetents~~ individuals adjudicated**
10 **incompetent; application for sale or encumbrance.** The application for the
11 disposition must be made to the circuit court of the county in which the real estate
12 or some part thereof is situated or to the circuit court of the county in which the
13 ~~general~~ guardian for the minor or individual adjudicated incompetent ~~person~~ has
14 been appointed, by petition of the ~~general~~ guardian of the minor or of the ~~incompetent~~
15 ~~person~~ individual or by any relative or other person in behalf of either. The petition
16 must be verified and must set forth the facts which would authorize the selling,
17 mortgaging or leasing of the real estate or some part of the real estate for one or more
18 of the reasons set forth in s. 786.06. If the real estate sold or some part of the real
19 estate is situated in a county other than that in which the proceeding is taken, a
20 certified copy of the order confirming the sale containing the name of the purchaser,
21 the selling price and a description of the property sold shall be recorded in the office
22 of the register of deeds of the county in which the real estate or any part of the real
23 estate is situated. When the minor or individual adjudicated incompetent ~~person~~ has
24 a ~~general~~ guardian and the application is to any court other than the court in which
25 the ~~general~~ guardian was appointed, notice of hearing of the application shall be

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1 given by mailing a copy of the notice to the judge of the court that appointed the
2 ~~general~~ guardian, and also to the ~~general~~ guardian, unless he or she is the petitioner,
3 at least 10 days before the date of the hearing.

4 **SECTION 206.** 786.08 (1) (a) of the statutes is amended to read:

5 786.08 (1) (a) When the application is made on behalf of a minor or individual
6 adjudicated incompetent, who has no ~~general~~ guardian, the court shall appoint some
7 suitable person special guardian of the minor or ~~incompetent~~ individual in the
8 proceeding; the special guardian shall give a bond to the judge of the court, to be filed
9 with the clerk of the circuit court, in such sum, with such sureties, and in such form
10 as the circuit court or judge directs, conditioned for the faithful performance of the
11 trust reposed, for paying over, investing or accounting for all moneys that shall be
12 received by the guardian, according to law and for observance of the directions of the
13 court in relation to the trust.

14 **SECTION 207.** 786.08 (1) (b) of the statutes is amended to read:

15 786.08 (1) (b) When the minor shall have a ~~general~~ guardian, ~~such general~~ the
16 guardian may be appointed special guardian in said matter; or, ~~such general~~ the
17 guardian, as such, may be authorized and empowered to act in and conduct such
18 proceedings in the same manner, and with the same provisions as to an additional
19 ~~general~~ guardian's bond, as is provided in said proceedings for the conduct thereof
20 by the ~~general~~ guardian of individuals adjudicated incompetent persons.

21 **SECTION 208.** 786.08 (2) of the statutes is amended to read:

22 786.08 (2) When the application is made on behalf of an individual adjudicated
23 incompetent ~~person~~, the guardian of the ~~incompetent person~~ individual shall, in the
24 discretion of the court, give a bond to the judge of the court to be filed with the clerk
25 of the circuit court, in such sum, additional to the guardian's original bond, as the

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1 court deems necessary, with such sureties and such conditions for the faithful
2 performance of trust reposed as prescribed by this section.

3 **SECTION 209.** 786.10 of the statutes is amended to read:

4 **786.10 Order for lease, mortgage, sale.** If, after an examination of the
5 matter by the court or judge to which application is made, without a reference, or on
6 the coming in of the report of the referee, and on examination of the matter, it shall
7 satisfactorily appear that a disposition of any part of the real estate of such minor
8 or individual adjudicated incompetent person or any interest therein is necessary
9 and proper, for any of the causes mentioned in s. 786.06 such court or judge shall
10 make an order directing and authorizing the guardian to contract for the leasing,
11 mortgaging, or sale of such real estate or interest therein or of such part thereof as
12 the court or judge shall deem proper in such manner and with such restrictions as
13 shall be deemed expedient.

14 **SECTION 210.** 786.13 of the statutes is amended to read:

15 **786.13 Platting realty of wards before sale.** Whenever an order shall have
16 been made for the sale of any such real estate and it shall be made to appear to the
17 court or judge that the interest of the minor or other ward would be promoted by
18 platting such real estate the court or judge may, by order, authorize the guardian
19 either alone or together with the cotenants, if any, or other owners, to make and
20 acknowledge a plat of such real estate in the manner prescribed in ch. 236. A plat
21 made pursuant to such order, certified and acknowledged in manner and form
22 prescribed in ch. 236 and approved by the court or presiding judge, shall be as valid
23 and effectual as if made by ~~such~~ the minor when of full age or by ~~such incompetent~~
24 ~~person when of sound memory and understanding~~ the individual adjudicated
25 incompetent before the adjudication. After such plat shall have been duly made and

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1 recorded such guardians may make separate sales of any lot or lots, according to such
2 plat, or of such ward's interest therein in the manner above prescribed.

3 **SECTION 211.** 786.14 of the statutes is amended to read:

4 **786.14 Realty of wards; will or conveyance not disregarded.** No real
5 estate or interest therein shall be sold, mortgaged or leased under the provisions of
6 this chapter contrary to the provisions of any will by which the same was devised or
7 of any conveyance by which the same was transferred to such the minor or individual
8 adjudicated incompetent person.

9 **SECTION 212.** 786.15 of the statutes is amended to read:

10 **786.15 Realty of wards, validity of the conveyance.** Every deed,
11 mortgage, lease or other conveyance made in good faith by the guardian of a minor
12 or individual adjudicated incompetent person, pursuant to any order or judgment of
13 a circuit court, made under the provisions of this chapter, shall be as valid and
14 effectual as if made by the minor when of full age or by the ~~incompetent person when~~
15 ~~of sound memory and understanding~~ individual adjudicated incompetent before the
16 adjudication.

17 **SECTION 213.** 786.16 of the statutes is amended to read:

18 **786.16 Realty of wards; effect of sale; proceeds realty.** No sale of the real
19 estate of any minor or individual adjudicated incompetent person shall give to such
20 the minor or incompetent person individual any other or greater interest or estate
21 in the proceeds of such sale than the minor or ~~incompetent person~~ individual had in
22 the estate so sold; but the said proceeds shall be deemed real estate of the same
23 nature as the property sold.

24 **SECTION 214.** 786.17 (1) of the statutes is amended to read:

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1 786.17 (1) The court shall make an order for the application and disposition of
2 the proceeds of any such sale or mortgage, and of the income derived from the
3 investment thereof and of the rent accruing upon any such lease, and direct the
4 investment of any portion thereof belonging to the minor or individual adjudicated
5 ~~incompetent person~~ which that is not needed for the payment of debts or the
6 immediate support of the ~~person~~ individual and the ~~person's~~ individual's family, so
7 as to secure the same for the benefit of the minor or ~~incompetent person~~ individual,
8 and shall direct a return of the investment to be made on oath as soon as possible,
9 and shall require accounts to be rendered periodically by any guardian or other
10 person who may be entrusted with the disposition of the proceeds or the income
11 thereof.

12 **SECTION 215.** 786.18 (1) of the statutes is amended to read:

13 786.18 (1) If the real estate or interest therein of any minor or any individual
14 adjudicated incompetent person ~~which that~~ is directed to be sold is subject to an
15 estate for life or for years in the whole or any part thereof the order for the sale may,
16 in the discretion of the court or presiding judge, direct that such estate shall be sold,
17 with the reversionary estate or interest of the minor or ~~incompetent person~~
18 individual.

