



**SENATE BILL 391**

**SECTION 352**

1           **SECTION 352.** 880.09 (2) of the statutes is renumbered 54.15 (5) and amended  
2 to read:

3           **54.15 (5) PREFERENCE PARENT OF A PROPOSED WARD.** If one or both of the parents  
4 of a minor, ~~a developmentally disabled person or a person with other like incapacity~~  
5 or an individual with developmental disability or with serious and persistent mental  
6 illness are suitable and willing, the court shall appoint one or both of ~~them~~ as  
7 guardian unless the ~~proposed ward objects~~ court finds that the appointment is not  
8 in the proposed ward,s best interest. The court shall ~~appoint a corporate guardian~~  
9 ~~under s. 880.35 only if no suitable individual guardian is available~~ consider a  
10 proposed ward’s objection to the appointment of his or her parent.

11           **SECTION 353.** 880.09 (3) (title) of the statutes is repealed.

12           **SECTION 354.** 880.09 (3) of the statutes is renumbered 54.15 (4) (c) and  
13 amended to read:

14           **54.15 (4) (c)** If neither parent of a minor who is 14 years or older is suitable and  
15 willing to be appointed guardian, the court may appoint the nominee of ~~a~~ the minor.

16           **SECTION 355.** 880.09 (4) of the statutes is repealed.

17           **SECTION 356.** 880.09 (5) of the statutes is repealed.

18           **SECTION 357.** 880.09 (6) of the statutes is renumbered 54.15 (6) and amended  
19 to read:

20           **54.15 (6) TESTAMENTARY GUARDIANSHIP OF CERTAIN PERSONS NOMINATION BY**  
21 PROPOSED WARD’S PARENTS. Subject to the rights of a surviving parent, a parent may  
22 by will nominate a guardian and successor guardian of the person or estate of ~~of~~ for any  
23 of his or her minor children who ~~are~~ is in need of guardianship, unless the court finds  
24 that appointment of the guardian or successor guardian is not i the minor’s best  
25 interests. For ~~a person over the age of~~ an individual who is aged 18 or older and is

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1 found to be in need of guardianship ~~under s. 880.33~~ by reason of a developmental  
2 disability or ~~other like incapacity~~ serious and persistent mental illness, a parent may  
3 by will nominate a testamentary guardian. The parent may waive the requirement  
4 of a bond for such an estate that is derived through a will.

5 **SECTION 358.** 880.09 (7) (title) of the statutes is repealed.

6 **SECTION 359.** 880.09 (7) of the statutes is renumbered 54.15 (4) (a) and  
7 amended to read:

8 54.15 (4) (a) Any ~~person~~ individual other than a minor aged 14 years or younger  
9 may, ~~at such time as if the person has sufficient capacity~~ individual does not have  
10 incapacity to such an extent that he or she is unable to form an intelligent a  
11 reasonable and informed preference, execute a written instrument, in the same  
12 manner as the execution of a will under s. 853.03, nominating ~~a person~~ another to  
13 be appointed as guardian of his or her person or property estate or both ~~in the event~~  
14 ~~that if a guardian is in the future appointed. Such nominee shall be appointed as~~  
15 guardian by the for the individual. The court shall appoint this nominee as guardian  
16 unless the court finds that the appointment ~~of such nominee~~ is not in the best  
17 interests of the ~~person for whom, or for whose property, the guardian is to be~~  
18 appointed proposed ward.

19 **SECTION 360.** 880.10 of the statutes is renumbered 54.38 (5) and amended to  
20 read:

21 54.38 (5) NOTICE OF APPOINTMENT OF GUARDIAN OF A MINOR WARD. If for any reason  
22 the court fails to appoint as guardian the nominee of the minor, the guardian who  
23 qualifies shall give notice of the guardian's appointment to the minor by certified  
24 mail addressed to the minor's last-known post-office address and shall file an

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## SECTION 360

1 affidavit of such ~~the~~ mailing shall be filed with the court within 10 days after the  
2 issuance of letters notice is given.

3 **SECTION 361.** 880.12 of the statutes is repealed.

4 **SECTION 362.** 880.125 of the statutes is repealed.

5 **SECTION 363.** 880.13 (title) of the statutes is renumbered 54.46 (5) (title).

6 **SECTION 364.** 880.13 (1) of the statutes is renumbered 54.46 (4) (a) and  
7 amended to read:

8 54.46 (4) (a) ~~Form~~ Amount and sufficiency of bond. Upon the appointment of  
9 a guardian of the estate of a ward, except as provided under s. 880.60 (9), the court  
10 may require a bond given in accordance with ch. 878 and s. 895.345 The order under  
11 sub. (2) shall specify the amount of any bond required to be given by the guardian  
12 of the estate, conditioned upon the faithful performance of the duties of the guardian  
13 of the estate. No bond may be required for the guardian of the person.

14 **SECTION 365.** 880.13 (2) (title) of the statutes is renumbered 54.46 (4) (b) (title).

15 **SECTION 366.** 880.13 (2) (a) of the statutes is renumbered 54.46 (4) (b) (intro.)  
16 and amended to read:

17 54.46 (4) (b) (intro.) Unless required under s. 880.60 54.852 (9), the court may  
18 waive the requirement of a bond at under any of the following circumstances:

19 1. At any time in its discretion or if.

20 2. If so requested in a will wherein in which a nomination appears.

21 **SECTION 367.** 880.13 (2) (b) of the statutes is renumbered 54.46 (4) (b) 3. and  
22 amended to read:

23 54.46 (4) (b) 3. ~~Whenever~~ If a guardian has or will have possession of funds of  
24 the ward with a total value of \$40,000 \$100,000 or less, and the court ~~may direct~~  
25 directs deposit of the funds in an insured account of a bank, credit union, savings

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1 bank, or savings and loan association in the name of the guardian and the ward and  
2 payable only upon further order of the court. In such event the court may waive the  
3 requirement of a bond.

4 **SECTION 368.** 880.13 (3) of the statutes is repealed.

5 **SECTION 369.** 880.14 of the statutes is renumbered 54.46 (5) and amended to  
6 read:

7 54.46 (5) ~~WHEN LETTERS TO BE ISSUED~~ LETTERS OF GUARDIANSHIP. ~~When~~ If a  
8 guardian of the estate has given bond as, if required, and the bond has been approved  
9 by the judge court, letters under the seal of the court shall be issued to the guardian  
10 of the estate. If a court determination and order appointing a guardian of the person  
11 is entered, letters under the seal of the court shall be issued to the guardian of the  
12 person.