19 **SECTION 216.** 786.19 of the statutes is amended to read:

20 **786.19 Ward's particular estate, disposition.** Where the interest of the
21 minor or individual adjudicated incompetent person in real estate consists of an
22 estate for life or for years the court or presiding judge may, by order, authorize the
23 guardian to join with the ~~person~~ individual holding the reversionary estate in a
24 conveyance of the property to which such interest attaches, so as to fully convey the
25 particular estate, on receiving from the proceeds of the sale a gross sum in

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1 satisfaction of such estate or such proceeds or the proper portion thereof to be
2 invested, and the interest thereon paid to the person individual having such the
3 estate until the termination thereof; in either case the amount to be ascertained as
4 prescribed in s. 786.18. When the proceeds or a proportionate part of such proceeds
5 is received by the guardian for investment, the order of the court or presiding judge
6 must provide for the investment thereof until termination of the particular estate,
7 and then for the payment thereof to the person individual entitled thereto.

8 **SECTION 217.** 786.20 of the statutes is amended to read:

9 **786.20 Minor, ~~or incompetent~~, ward of the court.** From the time of
10 application on behalf of a minor ~~or of an incompetent person~~ having no guardian for
11 the disposition of property, the minor ~~or incompetent person~~ shall be considered the
12 ward of the court in which the application is made, so far as it relates to property, its
13 proceeds and income.

14 **SECTION 218.** 786.21 of the statutes is amended to read:

15 **786.21 Estate of individual adjudicated incompetent, management.**

16 The real estate of an individual adjudicated incompetent person ~~shall~~ may not be
17 leased for more than 5 years, or mortgaged or disposed of otherwise than is
18 authorized and directed by this chapter.

19 **SECTION 219.** 786.25 (1) of the statutes is amended to read:

20 **786.25 (1)** If a minor or individual adjudicated incompetent person residing
21 outside this state owns any right, title, or interest in or to any real estate in this state
22 and has a guardian or conservator who has been appointed in the state, territory ~~or~~,
23 district, or country where he or she resides and no guardian appointed in this state,
24 the foreign guardian or conservator may file a copy of the appointment,
25 authenticated so as to make the same receivable in evidence, in the circuit court for

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1 the county in which the real estate of the minor or individual adjudicated
2 incompetent ~~person~~ is situated.

3 **SECTION 220.** 786.25 (2) of the statutes is amended to read:

4 786.25 (2) Upon filing of the appointment under sub. (1) and proper
5 application, the foreign guardian or conservator may be licensed by the court or
6 presiding judge to lease, mortgage, or sell the real estate of his or her ward in the
7 county under sub. (1), or any portion thereof, or interest therein, in the same manner
8 and upon the same terms and conditions and for the same purposes as prescribed in
9 this chapter in the case of a guardian appointed in this state. The court, or the
10 presiding judge thereof, may, upon the petition of such foreign guardian or
11 conservator, appoint some suitable person residing in this state, special guardian of
12 the minor or individual adjudicated incompetent ~~person~~ to make the lease, mortgage,
13 or sale in the manner provided by this chapter.

14 **SECTION 221.** 786.25 (3) of the statutes is amended to read:

15 786.25 (3) In case a special guardian shall be appointed the moneys arising
16 from such lease, mortgage or sale shall be paid out and disposed of or invested as may
17 be directed by the court or judge appointing such special guardian. The duly
18 authenticated copy of the appointment of any guardian or conservator appointed in
19 any other state, district, territory, or country together with a duly authenticated copy
20 of the appointment of the special guardian of such minor or individual adjudicated
21 incompetent ~~person~~, shall also be properly recorded and tract indexed at the ward's
22 expense in the office of the register of deeds of the county in which such real estate
23 is situated.

24 **SECTION 222.** 801.11 (2) (intro.) of the statutes is amended to read:

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1 801.11 (2) NATURAL PERSON UNDER DISABILITY. (intro.) Upon a natural person
2 under disability by serving the summons in any manner prescribed in sub. (1) upon
3 such the person under disability and, in addition, where required by par. (a) or (b),
4 upon a person therein designated. A minor 14 years of age or older who is not
5 mentally adjudicated incompetent and not otherwise under guardianship is not a
6 person under disability for purposes of this subsection.

7 **SECTION 223.** 801.11 (2) (b) of the statutes is amended to read:

8 801.11 (2) (b) Where the person under disability is known by the plaintiff to be
9 under guardianship of any kind, a summons shall be served separately upon the
10 guardian in any manner prescribed in sub. (1), (5) or (6). If no guardian has been
11 appointed when service is made upon a person ~~known to~~ alleged by the plaintiff to
12 be incompetent to have charge of the person's affairs, then service of the summons
13 shall be made upon the guardian ad litem after appointment under s. 803.01.

14 **SECTION 224.** 802.10 (1) of the statutes is amended to read:

15 802.10 (1) APPLICATION. This section applies to all actions and special
16 proceedings except appeals taken to circuit court_; actions seeking the remedy
17 available by certiorari, habeas corpus, mandamus, prohibition_, and quo warranto_;
18 actions in which all defendants are in default_; provisional remedies_; and actions
19 under ss. 49.90 and s. 66.0114 and chs. 48, 54, 102, 108, 227, 348, 767, 778, 799 and
20 812, and proceedings under chs. 851 to 882.

21 **SECTION 225.** 803.01 (3) (title) of the statutes is amended to read:

22 803.01 (3) (title) ~~INFANTS~~ MINORS OR INDIVIDUALS ALLEGED OR ADJUDICATED
23 INCOMPETENT PERSONS.

24 **SECTION 226.** 803.01 (3) (a) of the statutes is amended to read:

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1 803.01 (3) (a) *Appearance by guardian or guardian ad litem.* If a party to an
2 action or proceeding is a minor, or if ~~the court has reason to believe that a party is~~
3 ~~mentally adjudicated incompetent or alleged to be incompetent to have charge of the~~
4 ~~party's affairs,~~ the party shall appear by an attorney, by the general guardian of the
5 ~~party's property~~ estate of the party who may appear by attorney, or by a guardian ad
6 litem who may appear by an attorney. A guardian ad litem shall be appointed in all
7 cases ~~where~~ in which the minor or individual alleged to be incompetent has no
8 general guardian of ~~property~~ the estate, or ~~where~~ in which the general guardian fails
9 to appear and act on behalf of the ward or individual adjudicated incompetent, or
10 ~~where~~ in which the interest of the minor or individual adjudicated incompetent is
11 adverse to that of the general guardian. Except as provided in s. 807.10, if the general
12 guardian does appear and act and the interests of the general guardian are not
13 adverse to the minor or individual adjudicated incompetent, a guardian ad litem
14 ~~shall~~ may not be appointed. Except as provided in s. 879.23 (4), ~~where~~ if the interests
15 of the minor or ~~mentally~~ individual alleged to be or adjudicated incompetent person
16 are represented by an attorney of record, the court shall, except upon good cause
17 stated in the record, appoint that attorney as the guardian ad litem.

18 **SECTION 227.** 803.01 (3) (b) 2. of the statutes is amended to read:

19 803.01 (3) (b) 2. When the plaintiff is a minor 14 years of age or over, upon the
20 plaintiff's application or upon the state's application under s. 767.045 (1) (c); or if the
21 plaintiff is under that age or is ~~mentally~~ adjudicated incompetent or alleged to be
22 incompetent, upon application of the plaintiff's guardian or of a relative or friend or
23 upon application of the state under s. 767.045 (1) (c). If the application is made by
24 a relative, a friend, or the state, notice thereof must first be given to the guardian if
25 the plaintiff has one in this state; if the plaintiff has none, then to the person with

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1 808.075 (4) (f) 2. Release of deposited funds under s. ~~880.13 (2) (b)~~ 54.46 (4) (b)

2 3.

3 **SECTION 247.** 808.075 (4) (f) 3. of the statutes is amended to read:

4 808.075 (4) (f) 3. Order for visitation under s. ~~880.155~~ 54.56.

5 **SECTION 248.** 808.075 (4) (f) 4. of the statutes is amended to read:

6 808.075 (4) (f) 4. Appointment of successor guardian under s. ~~880.17~~ 54.54 (1).

7 **SECTION 249.** 808.075 (4) (f) 5. of the statutes is amended to read:

8 808.075 (4) (f) 5. Approval of guardian's exercise of marital property rights
9 under s. ~~880.173~~ 54.20 (2) (h).

10 **SECTION 250.** 808.075 (4) (f) 6. of the statutes is amended to read:

11 808.075 (4) (f) 6. Approval of management of property under s. ~~880.19~~ 54.19

12 1) or 54.20.

13 **SECTION 251.** 808.075 (4) (f) 7. of the statutes is amended to read:

14 808.075 (4) (f) 7. Direction for use of estate for benefit of wards under s. ~~880.21~~
15 54.19 (4).

16 **SECTION 252.** 808.075 (4) (f) 8. of the statutes is amended to read:

17 808.075 (4) (f) 8. Examination of annual accounts and assets under s. ~~880.25~~
18 ss. 54.62 and 54.66.

19 **SECTION 253.** 808.075 (4) (f) 9. of the statutes is amended to read:

20 808.075 (4) (f) 9. Removal of guardian under s. ~~880.251~~ 54.68 (4) (d).

21 **SECTION 254.** 808.075 (4) (f) 11. of the statutes is amended to read:

22 808.075 (4) (f) 11. Termination of guardianship under s. ~~880.26~~ 54.64.

23 **SECTION 255.** 808.075 (4) (f) 12. of the statutes is amended to read:

24 808.075 (4) (f) 12. Restoration of specific legal rights under s. ~~880.33 (3)~~ 54.64
25 (2) (c).

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SECTION 256

1 **SECTION 256.** 808.075 (4) (f) 13. of the statutes is amended to read:

2 808.075 (4) (f) 13. Authorization of purchase of a home for a ward under s.
3 ~~880.60~~ 54.852 (15) (a).

4 **SECTION 257.** 813.12 (5) (d) of the statutes is amended to read:

5 813.12 (5) (d) A petition may be prepared and filed by the person who alleges
6 that he or she has been the subject of domestic abuse or by the guardian, ~~as defined~~
7 ~~in s. 880.01 (3), of an incompetent individual, as defined in s. 880.01 (4), adjudicated~~
8 incompetent in this state who has been the subject of domestic abuse.

9 **SECTION 258.** 813.123 (3) (b) 1. of the statutes is amended to read:

10 813.123 (3) (b) 1. That a guardian ad litem be appointed ~~under s. 880.331 (1)~~
11 for the vulnerable adult.

12 **SECTION 259.** 814.61 (12) (a) 1. of the statutes is amended to read:

13 814.61 (12) (a) 1. For receiving a trust fund, or handling or depositing money
14 under s. ~~757.25, or 807.10 (3) or 880.04 (2) (a)~~, at the time the money is deposited with
15 the clerk, a fee of \$10 or ~~0.5%~~ 0.5 percent of the amount deposited, whichever is
16 greater. In addition, a fee of \$10 shall be charged upon each withdrawal of any or
17 all of the money deposited with the clerk.

18 **SECTION 260.** 814.66 (1) (b) 2. of the statutes is amended to read:

19 814.66 (1) (b) 2. For filing a petition for guardianship of the estate under ch.
20 ~~880~~ 54 or an application for conservatorship under ~~ch. 880 s. 54.76~~, if the value of the
21 property, less encumbrances, liens or charges, is \$10,000 the amount specified under
22 s. 867.03 (1g) (intro.) or less, a fee of \$20 and, if more than \$10,000 the amount
23 specified under s. 867.03 (1g) (intro.), a fee of ~~0.2%~~ 0.2 percent of the value of the
24 property, less encumbrances, liens or charges.

25 **SECTION 261.** 814.66 (1) (m) of the statutes is amended to read:

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1 814.66 (1) (m) For filing a petition under s. ~~880.155~~ 54.56, whether in a
2 guardianship or temporary guardianship proceeding or to commence an
3 independent action, \$60.

4 **SECTION 262.** 814.66 (1) (n) of the statutes is created to read:

5 814.66 (1) (n) For depositing or disbursing money under s. 54.12 (1) (a), a fee
6 of \$10 or 0.5 percent of the amount deposited, whichever is greater at the time the
7 money is deposited with the register in probate, and a fee of \$10 whenever any
8 withdrawal is made of the money deposited with the register in probate.

9 **SECTION 263.** 842.25 of the statutes is amended to read:

10 **842.25 ~~Incompetent's share~~ Share of individual adjudicated**
11 **incompetent.** The share of any ward shall be paid to the ~~general~~ guardian of the
12 ward's estate of the ward, except under s. 54.12 (1) or s. 880.04 (2), 2003 stats.

13 **SECTION 264.** 851.72 (2) of the statutes is amended to read:

14 851.72 (2) Keep a court record of every proceeding in the court under chs. 54
15 and 851 to 880 879 under its proper title, a brief statement of the nature of the
16 proceeding and of all papers filed therein, with the date of filing and a reference to
17 where minute records can be found or to the microfilm or optical disk or electronic
18 file where papers have been stored so that the court record is a complete index or brief
19 history of each proceeding from beginning to final disposition.

20 **SECTION 265.** 851.72 (3) of the statutes is amended to read:

21 851.72 (3) Keep a minute record and enter therein a brief statement of all
22 proceedings of the court under chs. 54 and 851 to 880 879 during its sessions, all
23 motions made and by whom, all orders granted in open court or otherwise, and the
24 names of all witnesses sworn or examined. If this information is all included in the
25 court record, the judge may direct that the minute record be no longer kept.

SENATE BILL 391**SECTION 266**

1 **SECTION 266.** 851.73 (1) (a) of the statutes is amended to read:

2 851.73 (1) (a) May make orders for hearings when the judge is away from the
3 county seat or unable to discharge duties or when given authority in writing by the
4 judge and an application is made to the court in a proceeding under chs. 54 and 851
5 to ~~880~~ 879 requiring notice of hearing. The order and notice when signed “by the
6 court,, register in probate” has the same effect as if signed by the judge.

7 **SECTION 267.** 854.08 (5) (title) of the statutes is amended to read:

8 854.08 (5) (title) SALE OR LOSS OF PROPERTY OF AN INDIVIDUAL ADJUDICATED
9 INCOMPETENT.

10 **SECTION 268.** 854.13 (2) (f) of the statutes is amended to read:

11 854.13 (2) (f) *Disclaimer by guardian or conservator.* A guardian of the estate
12 or a conservator appointed under ch. 54 or ch. 880, 2003 stats., may disclaim on
13 behalf of his or her ward, with court approval, if the ward is entitled to disclaim under
14 this section.

15 **SECTION 269.** 854.17 of the statutes is amended to read:

16 **854.17 Classification; how determined.** In chs. 54 and 851 to 882,
17 classification of the property of a decedent spouse and surviving spouse is
18 determined under ch. 766.