13 **SECTION 370.** 880.15 (title) of the statutes is repealed.

14 **SECTION 371.** 880.15 (1) of the statutes is renumbered 54.50 (2) and amended  
15 to read:

16 54.50 (2) ~~APPOINTMENT~~ DURATION AND EXTENT OF AUTHORITY. ~~If, after~~  
17 ~~consideration of a petition for temporary guardianship, the court finds that the~~  
18 ~~welfare of a minor, spendthrift or an alleged incompetent requires the immediate~~  
19 ~~appointment of a guardian of the person or of the estate, or of both, it~~ The court may  
20 appoint a temporary guardian for a ward for a period not to exceed 60 days unless  
21 further extended for 60 days by order of the court. ~~The court may extend the period~~  
22 ~~only once, except that the court may extend this period for good cause shown for one~~  
23 additional 60-day period. The court may impose no further temporary guardianship  
24 on the ward for at least 90 days after the expiration of the temporary guardianship  
25 and any extension. The court's determination and order appointing the temporary

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## SECTION 371

1 guardian shall specify the authority of the temporary guardian and shall be limited  
2 to those acts that are reasonably related to the reasons for appointment that are  
3 specified in the petition for temporary guardianship. The authority of the temporary  
4 guardian shall be is limited to the performance of duties respecting specific property,  
5 ~~or to the performance of particular~~ those acts, as stated in the order of appointment.  
6 All provisions of the statutes concerning the powers and duties of guardians shall  
7 apply to temporary guardians except as limited by the order of appointment. The  
8 temporary guardian shall make the reports the court directs and shall account to the  
9 court upon termination of authority. The court assigned to exercise jurisdiction  
10 under chs. 48 and 938 has exclusive jurisdiction over the appointment of a temporary  
11 guardian of a minor for medical purposes but shall proceed in accordance with this  
12 section Unless the court first specifically approves and orders bond, the temporary  
13 guardian may not sell real estate or expend an amount in excess of \$2,000.

14 **SECTION 372.** 880.15 (1m) of the statutes is repealed.

15 **SECTION 373.** 880.15 (1s) of the statutes is renumbered 54.38 (6) and amended  
16 to read:

17 **54.38 (6) NOTICE OF PETITION AND HEARING FOR TEMPORARY GUARDIANSHIP.** The  
18 person petitioning petitioner for appointment of a temporary guardian shall cause  
19 give notice to be given under s. 880.08 of that the petition to the minor, spendthrift  
20 or alleged incompetent and, if the appointment is made, shall give notice of the  
21 appointment to the ward. The time limits of s. 880.08 do not apply to notice given  
22 under this subsection proposed ward. The notice shall be served before or at the time  
23 the petition is filed or as soon thereafter as possible and shall include notice of the  
24 right to counsel and of the right to petition for reconsideration or modification of the  
25 temporary guardianship at any time under s. 880.34 within 30 days of receipt of the

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1 notice 54.50 (3) (d) The petitioner shall serve notice of the order for hearing on the  
2 proposed ward before the hearing or not later than 3 calendar days after the hearing.  
3 If the petitioner serves notice after the hearing is conducted and the court has  
4 entered an order, the petitioner shall include the court's order with the notice of the  
5 order for hearing.

6 **SECTION 374.** 880.15 (2) of the statutes is repealed.

7 **SECTION 375.** 880.15 (3) of the statutes is renumbered 54.50 (4) and amended  
8 to read:

9 54.50 (4) (d) CESSATION OF POWERS. ~~If the temporary guardianship is not sooner~~  
10 ~~terminated the~~ The duties and powers of the temporary guardian shall cease upon  
11 the issuing of letters of permanent guardianship ~~to the guardian of the ward, or, if~~  
12 ~~the ward is a minor, upon his becoming of age, or when it shall be judicially~~  
13 ~~determined, the expiration of the time period specified in sub. (2), or if the court~~  
14 ~~sooner determines that any other disability of the temporary ward which~~ situation  
15 of the ward that was the cause of the temporary guardianship has terminated. Upon  
16 ~~the~~ termination of the temporary guardian's duties and powers, a temporary  
17 guardian of the person shall file with the court any report that the court requires.  
18 A temporary guardian of the estate shall, upon the termination of duties and powers,  
19 account to the court and deliver to the person ~~or persons~~ entitled to ~~them~~ all the  
20 ~~estate of the ward in his or her hands~~ the ward's estate over which the temporary  
21 guardian of the estate has had control. Any action ~~which~~ that has been commenced  
22 by the temporary guardian may be prosecuted to final judgment by the successor or  
23 successors in interest, if any.

24 **SECTION 376.** 880.155 of the statutes is renumbered 54.56 and amended to  
25 read:

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## SECTION 376

1           **54.56 Visitation by a minor’s grandparents and stepparents.** (1) In this  
2 section, “stepparent” means the surviving spouse of a deceased parent of a minor  
3 child, whether or not the surviving spouse has remarried.

4           (2) If one or both parents of a minor ~~child~~ are deceased and the ~~child~~ minor is  
5 in the custody of the surviving parent or any other person, a grandparent or  
6 stepparent of the ~~child~~ minor may petition for visitation privileges with respect to the  
7 ~~child~~ minor, whether or not the person with custody is married. The grandparent or  
8 stepparent may file the petition in a guardianship or temporary guardianship  
9 proceeding under this chapter that affects the minor ~~child~~ or may file the petition to  
10 commence an independent action under this chapter. Except as provided in sub.  
11 (3m), the court may grant reasonable visitation privileges to the grandparent or  
12 stepparent if the surviving parent or other person who has custody of the ~~child~~ minor  
13 has notice of the hearing and if the court determines that visitation is in the best  
14 interest of the ~~child~~ minor.

15           (3) Whenever possible, in making a determination under sub. (2), the court  
16 shall consider the wishes of the ~~child~~ minor.

17           (3m) (a) Except as provided in par. (b), the court may not grant visitation  
18 privileges to a grandparent or stepparent under this section if the grandparent or  
19 stepparent has been convicted under s. 940.01 of the first-degree intentional  
20 homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of  
21 the ~~child~~ minor, and the conviction has not been reversed, set aside or vacated.

22           (b) Paragraph (a) does not apply if the court determines by clear and convincing  
23 evidence that the visitation would be in the best interests of the ~~child~~ minor. The  
24 court shall consider the wishes of the ~~child~~ minor in making the determination.

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1           (4) The court may issue any necessary order to enforce a visitation order that  
2 is granted under this section, and may from time to time modify such the visitation  
3 privileges or enforcement order ~~upon a showing of~~ for good cause shown.