19 **SECTION 270.** 857.15 of the statutes is amended to read:

20 **857.15 When personal representative removed, resigns.** The judge may
21 accept the written resignation of any personal representative. When a personal
22 representative ~~becomes~~ is adjudicated incompetent, disqualified, unsuitable,
23 incapable of discharging the personal representative’s duties, or is a nonresident of
24 this state who has not appointed a resident agent to accept service of process in all
25 actions or proceedings with respect to the estate and caused such appointment to be

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1 filed with the court, the court shall remove the personal representative. When any
2 personal representative has failed to perform any duty imposed by law or by any
3 lawful order of the court or has ceased to be a resident of the state, the court may
4 remove the personal representative. When grounds for removal appear to exist, the
5 court on its own motion or on the petition of any person interested shall order the
6 personal representative to appear and show cause why the personal representative
7 should not be removed.

8 **SECTION 271.** 860.13 of the statutes is amended to read:

9 **860.13 Who not to be purchaser, mortgagee or lessee without court**
10 **approval.** The personal representative may not be interested as a purchaser,
11 mortgagee, or lessee of any property in the estate unless the purchase, mortgage, or
12 lease is made with the written consent of the persons interested and of the guardian
13 ad litem for minors and ~~incompetents~~ individuals adjudicated incompetent or with
14 the approval of the court after petition and hearing on notice given under s. 879.03
15 to all persons interested, or unless the will of the decedent specifically authorizes the
16 personal representative to be interested as a purchaser, mortgagee, or lessee.

17 **SECTION 272.** 862.03 (title) of the statutes is amended to read:

18 **862.03 (title) Account of ~~incompetent, deceased or removed~~ personal**
19 **representative adjudicated incompetent, deceased, or removed.**

20 **SECTION 273.** 862.03 (1) of the statutes is amended to read:

21 **862.03 (1) ~~INCOMPETENT PERSONAL~~ PERSONAL REPRESENTATIVE ADJUDICATED**
22 **INCOMPETENT.** If a personal representative is ~~adjudged~~ adjudicated incompetent, the
23 account under s. 862.01 shall be filed by the personal representative's guardian, or,
24 if the personal representative's guardian fails to file, then by the personal
25 representative's bondsman. If neither the guardian nor the bondsman files an

SENATE BILL 391**SECTION 273**

1 account, the court shall appoint a special administrator to file the account of the
2 ~~incompetent~~ personal representative who is adjudicated incompetent.

3 **SECTION 274.** 862.03 (4) of the statutes is amended to read:

4 862.03 (4) PAYMENT FOR PREPARATION. The person who prepares and files an
5 account in accordance with this section shall be allowed the reasonable value of the
6 person's services to be paid out of the estate, and the fees of the ~~incompetent,~~
7 ~~deceased or removed~~ personal representative who is adjudicated incompetent,
8 deceased, or removed shall be reduced accordingly.

9 **SECTION 275.** 863.43 of the statutes is amended to read:

10 **863.43 Distribution to ward; notice.** At least 10 days prior to distribution
11 of a share or legacy for the benefit of a minor or individual adjudicated incompetent
12 for whom a guardian of the ~~minor's or incompetent's~~ estate has been appointed, the
13 personal representative shall notify the court appointing the guardian of the estate,
14 in writing, the total property to be distributed to the guardian of the estate for the
15 benefit of the guardian's ward. An affidavit of mailing the notice shall be filed before
16 making the distribution.

17 **SECTION 276.** 863.45 of the statutes is amended to read:

18 **863.45 Receipts from guardians.** If a distributee of an estate is a minor or
19 an individual adjudicated incompetent and has within this state a guardian of his
20 or her estate, the personal representative shall deliver the money or other property
21 to the guardian of the estate, take a receipt from the guardian of the estate, and file
22 the receipt with the court. The court shall transmit a certified copy of the receipt to
23 the court which appointed the guardian of the estate.

24 **SECTION 277.** 865.02 (1) (b) 1. of the statutes is amended to read:

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1 865.02 (1) (b) 1. All interested persons request or consent in writing to informal
2 administration and to the appointment of the same person as personal
3 representative. A guardian or guardian ad litem may consent on behalf of an
4 interested person who is a minor or is an individual adjudicated incompetent. The
5 probate registrar may appoint a guardian ad litem, and shall have the authority, for
6 such purpose, granted to the court by, and shall proceed pursuant to s. 879.23.

7 **SECTION 278.** 865.03 (1) of the statutes is amended to read:

8 865.03 (1) A formal proceeding in this chapter is a judicial proceeding before
9 the court involving the administration of the estate of a decedent, including a court
10 proceeding concerning the use or availability of this chapter. It is distinguished from
11 an administrative proceeding before the probate registrar. Formal proceedings,
12 either as to a particular issue or as to the entire subsequent administration of the
13 estate, may be initiated by the personal representative or by any interested person
14 at any time by a written demand therefor. Formal proceedings may be demanded by
15 a guardian or guardian ad litem on behalf of an interested person who is a minor or
16 otherwise is an individual adjudicated incompetent.

17 **SECTION 279.** 867.03 (1c) of the statutes is amended to read:

18 867.03 (1c) DEFINITION. In this section, “guardian” has the meaning given in
19 s. 54.01 (10) or s. 880.01 (3), 2003 stats.

20 **SECTION 280.** 878.07 (4) of the statutes is amended to read:

21 878.07 (4) SEPARATE AND JOINT ACTIONS; ACTION BY WARD; ACCOUNTING, WHEN
22 UNNECESSARY. An action upon a bond by or in behalf of one person interested does not
23 bar or in any way affect the right of any other person interested to maintain an action
24 thereon, but separate actions or a joint action may be maintained thereon by or in
25 behalf of any or all persons interested, but the action does not impair any other

SENATE BILL 391**SECTION 280**

1 remedy of the ward. An accounting is not necessary before bringing an action against
2 sureties ~~when~~ if the personal representative, special administrator, guardian, or
3 trustee dies ~~or~~, moves out of the state, or ~~becomes~~ is adjudicated incompetent.

4 **SECTION 281.** 879.09 of the statutes is amended to read:

5 **879.09 Notice requirement satisfied by waiver of notice.** Persons who
6 are not minors or individuals adjudicated incompetent, on behalf of themselves, and
7 appointed guardians ad litem and guardians of the estate on behalf of themselves
8 and those whom they represent, may in writing waive the service of notice upon them
9 and consent to the hearing of any matter without notice, except that guardians ad
10 litem cannot waive the notice of a hearing to prove a will or for administration on
11 behalf of those whom they represent. An attorney, or attorney-in-fact, for a person
12 in the military service may waive notice on behalf of himself or herself but cannot
13 waive notice on behalf of the person in the military service. Waiver of notice by any
14 person is equivalent to timely service of notice.

15 **SECTION 282.** 879.11 of the statutes is amended to read:

16 **879.11 Notice requirement satisfied by appearance.** An appearance by
17 a person who is not a minor or an individual adjudicated incompetent is equivalent
18 to timely service of notice upon the person. An appearance by a guardian of the estate
19 is equivalent to timely service of notice upon the guardian and upon the guardian's
20 ward. An appearance by a guardian ad litem is equivalent to timely service of notice
21 upon the guardian ad litem and except at a hearing to prove a will or for
22 administration is equivalent to timely service of notice upon those whom the
23 guardian ad litem represents. An appearance by an attorney, or an attorney-in-fact,
24 for a person in the military service is equivalent to timely service of notice upon the

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1 attorney or attorney-in-fact but does not satisfy a requirement for notice to the
2 person in the military service.

3 **SECTION 283.** 879.13 of the statutes is amended to read:

4 **879.13 Delayed service of notice.** If for any reason notice to any person,
5 including a minor or an individual adjudicated incompetent, is insufficient, the court
6 may at any time order service of notice together with documents required under ss.
7 858.03 and 862.09 and, where required, appoint a guardian ad litem under s. 879.23
8 and require the person or the person's guardian ad litem to show cause why the
9 person should not be bound by the action already taken in the proceedings as though
10 the person had been timely served with notice. Such person may consent in writing
11 to be bound.

12 **SECTION 284.** 879.15 (1) of the statutes is amended to read:

13 **879.15 (1)** A minor or individual adjudicated incompetent ~~person~~ shall appear
14 by a guardian ad litem or by the guardian of his or her estate, who may appear by
15 attorney, or by another person under the doctrine of virtual representation as
16 provided in s. 879.23 (5);

17 **SECTION 285.** 879.19 of the statutes is amended to read:

18 **879.19 Attorney, notice to.** Except for a person in the military service, as
19 provided in s. 879.09, if a person interested who is not a minor or an individual
20 adjudicated incompetent has retained an attorney to represent him or her and the
21 attorney has mailed a notice of retainer and request for service to the attorney for
22 the personal representative and filed a copy with the court, any notice ~~which~~ that
23 would be given to the person interested shall instead be given to the attorney, and
24 the attorney may waive notice for the person interested under s. 879.09.

25 **SECTION 286.** 879.23 (1) of the statutes is amended to read:

SENATE BILL 391**SECTION 286**

1 879.23 (1) VIRTUAL REPRESENTATION. A guardian ad litem shall be appointed for
2 any person interested who is a minor or an individual adjudicated incompetent and
3 has no guardian of his or her estate, or where the guardian of the minor's or
4 incompetent's individual's estate fails to appear on the minor's or incompetent's
5 individual's behalf or where the interest of the minor or incompetent individual is
6 adverse to that of the guardian of the minor's or incompetent's individual's estate.
7 A guardian ad litem may be appointed for persons not in being or presently
8 unascertainable. A guardian ad litem shall not be appointed or appear in the same
9 matter for different persons whose interests are conflicting.

10 **SECTION 287.** 879.23 (4) (a) of the statutes is amended to read:

11 879.23 (4) (a) Except as provided in par. (b) or (c), the guardian ad litem
12 appointed under this section shall be either an attorney admitted to practice in this
13 state or a parent or child of the minor or individual adjudicated incompetent to be
14 represented by the guardian ad litem. A parent or child of the person to be
15 represented may be appointed the guardian ad litem under this section only if the
16 court finds either that the prospective guardian ad litem is an attorney admitted to
17 practice in this state or is otherwise suitably qualified to perform the functions of the
18 guardian ad litem.

19 **SECTION 288.** 879.23 (4) (c) of the statutes is amended to read:

20 879.23 (4) (c) In matters relating to the probate of an estate in which an
21 individual adjudicated incompetent has an interest that is unlikely to exceed \$1,000
22 in value, the guardian ad litem shall be a surviving parent, unless the court finds that
23 no surviving parent is qualified and willing to serve as the guardian ad litem. If the
24 court finds that no surviving parent is qualified and willing to serve, the guardian
25 ad litem shall be an adult child of the ~~incompetent~~ individual, unless the court finds

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1 that no adult child of the ~~incompetent~~ individual is qualified and willing to serve as
2 the guardian ad litem. If the court finds that neither a parent nor an adult child of
3 the individual adjudicated incompetent is qualified and willing to serve as the
4 guardian ad litem, the court shall appoint an attorney as provided in par. (a).

5 **SECTION 289.** 879.23 (5) of the statutes is amended to read:

6 879.23 (5) VIRTUAL REPRESENTATION. The court may dispense with or terminate
7 the appointment of a guardian ad litem for an interested person who is a minor, an
8 individual adjudicated incompetent, not in being, or presently unascertainable, if
9 there is a living person, of full legal rights and capacity, who is a party to the
10 proceeding and has a substantially identical interest in it.

11 **SECTION 290.** 879.26 of the statutes is amended to read:

12 **879.26 Waiver of right to certain documents.** Any person who is not a
13 minor or an individual adjudicated incompetent may in writing waive the person's
14 right to be given a statement that the inventory has been filed under s. 858.03 and
15 a copy of accounts under s. 862.11.

16 **SECTION 291.** 879.27 (4) of the statutes is amended to read:

17 879.27 (4) WHO MAY APPEAL ON BEHALF OF MINOR OR INDIVIDUAL ADJUDICATED
18 INCOMPETENT. In all cases the appeal on behalf of any minor or individual adjudicated
19 incompetent ~~person~~ may be taken and prosecuted by the guardian of the minor's or
20 ~~incompetent's~~ individual's estate or by a guardian ad litem.

21 **SECTION 292.** 879.27 (5) of the statutes is amended to read:

22 879.27 (5) LIMITATION ON BOND AND COSTS. On appeals from courts assigned to
23 exercise probate jurisdiction to the court of appeals no bond may be required of, or
24 costs awarded against, any alleged incompetent individual or person acting in behalf
25 of an alleged incompetent individual on an appeal from an adjudication of

SENATE BILL 391**SECTION 292**

1 incompetency, and no bond may be required of any personal representative,
2 guardian, or trustee of a testamentary trust.

3 **SECTION 293.** 879.57 of the statutes is amended to read:

4 **879.57 Special administrator; personal representative, guardian.** If it
5 is found by the court to be necessary to appoint a personal representative or guardian
6 and there appears to be no person in the state to petition for the appointment or there
7 appears to be no suitable person to be so appointed, the court shall, upon its own
8 motion or upon the petition of any interested party, grant administration of an estate
9 of a decedent or guardianship of the estate of a minor or ~~incompetent person~~
10 individual who is adjudicated incompetent to the interested party or a special
11 administrator, and he or she shall thereupon take possession of the estate and
12 protect and preserve it, and proceed with the administration and with the care and
13 management of the estate. The authority of a special administrator in the
14 administration or guardianship may be revoked at any time upon the appointment
15 and qualification of a personal representative or guardian, or when for any other
16 cause the court deems it just or expedient. Revocation of authority does not
17 invalidate the special administrator's acts performed prior to revocation and does
18 not impair the special administrator's rights to receive from the estate his or her
19 legal charges and disbursements, to be determined by the court.

20 **SECTION 294.** Chapter 880 (title) of the statutes is repealed.

21 **SECTION 295.** Subchapter I (title) of chapter 880 [precedes 880.01] of the
22 statutes is repealed.

23 **SECTION 296.** 880.01 (intro.) of the statutes is repealed.

24 **SECTION 297.** 880.01 (1) of the statutes is renumbered 54.01 (2) and amended
25 to read:

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1 54.01 (2) “Agency” means any public or private board, corporation, or
2 association ~~which, including a county department under s. 51.42 or 51.437, that is~~
3 concerned with the specific needs and problems of ~~mentally retarded,~~
4 ~~developmentally disabled, mentally ill, alcoholic, drug dependent and aging persons,~~
5 ~~including a county department under s. 51.42 or 51.437~~ individuals with
6 developmental disability, mental illness, alcoholism, or drug dependency and of
7 aging individuals.