4           (4m) (a) If a grandparent or stepparent granted visitation privileges with  
5 respect to a ~~child~~ minor under this section is convicted under s. 940.01 of the  
6 first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional  
7 homicide, of a parent of the ~~child~~ minor, and the conviction has not been reversed,  
8 set aside or vacated, the court shall modify the visitation order by denying visitation  
9 with the ~~child~~ minor upon petition, motion or order to show cause by a person having  
10 custody of the ~~child~~ minor, or upon the court's own motion, and upon notice to the  
11 grandparent or stepparent granted visitation privileges.

12           (b) Paragraph (a) does not apply if the court determines by clear and convincing  
13 evidence that the visitation would be in the best interests of the ~~child~~ minor. The  
14 court shall consider the wishes of the ~~child~~ minor in making the determination.

15           (5) This section applies to every minor ~~child~~ in this state whose parent or  
16 parents are deceased, regardless of the date of death of the parent or parents.

17           **SECTION 377.** 880.157 (title) of the statutes is renumbered 54.57 (title).

18           **SECTION 378.** 880.157 (1) of the statutes is renumbered 54.57 (1) and amended  
19 to read:

20           54.57 (1) Except as provided in sub. (2), in an action under this chapter that  
21 affects a minor ~~child~~, a court may not grant to a parent of the ~~child~~ minor visitation  
22 or physical placement rights with the ~~child~~ minor if the parent has been convicted  
23 under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the  
24 2nd-degree intentional homicide, of the ~~child's~~ minor's other parent, and the  
25 conviction has not been reversed, set aside or vacated.

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1           **SECTION 379.** 880.157 (2) of the statutes is renumbered 54.57 (2) and amended  
2 to read:

3           **54.57 (2)** Subsection (1) does not apply if the court determines by clear and  
4 convincing evidence that visitation or periods of physical placement would be in the  
5 best interests of the ~~child~~ minor. The court shall consider the wishes of the ~~child~~  
6 minor in making the determination.

7           **SECTION 380.** 880.16 of the statutes is repealed.

8           **SECTION 381.** 880.17 of the statutes is renumbered 54.54 and amended to read:

9           **54.54 Successor guardian. (1) APPOINTMENT.** ~~When~~ If a guardian dies, is  
10 removed by order of the court, or resigns and the resignation is accepted by the court,  
11 the court, on its own motion or upon petition of any interested person, may appoint  
12 a competent and suitable person as successor guardian. The court may, upon request  
13 of any interested person or on its own motion, direct that a petition for appointment  
14 of a successor guardian be heard in the same manner and subject to the same  
15 requirements as provided under this chapter for an original appointment of a  
16 guardian.

17           **(2) NOTICE.** If the appointment under sub. (1) is made without hearing, the  
18 successor guardian shall provide notice to the ward and all interested persons of the  
19 appointment, the right to counsel, and the right to petition for reconsideration of the  
20 successor guardian. The notice shall be served personally or by mail not later than  
21 10 days after the appointment.

22           **SECTION 382.** 880.173 (title) of the statutes is repealed.

23           **SECTION 383.** 880.173 (1) of the statutes is renumbered 54.20 (2) (h) and  
24 amended to read:

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1           54.20 (2) (h) ~~A guardian of the estate~~ If appointed under this chapter for a  
2 married person may ward, exercise with the approval of the court, except as limited  
3 under s. 880.37, any management and control right over the marital property or  
4 property other than marital property and any right in the business affairs ~~which~~ that  
5 the married person ward could exercise under ch. 766 if the person were not  
6 determined under s. 880.12 to be a proper subject for guardianship. Under this  
7 section, a guardian may ward were not an individual found incompetent, consent to  
8 act together in or join in any transaction for which consent or joinder of both spouses  
9 is required, or may execute under s. 766.58 a marital property agreement with the  
10 other ward's spouse or, if appointed for a ward who intends to marry, with the ward's  
11 intended spouse, but may not make, amend or revoke a will.

12           **SECTION 384.** 880.173 (2) of the statutes is repealed.

13           **SECTION 385.** 880.175 (title) of the statutes is repealed.

14           **SECTION 386.** 880.175 of the statutes is renumbered 54.20 (2) (b) and amended  
15 to read:

16           54.20 (2) (b) ~~Upon petition by the guardian, a parent, the spouse, any issue or~~  
17 ~~next of kin of any person, assets of the person may, in the discretion of the court and~~  
18 ~~upon its order, after such notice as the court may require, be transferred~~ Transfer  
19 assets of the ward to the trustee ~~or trustees~~ of an any existing revocable living trust  
20 ~~created by the person for the benefit of~~ that the ward has created for himself or  
21 herself and those dependent upon the person for support any dependents, or, if the  
22 ward is a minor, to the trustee ~~or trustees~~ of a any trust created for the exclusive  
23 benefit of the person, if a minor, which ward that distributes to him or her at age 18  
24 or 21, or, if the ward dies before age 18 or 21, to his or her estate, or as he or she

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1 appoints if he or she dies prior to age 18 or 21 the ward has appointed by a written  
2 instrument that is executed after the ward attains age 14.

3 **SECTION 387.** 880.18 (title) of the statutes is renumbered 54.60 (title).

4 **SECTION 388.** 880.18 of the statutes is renumbered 54.60 (1) and amended to  
5 read:

6 54.60 (1) INVENTORY REQUIRED. ~~When a~~ The guardian of the estate has been  
7 appointed an inventory shall be made in the same manner and subject to the same  
8 requirements as are provided for the inventory of a decedent's estate. An appraisal  
9 of all or any part of the ward's estate shall be made when ordered by the court prepare  
10 an inventory that lists all of the ward's income and assets, including interests in  
11 property and any marital property interest, regardless of how the asset is titled.

12 **SECTION 389.** 880.19 (title) of the statutes is repealed.

13 **SECTION 390.** 880.19 (1) (title) of the statutes is repealed.

14 **SECTION 391.** 880.19 (1) of the statutes is renumbered 54.19 (1) and amended  
15 to read:

16 54.19 (1) ~~The guardian of the estate shall take~~ Take possession of all of the  
17 ward's real and personal property, and of any rents, income, issues and benefits  
18 therefrom, whether accruing before or after the guardian's appointment from the  
19 property, and of the any proceeds arising from the sale, mortgage, lease, or exchange  
20 thereof of the property and prepare an inventory of these. Subject to such this  
21 possession, the title of all such estate the income and assets of the ward and to the  
22 increment and proceeds thereof shall be of the income and assets of the ward in the  
23 ward and not in the guardian. It is the duty of the guardian of the estate to protect  
24 and preserve it, to retain, sell and invest it as hereinafter provided, to account for it  
25 faithfully, to perform all other duties required of the guardian by law and at the

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1 ~~termination of the guardianship to deliver the assets of the ward to the persons~~  
2 ~~entitled thereto.~~

3 **SECTION 392.** 880.19 (2) (title) of the statutes is repealed.

4 **SECTION 393.** 880.19 (2) (a) of the statutes is renumbered 54.20 (1) (intro.) and  
5 amended to read:

6 54.20 (1) STANDARD. (intro.) The In exercising the powers under this section,  
7 the guardian of the estate may, without the approval of the court, retain any real or  
8 personal property possessed by the ward at the time of appointment of the guardian  
9 or subsequently acquired by the ward by gift or inheritance without regard to ch. 881,  
10 so long as such retention constitutes the exercise of shall use the judgment and care  
11 under the circumstances then prevailing, which that persons of prudence, discretion,  
12 and intelligence exercise in the management of their own affairs, not in regard to  
13 speculation but in regard to including the permanent, rather than speculative,  
14 disposition of their funds, considering and consideration of the probable income as  
15 well as the probable and safety of their capital. In addition, in exercising powers and  
16 duties under this section, the guardian of the estate shall consider, consistent with  
17 the functional limitations of the ward, all of the following:

18 **SECTION 394.** 880.19 (2) (b) of the statutes is renumbered 54.20 (3) (f) and  
19 amended to read:

20 54.20 (3) (f) ~~The guardian of the estate may, with the approval of the court, after~~  
21 ~~such notice as the court directs, retain~~ Retain any real or personal property  
22 ~~possessed by that the ward at the time of the appointment of the possesses when the~~  
23 ~~guardian or subsequently acquired by is appointed or that the ward acquires by gift~~  
24 ~~or inheritance for such period of time as shall be designated in the order of the court~~

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## SECTION 394

1 ~~approving such retention, without regard to ch. 881 during the guardian's~~  
2 ~~appointment.~~

3 SECTION 395. 880.19 (3) (title) of the statutes is repealed.

4 SECTION 396. 880.19 (3) of the statutes is renumbered 54.20 (2) (k) and  
5 amended to read:

6 54.20 (2) (k) In all cases ~~where~~ in which the court ~~deems it~~ determines that it  
7 is advantageous to continue the business of a ward, ~~such business may be continued~~  
8 ~~by the guardian of the estate on such~~ continue the business on any terms and  
9 conditions ~~as may be~~ specified in the order of the court.

10 SECTION 397. 880.19 (4) (title) of the statutes is repealed.

11 SECTION 398. 880.19 (4) (a) of the statutes is renumbered 54.20 (3) (h) and  
12 amended to read:

13 54.20 (3) (h) ~~The guardian of the estate may, without approval of the court,~~  
14 ~~invest~~ Invest and reinvest the proceeds of sale of any ~~guardianship assets of the ward~~  
15 and any of the ward's other moneys in the guardian's possession in accordance with  
16 ch. 881.

17 SECTION 399. 880.19 (4) (b) of the statutes is renumbered 54.20 (3) (i) and  
18 amended to read:

19 54.20 (3) (i) ~~The guardian of the estate may, with the approval of the court, after~~  
20 Notwithstanding ch. 881, after such notice as the court directs, and subject to ch. 786,  
21 invest the proceeds of sale of any ~~guardianship assets of the ward~~ and any of the  
22 ward's other moneys in the guardian's possession in ~~such~~ the real or personal  
23 property ~~as the court determines that is determined by the court~~ to be in the best  
24 interests of the ~~guardianship estate, without regard to ch. 881 of the ward.~~

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1 SECTION 400. 880.19 (4) (c) of the statutes is renumbered 54.18 (3) (a) and  
2 amended to read:

3 54.18 (3) (a) ~~No guardian shall lend guardianship~~ Lend funds of the ward to  
4 himself or herself.

5 SECTION 401. 880.19 (5) (title) of the statutes is repealed.

6 SECTION 402. 880.19 (5) (a) of the statutes is renumbered 54.20 (3) (g) and  
7 amended to read:

8 54.20 (3) (g) ~~The guardian of the estate may, without approval of the court, sell~~  
9 Subject to ch. 786, sell any property asset of the guardianship estate acquired by the  
10 guardian pursuant to sub. (4) ward at fair market value. (3)

*, mortgage, pledge, lease, or exchange*

11 SECTION 403. 880.19 (5) (b) of the statutes is renumbered 54.22 and amended  
12 to read:

*Notwithstanding  
§. 54.20 (a), (h), and (i), a*

*petition the court to*

13 54.22 Petition for authority to sell, mortgage, pledge, lease, or  
14 exchange ward's property. ~~The court, on the application~~ petition of the guardian  
15 of the estate or of any other person interested in the estate of any a ward, ~~after such~~  
16 notice if any, as ~~any notice that the court directs,~~ may authorize or require the  
17 guardian to sell, mortgage, pledge, lease, or exchange any property of the  
18 guardianship estate ~~of the ward upon such terms as~~ asset the court may order, subject to  
19 ch. 786, for the purpose of paying the ward's debts, providing for the ward's care,  
20 maintenance, and education and the care, maintenance, and education of the ward's  
21 dependents, investing the proceeds, or for any other purpose which that is in the best  
22 interest of the ward.

23 SECTION 404. 880.19 (5) (c) of the statutes is renumbered 54.18 (3) (c) and  
24 amended to read:

*of the ward. Following the petition and  
upon any notice and hearing that  
the court requires,*

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## SECTION 404

1           54.18 (3) (c) ~~No guardian shall purchase~~ Purchase property of the ward, ~~unless~~  
2 ~~sold at public sale~~ except at fair market value, subject to ch. 786, and with the  
3 approval of the court, ~~and then only if the guardian is a spouse, parent, child, brother~~  
4 ~~or sister of the ward or is a cotenant with the ward in the property.~~

5           **SECTION 405.** 880.19 (5) (d) of the statutes is repealed.

6           **SECTION 406.** 880.19 (6) of the statutes is repealed.

7           **SECTION 407.** 880.191 (title) of the statutes is repealed.