8 **SECTION 298.** 880.01 (2) of the statutes is renumbered 54.01 (8) and amended
9 to read:

10 54.01 (8) “~~Developmentally disabled person~~ Developmental disability” means
11 ~~any individual having a disability attributable to mental retardation, cerebral palsy,~~
12 ~~epilepsy, autism, or another neurological condition closely related to mental~~
13 ~~retardation or requiring treatment similar to that required for mentally retarded~~
14 ~~individuals~~ with mental retardation, which has continued or can be expected to
15 continue indefinitely, substantially impairs ~~the~~ an individual from adequately
16 providing for his or her own care or custody, and constitutes a substantial handicap
17 to the afflicted individual. The term does not include ~~a person affected by senility~~
18 ~~which dementia that is primarily caused by the process of aging or the infirmities of~~
19 ~~aging~~ degenerative brain disorder.

20 **SECTION 299.** 880.01 (3) of the statutes is renumbered 54.01 (10) and amended
21 to read:

22 54.01 (10) “Guardian” means ~~one~~ a person appointed by a court under s. 54.10
23 ~~to have care, custody and control of the person of a minor or an incompetent or the~~
24 ~~management of the estate~~ manage the income and assets and provide for the

SENATE BILL 391**SECTION 299**

1 essential requirements for health and safety and the personal needs of a minor, an
2 individual found incompetent, or a spendthrift.

3 **SECTION 300.** 880.01 (4) of the statutes is repealed.

4 **SECTION 301.** 880.01 (5) of the statutes is repealed.

5 **SECTION 302.** 880.01 (6) of the statutes is repealed.

6 **SECTION 303.** 880.01 (7) of the statutes is renumbered 54.01 (20) and amended
7 to read:

8 54.01 (20) “Minor” means ~~a person~~ an individual who has not attained the age
9 of 18 years.

10 **SECTION 304.** 880.01 (7m) of the statutes is renumbered 55.14 (1) (b) and
11 amended to read:

12 55.14 (1) (b) “Not competent to refuse psychotropic medication” means that,
13 ~~because of chronic mental illness, as defined in s. 51.01 (3g) for an individual with~~
14 developmental disability or as a result of degenerative brain disorder, serious and
15 persistent mental illness, or other like incapacities, and after the advantages and
16 disadvantages of and alternatives to accepting the particular psychotropic
17 medication have been explained to an individual, one of the following is true:

18 1. The individual is incapable of expressing an understanding of the
19 advantages and disadvantages of accepting treatment and the alternatives to
20 accepting treatment.

21 2. The individual is substantially incapable of applying an understanding of
22 the advantages, disadvantages and alternatives to his or her ~~chronic mental illness~~
23 condition in order to make an informed choice as to whether to accept or refuse
24 psychotropic medication.

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1 **SECTION 305.** 880.01 (8) of the statutes is renumbered 54.01 (22) and amended
2 to read:

3 54.01 (22) “Other like incapacities” means those conditions incurred at any age
4 ~~which that~~ are the result of accident, organic brain damage, mental or physical
5 disability, or continued consumption or absorption of substances, producing and that
6 produce a condition ~~which that~~ substantially impairs an individual from providing
7 for ~~the individual’s~~ his or her own care or custody.

8 **SECTION 306.** 880.01 (9) of the statutes is renumbered 54.01 (31) and amended
9 to read:

10 54.01 (31) “Spendthrift” means a person who, because of the use of ~~intoxicants~~
11 alcohol or other drugs or because of gambling, ~~idleness or debauchery~~ or other
12 wasteful course of conduct, is unable to ~~attend to business or thereby~~ manage
13 effectively his or her financial affairs or is likely to affect the health, life, or property
14 of the person himself, herself, or others so as to endanger the his or her support of
15 the person and the person’s support of his or her dependents, if any, or expose the
16 public to ~~such~~ responsibility for his or her support.

17 **SECTION 307.** 880.01 (10) of the statutes is renumbered 54.01 (37) and amended
18 to read:

19 54.01 (37) “Ward” means ~~a subject~~ an individual for whom a guardian has been
20 appointed.

21 **SECTION 308.** 880.02 of the statutes is renumbered 54.30 (1) and amended to
22 read:

23 54.30 (1) JURISDICTION IN CIRCUIT COURT. ~~The~~ Except as provided
24 in s. 54.38 (1), the circuit court ~~shall have~~ has subject
25 matter jurisdiction over all petitions for guardianship. A guardianship of the estate
of any person individual, once granted, shall extend to all of ~~his or her~~ estate the

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SECTION 308

1 ward's income and assets in this state and shall exclude the jurisdiction of every
2 other circuit court, except as provided in ch. 786. INSERT 174-2

3 **SECTION 309.** 880.03 of the statutes is repealed.

4 **SECTION 310.** 880.04 (title) of the statutes is renumbered 54.12 (title) and
5 amended to read:

6 **54.12 (title) Exceptions to appointment of guardian.**

7 **SECTION 311.** 880.04 (1) of the statutes is renumbered 54.46 (6) and amended
8 to read:

9 **54.46 (6) EMANCIPATION OF MARRIED MINORS.** Except for ~~minors~~ a minor found
10 to be incompetent, upon marriage, a minor ~~shall~~ is no longer be a proper subject for
11 guardianship of the person and a guardianship of the person is revoked by the
12 marriage of a minor ward. Upon application, the court may release in whole or in
13 part the ~~estate~~ income and assets of a minor ward to the ward upon the ward's
14 marriage. ~~Upon marriage, the guardianship of an incompetent is subject to review~~
15 ~~under s. 880.34.~~

16 **SECTION 312.** 880.04 (2) of the statutes is renumbered 54.12 (1) and amended
17 to read:

18 **54.12 (1) SMALL ESTATES.** If a minor or an individual found incompetent, except
19 for his or her incapacity, is entitled to ~~possession of personal property of a value of~~
20 ~~\$10,000~~ possess assets valued at the amount specified in s 867.03 (1g) (intro.) or less,
21 any court ~~wherein~~ in which an action or proceeding involving ~~said property~~ the assets
22 is pending may, ~~in its discretion,~~ without requiring the appointment of a guardian,
23 order that the register i probate do one of the following:

24 (a) Deposit the property in ~~a savings~~ an interest-bearing account in a bank,
25 ~~the payment of whose accounts in cash immediately upon default of the bank are or~~

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1 ~~other financial institution insured by an agency of the federal deposit insurance~~
2 ~~corporation; deposit in a savings account in a savings bank or a savings and loan~~
3 ~~association that has its deposits insured by the federal deposit insurance~~
4 ~~corporation; deposit in a savings account in a credit union having its deposits~~
5 ~~guaranteed by the Wisconsin credit union savings insurance corporation or by the~~
6 ~~national board, as defined in s. 186.01 (3m); government or invest the property in~~
7 ~~interest-bearing obligations of the United States. The fee for the clerk's services of~~
8 ~~the register in probate in depositing and disbursing the funds under this paragraph~~
9 ~~is prescribed in s. 814.61 (12) (a) 814.66 (1) (n).~~

10 (b) Payment Make payment to the ~~natural guardian parent~~ of the minor or to
11 the person having actual custody of the minor.

12 (c) Payment Make payment to the minor.

13 (d) Payment Make payment to the person having actual or legal custody of the
14 incompetent or to the person providing for the ~~incompetent's~~ care and maintenance
15 of the individual found incompetent for the benefit of the individual found
16 incompetent.