8           **SECTION 408.** 880.191 (1) of the statutes is renumbered 54.60 (7) and amended  
9 to read:

10           54.60 (7) VERIFICATION, EXAMINATION IN COURT. Every guardian of the estate  
11 shall verify by ~~the guardian's oath to the best of the guardian's information and belief~~  
12 that every inventory required of the guardian and verification shall be to the effect  
13 that the inventory is true of of the estate includes all property which belongs to his  
14 or her decedent's estate or his or her ward, which has come to the guardian's  
15 possession or knowledge, and that upon diligent inquiry the guardian has not been  
16 able to discover any property belonging to the estate or ward which is not included  
17 therein income and assets of the ward. The court, at the request of any party  
18 interested, or on its own motion, may examine the guardian of the estate on oath ~~in~~  
19 ~~relation thereto,~~ as to the inventory or in relation to any supposed omission from the  
20 inventory.

21           **SECTION 409.** 880.191 (2) of the statutes is renumbered 54.60 (8) and amended  
22 to read:

23           54.60 (8) CITATION TO FILE INVENTORY AND TO ACCOUNT. If any guardian neglects  
24 to file the inventory or account when required by law, the ~~circuit judge~~ court shall call  
25 the ~~guardian's attention~~ of the guardian of the estate to the neglect. If the guardian

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1     ~~still neglects~~ of the estate continues to neglect his or her duty ~~in the premises~~, the  
2     court shall order the guardian of the estate to file the inventory, and the costs may  
3     be adjudged against the guardian of the estate.

4             **SECTION 410.** 880.192 of the statutes is repealed.

5             **SECTION 411.** 880.195 of the statutes is renumbered 54.625 and amended to  
6     read:

7             **54.625 Transfer of Menominees guardianship funds to trust of a**  
8     **Menominee**. The ~~circuit court which~~ that has appointed a guardian of the estate  
9     of any minor or individual found incompetent who is a legally enrolled member of the  
10    Menominee Indian tribe, as defined in s. 49.385, or a lawful distributee ~~thereof~~, as  
11    defined in s. 54.850 (3), of the member may direct the guardian to transfer the assets  
12    in the guardian's possession of the minor or individual found incompetent ~~in the~~  
13    ~~guardian's possession~~ to the trustees of the trust created by the secretary of interior  
14    or his or her delegate ~~which~~ that receives property of the minors or ~~incompetents~~  
15    individuals found incompetent that is transferred from the United States or any  
16    agency thereof as provided by P.L. 83-399, as amended, and the assets shall  
17    thereafter be held, administered, and distributed in accordance with the terms and  
18    conditions of the trust.

19            **SECTION 412.** 880.21 of the statutes is repealed.

20            **SECTION 413.** 880.215 of the statutes is renumbered 54.47 and amended to  
21    read:

22            **54.47 Lis pendens, void contracts.** A certified copy of the petition and order  
23    for hearing provided for in ss. ~~880.07~~ 54.34 and ~~880.08~~ 54.38 may be filed in the office  
24    of the register of deeds for the county; ~~and if~~. If a guardian ~~shall be~~ is appointed ~~upon~~  
25    ~~such application~~ after a hearing on the petition and if the court's order includes a

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1 finding that the ward may not make contracts, all contracts, except for necessities  
2 at reasonable prices, and all gifts, sales, and transfers of property made by such  
3 ~~insane or incompetent person or spendthrift~~, the ward after the filing of a certified  
4 copy of such petition and the order as aforesaid, shall be void. The validity of a  
5 contract made by a person under limited guardianship is not void, however, unless  
6 the determination is made by the court in its finding under s. 880.33 (3) that the ward  
7 is incapable of exercising the power to make contracts are void, unless notified by the  
8 guardian in writing.

9 **SECTION 414.** 880.22 (title) of the statutes is repealed.

10 **SECTION 415.** 880.22 (1) (title) of the statutes is repealed.

11 **SECTION 416.** 880.22 (1) of the statutes is renumbered 54.19 (7) and amended  
12 to read:

13 54.19 (7) ~~Every general guardian shall~~ With respect to claims, pay the just  
14 legally enforceable debts of the ward ~~out of, including by filing tax returns and paying~~  
15 any taxes owed, from the ward's personal estate and the income of the ward's real  
16 estate, if sufficient, and if not, then out of the ward's real estate upon selling the same  
17 as provided by law. ~~But a temporary guardian shall pay the debts of his or her ward~~  
18 only on order of the court and assets.

19 **SECTION 417.** 880.22 (2) (title) of the statutes is repealed.

20 **SECTION 418.** 880.22 (2) of the statutes is renumbered 54.20 (2) (L) and  
21 amended to read:

22 54.20 (2) (L) ~~The guardian or a creditor of any ward may apply~~ Apply to the  
23 court for adjustment of any claims against the ward incurred ~~prior to~~ before entry  
24 of the order appointing the guardian or the filing of a lis pendens as provided in s.  
25 ~~880.215~~ 54.47. The court shall by order fix the time and place it will adjust claims

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1 and the time within which all claims ~~must~~ shall be presented ~~or be barred~~. Notice  
2 of the time and place ~~so fixed and limited~~ these times and the place shall be given by  
3 publication as ~~in estates of decedents; and all statutes relating to claims against and~~  
4 ~~in favor of estates of decedents~~ provided in s. 879.05 (4), and ch. 859 generally shall  
5 apply. ~~As in the settlement of estates of deceased persons, after~~ After the court has  
6 made the order, no action or proceeding may be commenced or maintained in any  
7 court against the ward upon any claim ~~of~~ over which the circuit court has jurisdiction.

8 **SECTION 419.** 880.23 (title) of the statutes is repealed.

9 **SECTION 420.** 880.23 of the statutes is renumbered 54.20 (3) (j) and amended  
10 to read:

11 54.20 (3) (j) ~~The guardian shall settle~~ Settle all claims and accounts of the ward  
12 and ~~may demand, sue for, collect and receive all debts and claims for damages due~~  
13 ~~him or her, or may, with the approval of the circuit court, compound and discharge~~  
14 ~~the same, and shall appear for and represent his or her~~ the ward in all actions and  
15 proceedings except where those for which another person is appointed for that  
16 purpose.

17 **SECTION 421.** 880.24 (title) of the statutes is repealed.

18 **SECTION 422.** 880.24 (1) of the statutes is repealed.

19 **SECTION 423.** 880.24 (2) of the statutes is renumbered 54.42 (4) and amended  
20 to read:

21 54.42 (4) ~~WARD'S~~ RIGHT TO PAYMENT OF EXPENSES IN CONTESTING PROCEEDINGS.  
22 ~~When~~ If a guardian is appointed, the court ~~may~~ shall, if the court determines it  
23 reasonable, allow reasonable payment from the ward's income or assets of expenses  
24 incurred by the ward in contesting the appointment. These expenses are payable  
25 before other attorney or guardian ad litem fees.

**SENATE BILL 391****SECTION 424**

1           **SECTION 424.** 880.24 (3) (title) of the statutes is renumbered 54.46 (3) (title) and  
2 amended to read:

3           54.46 (3) (title) ~~FEES AND COSTS OF PETITIONER.~~

4           **SECTION 425.** 880.24 (3) (a) (intro.) of the statutes is renumbered 54.46 (3) (a)  
5 (intro.) and amended to read:

6           54.46 (3) (a) Petitioner's attorney fees and costs. (intro.) ~~Except as provided in~~  
7 ~~par. (b), when~~ If a guardian is appointed, the court shall award from the ward's estate  
8 income and assets payment of the petitioner's reasonable attorney fees and costs,  
9 including those fees and costs, if any, related to protective placement of the ward,  
10 unless the court finds, after considering all of the following, that it would be  
11 inequitable to do so:

12           **SECTION 426.** 880.24 (3) (a) 1. to 3. of the statutes are renumbered 54.46 (3) (a)  
13 1. to 3.

14           **SECTION 427.** 880.24 (3) (a) 4. of the statutes is renumbered 54.46 (3) (a) 5.

15           **SECTION 428.** 880.24 (3) (b) of the statutes is renumbered 54.46 (3) (a) 4. and  
16 amended to read:

17           54.46 (3) (a) 4. ~~If the court finds that~~ Whether the ward had executed a durable  
18 power of attorney under s. 243.07 or a power of attorney for health care under s.  
19 155.05 or had engaged in other advance planning ~~to avoid guardianship, the court~~  
20 ~~may not make the award specified in par. (a) for financial and health care decision~~  
21 making.

22           **SECTION 429.** 880.245 of the statutes is renumbered 54.62 (6) and amended to  
23 read:

24           54.62 (6) ACCOUNTING BY AGENT 3RD PARTIES TO GUARDIAN. ~~The circuit court, upon~~  
25 ~~the application of any~~ If a guardian appointed by it a court so requests, the court may

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1 order any person ~~who has been entrusted by the guardian with any part of the estate~~  
2 ~~of a decedent or ward to appear before the court, and may require the person to render~~  
3 ~~a full account, on oath, of any property or papers belonging to the estate which have~~  
4 ~~come to the person's possession~~ the income or assets and of his or her proceedings  
5 ~~thereon~~ action regarding the income or assets. If the person refuses to appear and  
6 render an account, the court may proceed against him or her as for contempt.

7 **SECTION 430.** 880.25 (title) of the statutes is repealed.

8 **SECTION 431.** 880.25 (1) of the statutes is renumbered 54.62 (1) and amended  
9 to read:

10 **54.62 (1) ANNUAL REPORTS.** ~~Every~~ Except as provided in sub. (3) or unless  
11 waived by a court, every guardian, except including a corporate guardian, shall, prior  
12 to April 15 of each year, file an account under oath specifying that specifies the  
13 amount of property the ward's assets or income received and held or invested by the  
14 guardian, the nature and manner of the investment, and the guardian's receipts and  
15 expenditures during the preceding calendar year. When ordered by the court, The  
16 court may order the guardian shall within 30 days to render and file, within 30 days,  
17 a like account for any shorter term less than a year. In lieu of the filing of these  
18 accounts before April 15 of each year, the court may, by appropriate order upon  
19 motion of the guardian, direct the guardian of an estate to ~~thereafter~~ render and file  
20 the annual accountings within 60 days after the anniversary date of the guardian's  
21 qualification as guardian, with the accounting period from the anniversary date of  
22 qualification to the ensuing annual anniversary date. ~~When any guardian of a minor~~  
23 ~~has custody of the ward and the care of the ward's education, the guardian's report~~  
24 ~~shall state the time that the ward attended school during the time for which the~~  
25 ~~account is rendered and the name of the school.~~ The guardian shall also report any

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## SECTION 431

1 change in the status of the surety upon the guardian's bond. If the court determines  
2 it to be in the ward's best interests, the court may specify the persons to whom the  
3 guardian shall distribute copies of the account.

4 **SECTION 432.** 880.25 (2) of the statutes is renumbered 54.62 (2) and amended  
5 to read:

6 54.62 (2) DISPLAY OF ASSETS. Upon rendering the account the guardian shall  
7 produce for examination by the court, or ~~some~~ by a person satisfactory to the court,  
8 evidence of all of the ward's securities, evidences of deposit depository accounts, and  
9 other investments reported, which shall be described in the account in sufficient  
10 detail so that they may be readily identified. ~~It shall be ascertained~~ The court or  
11 person satisfactory to the court shall ascertain whether the evidence of securities,  
12 evidences of deposit depository accounts, and other investments correspond with the  
13 account.

14 **SECTION 433.** 880.25 (3) of the statutes is renumbered 54.66 (2) and amended  
15 to read:

16 54.66 (2) SMALL ESTATES. ~~When the whole estate of a ward or of several wards~~  
17 ~~jointly, under the same guardianship, does not exceed \$1,000 in value, the~~ The  
18 ~~guardian shall be required to render~~ of a ward with a small estate, as specified in s.  
19 54.62 (3) (a), need not file a final account ~~only upon the termination of the guardian's~~  
20 ~~guardianship, unless otherwise ordered by the court.~~ The guardian shall instead  
21 provide the court with a list of the ward's assets that remain at the time the  
22 guardianship terminates, including at the death of the ward.

23 **SECTION 434.** 880.25 (4) of the statutes is renumbered 54.62 (5) and amended  
24 to read:

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1           54.62 (5) EXAMINATION OF ACCOUNTS. The account shall be promptly examined  
2           ~~under the court's direction and if it~~ as the court directs. If the account is not  
3           satisfactory ~~it shall be examined on 8 days' notice and,~~ the court shall make such  
4           ~~order thereon~~ order action as justice requires. ~~Notice~~ and shall direct that notice be  
5           provided to the guardian ~~may be served~~ personally or by certified mail as the court  
6           directs. ~~When the examination of a guardian's account is upon notice.~~ If notice is  
7           provided to the guardian under this subsection, the court may appoint a guardian  
8           ad litem of for the ward ~~may be appointed.~~

9           **SECTION 435.** 880.25 (5) of the statutes is renumbered 54.62 (7) (intro.) and  
10          amended to read:

11          54.62 (7) NOTICE OF FINAL ACTION ON AN ACCOUNT. (intro.) No action by the court  
12          ~~upon any on an~~ account shall be is final unless it is upon the guardian first provides  
13          notice. to all of the following, as applicable:

14          **SECTION 436.** 880.251 of the statutes is repealed.