17 **SECTION 313.** 880.04 (2m) of the statutes is renumbered 54.12 (2) and amended
18 to read:

19 54.12 (2) INFORMAL ADMINISTRATION. If a minor, or a spendthrift
20 ~~If a minor or an individual found~~
21 ~~incompetent, except for his or her incapacity,~~ is entitled to possession of personal
22 ~~property assets~~ of a value of \$5,000 the amount specified in s. 867.03 (1g) (intro.) or
23 less from an estate administered through informal administration under ch. 865, the
24 personal representative may, without the appointment of a guardian, do any of the
following:

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1 (a) With the approval of the register in probate, take one of the actions ~~under~~
2 specified in sub. (2) (1) (a) to (f).

3 (b) With the approval of the guardian ad litem of the minor or individual found
4 incompetent, take one of the actions ~~under specified in sub. (2) (1) (a) to (f)~~ and file
5 proof of the action taken and of the approval of the guardian ad litem with the probate
6 registrar instead of filing a receipt under s. 865.21.

7 **SECTION 314.** 880.04 (3) of the statutes is renumbered 54.12 (3) and amended
8 to read:

9 **54.12 (3) UNIFORM GIFTS AND TRANSFERS TO MINORS.** If a minor, except for his or
10 her incapacity, is entitled to possession of personal property of any value, any court
11 ~~wherein~~ in which an action or proceeding involving the property is pending may,
12 without requiring the appointment of a guardian, order payment, subject to any
13 limitations the court may impose, to a custodian for the minor designated by the
14 court under ss. ~~880.61 to 880.72~~ 54.854 to 54.898 or under the uniform gifts to minors
15 act or uniform transfers to minors act of any other state.

16 **SECTION 315.** 880.05 of the statutes is renumbered 54.30 (2) and amended to
17 read:

18 **54.30 (2) VENUE.** All petitions for guardianship of residents of the state shall
19 be directed to the circuit court of the county of residence of the ~~person subject to~~
20 ~~guardianship proposed ward~~ or of the county in which the ~~person proposed ward~~ is
21 physically present. A petition for guardianship of the person or estate of a
22 nonresident may be directed to the circuit court of any county where in which the
23 ~~person nonresident~~ or any ~~property assets~~ of the nonresident may be found or of the
24 county in which the petitioner proposes that the proposed ward resides

25 **SECTION 316.** 880.06 (title) of the statutes is renumbered 54.30 (3) (title).

INSERT 176-24

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1 **SECTION 317.** 880.06 (1) of the statutes is renumbered 54.30 (3) (a) and
2 amended to read:

3 54.30 (3) (a) *Original proceeding.* The court ~~wherein~~ in which a petition is first
4 filed shall determine venue. The court shall direct that proper notice be given to any
5 potentially responsible or affected county. Proper notice is given to a potentially
6 responsible or affected county if written notice of the proceeding is sent by certified
7 mail to the county's clerk and corporation counsel. After all potentially responsible
8 or affected counties and parties have been given an opportunity to be heard, the court
9 shall determine that venue lies in the county in which the petition is filed under sub.
10 (2) or in another county, as appropriate. If it is determined the court determines that
11 venue lies in another county, the court shall order the entire record certified to the
12 proper court. A court wherein in which a subsequent petition is filed shall, upon
13 being if it is satisfied of that an earlier filing took place in another court, summarily
14 dismiss such the petition. If any potentially responsible or affected county or party
15 objects to the court's finding of venue, the court may refer the issue to the department
16 for a determination of the county of residence under s. 51.40 (2) (g) and may suspend
17 ruling on the motion for change of venue until the determination under s. 51.40 (2)
18 (g) is final.

19 **SECTION 318.** 880.06 (2) of the statutes is renumbered 54.30 (3) (b) (intro.) and
20 amended to read:

21 54.30 (3) (b) (intro.) *Change of residence of ward or guardian.* If a guardian
22 ~~removes from the county where appointed to another county within the state or a~~
23 ~~ward removes from the county in which he or she has resided~~ changes residence from
24 one county to another county within the state, the circuit court for the county in
25 which the ward resides may appoint a new guardian as provided by law for the

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SECTION 318

1 ~~appointment of a guardian. Upon verified petition of the new guardian, accompanied~~
2 ~~by a certified copy of appointment and bond if the appointment is in another county,~~
3 ~~and upon the notice prescribed by s. 879.05, to the originally appointed guardian,~~
4 ~~unless he or she is the same person, and to any other persons that the court shall~~
5 ~~order, the court of original appointment may order the guardianship accounts settled~~
6 ~~and the property delivered to the new guardian. venue may be transferred to the~~
7 ~~ward's new county of residence under the following procedure:~~

8 **SECTION 319.** 880.07 (title) of the statutes is renumbered 54.34 (title) and
9 amended to read:

10 **54.34 (title) Petition; fees for guardianship.**

*or for receipt and
acceptance of a
foreign guardianship*

11 **SECTION 320.** 880.07 (1) (intro.) of the statutes is renumbered 54.34 (1) (intro.)
12 and amended to read:

13 **54.34 (1) (intro.)** Any ~~relative, public official or other person,~~ may petition for
14 the appointment of a guardian of a person subject to guardianship. Such for an
15 individual. The petition shall state, so far as may be all of the following, if known
16 to the petitioner:

17 **SECTION 321.** 880.07 (1) (a) of the statutes is renumbered 54.34 (1) (a).

18 **SECTION 322.** 880.07 (1) (b) of the statutes is renumbered 54.34 (1) (b) and
19 amended to read:

20 **54.34 (1) (b)** The specific nature of the proposed ward's alleged incapacity with
21 ~~specification of the incompetency or spendthrift habits.~~

22 **SECTION 323.** 880.07 (1) (c) of the statutes is renumbered 54.34 (1) (c).

23 **SECTION 324.** 880.07 (1) (d) of the statutes is renumbered 54.34 (1) (d) and
24 amended to read:

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1 54.34 (1) (d) Any assets of the proposed ward previously derived from or
2 benefits of the proposed ward now due and payable from the U.S. department of
3 veterans affairs.

4 **SECTION 325.** 880.07 (1) (e) of the statutes is renumbered 54.34 (1) (e).

5 **SECTION 326.** 880.07 (1) (f) of the statutes is renumbered 54.34 (1) (f).

6 **SECTION 327.** 880.07 (1) (g) of the statutes is renumbered 54.34 (1) (g).

7 **SECTION 328.** 880.07 (1) (h) of the statutes is renumbered 54.34 (1) (h) and
8 amended to read:

9 54.34 (1) (h) The names and post-office addresses of ~~the spouse and~~
10 ~~presumptive or apparent adult heirs of the proposed ward, and all other persons~~
11 ~~believed by the petitioner to be interested parties.~~

12 **SECTION 329.** 880.07 (1) (i) of the statutes is renumbered 54.34 (1) (i) and
13 amended to read:

14 54.34 (1) (i) The name and post-office address of the person or institution
15 ~~having the, if any, that has~~ care and custody of the proposed ward or the facility, if
16 any, that is providing care to the proposed ward.

17 **SECTION 330.** 880.07 (1) (j) of the statutes is renumbered 54.34 (1) (j) and
18 amended to read:

19 54.34 (1) (j) The interest of the petitioner, and, if a public official ~~or creditor~~ is
20 the petitioner, ~~then the fact of indebtedness or continuing liability for maintenance~~
21 ~~or continuing breach of the public peace as well as the authority of the petitioner to~~
22 act.

23 **SECTION 331.** 880.07 (1m) of the statutes is repealed.