15          **SECTION 437.** 880.252 of the statutes is renumbered 54.62 (8) and amended to  
16          read:

17          54.62 (8) ACCOUNTS; FAILURE OF A GUARDIAN TO FILE. If a guardian fails to file the  
18          guardian's account as required by law or ordered by the court, the court may, upon  
19          its own motion or upon the petition of any interested party ~~interested,~~ ~~issue an order~~  
20          ~~to the sheriff ordering,~~ order the guardian to show cause ~~before the court~~ why the  
21          guardian should not immediately make and file the guardian's reports or accounts.  
22          The court shall direct that a copy of the order be served on the guardian at least 20  
23          days before the date that the court has ordered the guardian to appear in court. If  
24          a guardian fails, neglects or refuses to make and file any report or account after  
25          having been cited by the court ~~so~~ to do so, or if the guardian fails to appear in court

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1 as directed by a citation issued ~~under direction and by authority~~ of the court, the  
2 court may, ~~upon~~ on its own motion or ~~upon~~ on the petition of any interested party,  
3 issue a warrant directed to the sheriff ordering that the guardian be brought before  
4 the court to show cause why the guardian should not be punished for contempt. If  
5 the court finds that the failure, refusal, or neglect is willful or inexcusable, the  
6 guardian may be fined not to exceed \$50 \$250 or imprisoned not to exceed 10 days  
7 or both.

8 **SECTION 438.** 880.253 of the statutes is renumbered 54.62 (9) and amended to  
9 read:

10 **54.62 (9)** ~~FORMAL ACCOUNTING~~ ACCOUNTING BY GUARDIANS AT ANY TIME. The judge  
11 court may at any time require an accounting by any guardian at a hearing, after  
12 providing notice to all interested persons, including sureties on the bond of a  
13 guardian. ~~The sureties on a bond of a guardian may once in every 3-year period~~  
14 ~~petition the court for such a hearing.~~

15 **SECTION 439.** 880.26 (title) of the statutes is repealed.

16 **SECTION 440.** 880.26 (1) (intro.) of the statutes is renumbered 54.64 (3) (intro.)  
17 and amended to read:

18 **54.64 (3)** ~~GUARDIANSHIP~~ TERMINATION OF GUARDIANSHIP OF THE PERSON. (intro.)  
19 A guardianship of the person shall terminate ~~when~~ if any of the following occurs:

20 **SECTION 441.** 880.26 (1) (a) of the statutes is renumbered 54.64 (3) (c) and  
21 amended to read:

22 **54.64 (3) (c)** ~~A formerly minor ward attains his or her majority, unless the minor~~  
23 ~~is incompetent~~ age 18, unless the guardianship was ordered on the grounds of  
24 incompetency.

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1           **SECTION 442.** 880.26 (1) (b) of the statutes is renumbered 54.64 (3) (d) and  
2 amended to read:

3           54.64 (3) (d) A minor ward ~~lawfully~~ whose guardianship was not ordered on the  
4 grounds of incompetency marries.

5           **SECTION 443.** 880.26 (1) (c) of the statutes is renumbered 54.64 (3) (a) and  
6 amended to read:

7           54.64 (3) (a) The court adjudicates a ~~former ward who was formerly found to~~  
8 be incompetent to be competent no longer incompetent or a ward who was formerly  
9 found to be a spendthrift to be capable of handling his or her income and assets, or  
10 terminates the guardianship under sub. (2) (d).

11           **SECTION 444.** 880.26 (2) (intro.) of the statutes is renumbered 54.64 (4) (intro.)  
12 and amended to read:

13           54.64 (4) ~~GUARDIANSHIP~~ TERMINATION OF GUARDIANSHIP OF THE ESTATE. (intro.)  
14 A guardianship of the estate shall terminate ~~when~~ if any of the following occurs:

15           **SECTION 445.** 880.26 (2) (a) of the statutes is renumbered 54.64 (4) (c) and  
16 amended to read:

17           54.64 (4) (c) A ~~formerly~~ minor ward attains ~~his or her majority~~ age 18.

18           **SECTION 446.** 880.26 (2) (b) of the statutes is renumbered 54.64 (4) (d) and  
19 amended to read:

20           54.64 (4) (d) A minor ward ~~lawfully~~ whose guardianship was not ordered on the  
21 grounds of incompetency marries and the court approves the termination.

22           **SECTION 447.** 880.26 (2) (c) of the statutes is renumbered 54.64 (4) (a) and  
23 amended to read:

24           54.64 (4) (a) The court adjudicates a ~~former ward who was formerly found to~~  
25 be incompetent or a spendthrift to be no longer incompetent or a ward who was

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1 formerly found to be a spendthrift to be capable of handling his or her property  
2 income and assets.

3 **SECTION 448.** 880.26 (2) (d) of the statutes is renumbered 54.64 (4) (e) and  
4 amended to read:

5 54.64 (4) (e) A ward dies, except when the estate can be settled as provided by  
6 s. ~~880.28~~ 54.66 (4).

7 **SECTION 449.** 880.26 (3) of the statutes is renumbered 54.64 (5) (intro.) and  
8 amended to read:

9 54.64 (5) ~~DEPLETED GUARDIANSHIPS~~ GUARDIANSHIP (intro.) ~~When the~~ If a court  
10 determines that the estate income and assets of the a ward is ~~below \$5,000~~ do not  
11 exceed the amount specified in s. 867.03 (1g) and are reduced to a point where it is  
12 to the advantage of the ward to dispense with the guardianship, the court may  
13 terminate do one of the following:

14 (a) Terminate the guardianship and authorize order disposition of the  
15 remaining assets as provided by s. ~~880.04 (2)~~ 54.12 (1). The court, as a part of the  
16 disposition, may order ~~a suitable amount paid to the county treasurer under order~~  
17 ~~of the court or reserved in the guardianship to assure the ward a decent burial, a~~  
18 ~~marker and care for the grave. In the case of an insolvent guardianship, the court~~  
19 ~~may order an amount not exceeding \$400 reserved in the guardianship or paid to the~~  
20 ~~county treasurer under order of the court to assure the ward a decent burial~~ the  
21 guardian to make appropriate financial arrangements for the burial or other  
22 disposition of the remains of the ward.