24 **SECTION 332.** 880.07 (2) of the statutes is renumbered 54.34 (2) and amended
25 to read:

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SECTION 332

1 54.34 (2) A petition for guardianship may also include an application for
2 protective placement or protective services or both under ch. 55.

3 **SECTION 333.** 880.07 (3) of the statutes is repealed.

4 **SECTION 334.** 880.07 (4) of the statutes is repealed.

5 ~~**SECTION 335.** 880.075 (title) of the statutes is repealed.~~

6 **SECTION 336.** 880.075 of the statutes is renumbered 54.44 (1) (b) and amended
7 to read:

8 54.44 (1) (b) *Time of hearing for certain appointments.* A petition for
9 guardianship of ~~a person~~ an individual who has been admitted to a nursing home
10 or a community-based residential facility under s. 50.06 shall be heard within 60
11 days after it is filed. If an individual under s. 50.06 (3) alleges that an individual is
12 making a health care decision under s. 50.06 (5) (a) that is not in the best interests
13 of the incapacitated individual or if the incapacitated individual verbally objects to
14 or otherwise actively protests the admission, the petition shall be heard as soon as
15 possible within the 60-day period.

16 **SECTION 337.** 880.08 (intro.) of the statutes is renumbered 54.38 (2) (intro.) and
17 amended to read:

18 54.38 (2) ~~NOTICE OF HEARING FOR APPOINTMENTS AND REHEARINGS, SERVICE, AND~~
19 ~~DELIVERY.~~ (intro.) Upon the filing of a petition for guardianship, ~~and the court being~~
20 ~~of the person or of the estate, including appointment or change of a guardian, if the~~
21 ~~court is~~ satisfied as to compliance with s. ~~880.07~~ 54.34, the court shall, ~~except as~~
22 ~~provided in sub. (3), order the petitioner to serve notice on the proposed ward and~~
23 ~~guardian, if any, and to deliver notice to interested persons~~ of the time and place of
24 ~~the hearing, as follows:~~

25 **SECTION 338.** 880.08 (1) (title) of the statutes is repealed.

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1 **SECTION 339.** 880.08 (1) of the statutes is renumbered 54.38 (2) (a) and
2 amended to read:

3 54.38 (2) (a) ~~A petitioner shall have notice served of a petition for appointment~~
4 ~~or change of a guardian upon~~ On the proposed incompetent and existing guardian,
5 if any, ward by personal service and an existing guardian, if any, by personal service
6 or by registered or certified mail at least 10 days before the time set for hearing. If
7 ~~such proposed incompetent~~ the proposed ward is in custody or confinement, ~~a~~ the
8 petitioner shall have notice served by registered or certified mail on the proposed
9 incompetent's ward's custodian, who shall immediately serve it on the proposed
10 incompetent ward. The process server or custodian shall inform the proposed
11 incompetent ward of the complete contents of the notice and ~~certify thereon~~ petition,
12 motion, or other required document; certify on the notice that the process server or
13 custodian served and informed the proposed incompetent and returned ward; and
14 return the certificate and notice to the circuit judge. ~~The notice shall include the~~
15 ~~names of all persons who are petitioning for guardianship. A copy of the petition~~
16 ~~shall be attached to the notice. The court shall cause the proposed incompetent, if~~
17 ~~able to attend, to be produced at the hearing. The proposed incompetent is presumed~~
18 ~~able to attend unless, after a personal interview, the guardian ad litem certifies in~~
19 ~~writing to the court the specific reasons why the person is unable to attend. If the~~
20 ~~person is unable to attend a hearing because of physical inaccessibility or lack of~~
21 ~~transportation, the court shall hold the hearing in a place where the person may~~
22 ~~attend if requested by the proposed ward, guardian ad litem, adversary counsel or~~
23 ~~other interested person. Such notice shall also be given personally or by mail at least~~
24 ~~10 days before the hearing to the proposed incompetent's counsel, if any, guardian~~
25 ~~ad litem, presumptive adult heirs or other persons who have legal or physical custody~~

SENATE BILL 391**SECTION 339**

1 of the proposed incompetent whose names and addresses are known to the petitioner
2 or can with reasonable diligence be ascertained, to any governmental or private
3 agency, charity or foundation from which the proposed incompetent is receiving aid
4 and to such other persons or entities as the court may require. The court shall then
5 proceed under s. 880.33 court.

6 **SECTION 340.** 880.08 (2) of the statutes is repealed.

7 **SECTION 341.** 880.08 (3) (title) of the statutes is repealed.

8 **SECTION 342.** 880.08 (3) (am) (intro.) of the statutes is renumbered 54.38 (3)
9 (intro.) and amended to read:

10 54.38 (3) NOTICE OF HEARING FOR APPOINTMENT OF GUARDIAN FOR A MINOR. (intro.)

11 ~~When~~ If the proposed ward is a minor, notice shall be given as provided in s. 879.05
12 the court shall order delivery of notice by the petitioner of the time and place of the
13 hearing to all of the following persons, if applicable:

14 **SECTION 343.** 880.08 (3) (am) 1. of the statutes is renumbered 54.38 (3) (a) and
15 amended to read:

16 54.38 (3) (a) The proposed ward's spouse, if any.

17 **SECTION 344.** 880.08 (3) (am) 2. of the statutes is renumbered 54.38 (3) (b) and
18 amended to read:

19 54.38 (3) (b) The proposed ward's parents parent, unless the parent's parental
20 rights have been judicially terminated.

21 **SECTION 345.** 880.08 (3) (am) 3. of the statutes is renumbered 54.38 (3) (c) and
22 amended to read:

23 54.38 (3) (c) ~~A minor~~ The proposed ward, if the proposed ward is over 14 years
24 of age unless the minor appears at the hearing.

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1 **SECTION 346.** 880.08 (3) (am) 4. of the statutes is renumbered 54.38 (3) (d) and
2 amended to read:

3 54.38 (3) (d) Any other person, ~~agency, institution, welfare department or other~~
4 ~~entity having that has~~ the legal or actual physical custody of the minor.

5 **SECTION 347.** 880.08 (3) (e) of the statutes is repealed.

6 **SECTION 348.** 880.08 (4) of the statutes is renumbered 54.38 (4) and amended
7 to read:

8 54.38 (4) REHEARINGS. Notice of a rehearing to determine if a ward is a proper
9 subject to continue under guardianship shall be given as required ~~for the~~
10 ~~appointment of a guardian under subs. (1), (2), and (3).~~

11 **SECTION 349.** 880.09 (intro.) of the statutes is renumbered 54.15 (intro.) and
12 amended to read:

13 **54.15 ~~Nomination; selection of guardians~~ Selection of guardian;**
14 **nominations; preferences; other criteria.** (intro.) The court shall do one of the
15 following and shall consider all of the following nominations ~~made by any interested~~
16 ~~person and, in its discretion, shall appoint a proper guardian, having due regard for~~
17 ~~the following, applicable preferences, and criteria in determining who is appointed~~
18 as guardian:

19 **SECTION 350.** 880.09 (1) (title) of the statutes is repealed.

20 **SECTION 351.** 880.09 (1) of the statutes is renumbered 54.15 (4) (b) and
21 amended to read:

22 54.15 (4) (b) A minor ~~over~~ who is 14 years or older may in writing in circuit court
23 nominate his or her own guardian, but if the minor is in the armed service, is ~~without~~
24 outside of the state, or if other good reason exists, the court may dispense with the
25 minor's right of nomination.