23 **SECTION 450.** 880.27 of the statutes is renumbered 54.66 (1) and amended to  
24 read:

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1           54.66 (1) ~~SETTLEMENT OF ACCOUNTS~~ RENDER FINAL ACCOUNT. Upon termination  
2 of If a court terminates a guardianship, or upon resignation, removal or death of a  
3 guardian, such resigns, is removed, or dies, the guardian or the guardian's personal  
4 representative or special administrator shall forthwith promptly render the  
5 guardian's a final account to the court and to the ward or former ward, the successor  
6 guardian, or the deceased ward's personal representative as the case may be. Upon  
7 approval of the account and filing proper receipts the guardian shall be discharged  
8 and the guardian's bond released or special administrator, as appropriate. If the  
9 ward dies and the guardian and the deceased ward's personal representative or  
10 special administrator are the same person, the deceased ward's personal  
11 representative or special administrator shall give notice of the termination and  
12 rendering of the final account to all interested persons of the ward's estate.

13           **SECTION 451.** 880.28 of the statutes is renumbered 54.66 (4) and amended to  
14 read:

15           54.66 (4) SUMMARY SETTLEMENT OF SMALL ESTATES. ~~When~~ If a ward dies leaving  
16 an estate which that can be settled summarily under s. 867.01, the court may  
17 approve such the settlement and distribution by the guardian, under the procedures  
18 of s. 867.01 without the necessity of appointing a personal representative.

19           **SECTION 452.** 880.29 of the statutes is renumbered 54.64 (6) and amended to  
20 read:

21           54.64 (6) DELIVERY OF PROPERTY TO FOREIGN GUARDIAN IN ANOTHER STATE. When  
22 property of a nonresident ward is in the possession of or due from a guardian or  
23 personal representative appointed in this state, the appointing court may order such  
24 the property delivered to the foreign guardian upon filing appointed in the state of  
25 the nonresident ward after a verified petition, accompanied by a copy of his or her

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## SECTION 452

1 the nonresident guardian's appointment and bond, authenticated so as to be  
2 admissible in evidence, is filed with the court and ~~upon~~ after 10 days' notice is  
3 provided to the resident guardian or personal representative. ~~Such~~ The petition  
4 shall be denied if granting it ~~shall appear~~ appears to be against the interests of the  
5 ward. ~~The~~ Any receipt ~~of~~ obtained from the ~~foreign~~ nonresident guardian for the  
6 property so delivered shall be taken and filed with the other papers in the proceeding,  
7 and a certified copy ~~thereof~~ of the receipt shall be sent to the court ~~which~~ that  
8 appointed ~~such~~ the nonresident guardian.

9 **SECTION 453.** 880.295 of the statutes is repealed.

10 **SECTION 454.** 880.31 (title) of the statutes is repealed.

11 **SECTION 455.** 880.31 (1) and (7) of the statutes are consolidated, renumbered  
12 54.76 (1) and amended to read:

13 54.76 (1) Any adult resident who is unwilling or believes that he or she is  
14 unable properly to manage his or her ~~property~~ assets or income may voluntarily  
15 apply to the circuit court of the county of his or her residence for appointment of a  
16 conservator of the estate. Upon receipt of the application, the court shall fix a time  
17 and place for hearing the application and may direct to whom, including presumptive  
18 heirs, and in what manner notice of the hearing shall be given. ~~(7) If an application~~  
19 ~~for conservatorship is filed,~~ the to a potential recipient of the notice, unless the  
20 potential recipient has waived receipt. The fee prescribed in s. 814.66 (1) (b) shall  
21 be paid at the time of the filing of the inventory or other documents setting forth the  
22 value of the estate assets and income.

23 **SECTION 456.** 880.31 (2) of the statutes is renumbered 54.76 (2) and amended  
24 to read:

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1           54.76 (2) ~~At the time of such hearing for appointment of a conservator,~~ the  
2 applicant shall be personally examined by the court and if the court is satisfied that  
3 the applicant desires a conservator and that the fiduciary nominated is and any  
4 proposed standby conservator are suitable, the court may appoint the nominee as  
5 conservator and, if applicable, designate the proposed standby conservator as  
6 standby conservator and issue letters of conservatorship to the nominee ~~upon the~~  
7 ~~filing of~~ after he or she files a bond in the amount fixed by the court.

8           **SECTION 457.** 880.31 (3) of the statutes is renumbered 54.76 (3) and amended  
9 to read:

10           54.76 (3) ~~A~~ Except as provided in sub. (3g), a conservator shall have has all  
11 the powers and duties of a guardian of the ~~property of an incompetent person.~~ The  
12 conservator's powers ~~shall cease upon being removed by the court or upon death of~~  
13 ~~the person whose estate is being conserved~~ estate. An individual whose income and  
14 assets are under conservatorship may make gifts of his or her income and assets,  
15 subject to approval of the conservator.

16           **SECTION 458.** 880.31 (4) and (5) of the statutes are consolidated, renumbered  
17 54.76 (4) and amended to read:

18           54.76 (4) Any person, including an individual whose estate is income and assets  
19 are under conservatorship, may apply to the court at any time for termination  
20 thereof ~~of the conservatorship.~~ Upon ~~such~~ receipt of the application, the court shall  
21 fix a time and place for hearing and may direct that 10 days' notice by mail be given  
22 to the ~~person's~~ individual's guardian, ~~if any,~~ of the person or agent under a power of  
23 attorney for health care, the conservator, any standby conservator, and the  
24 presumptive adult heirs of the applicant. ~~Upon such~~ individual whose income and  
25 assets are under conservatorship. A potential recipient of the notice may waive its

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## SECTION 458

1 receipt. At the hearing, the court shall, unless it is clearly shown that the applicant  
2 individual whose income and assets are under conservatorship is incompetent,  
3 remove the conservator and order the property income and assets restored to the  
4 applicant, or if the applicant so desires and the nominee is suitable, the court may  
5 appoint a successor conservator. (5) individual. If, however, the court shall upon  
6 such hearing determine determines at the hearing that the person individual whose  
7 estate is income and assets administered by a conservator may be is incapable  
8 of handling his or her estate income and assets, the court shall order the  
9 conservatorship continued, or, if the applicant so desires and the a nominee is  
10 suitable, the court may appoint a successor conservator. A conservatorship may only  
11 be terminated under a hearing under this subsection.

12 **SECTION 459.** 880.31 (6) of the statutes is renumbered 54.76 (5) and amended  
13 to read:

14 54.76 (5) Appointment of a conservator ~~shall not be~~ does not constitute  
15 evidence of the competency or incompetency of the person individual whose estate  
16 is income and assets are being administered.

17 **SECTION 460.** 880.32 of the statutes is renumbered 45.55 and amended to read:

18 **45.55 Notes and mortgages of minor veterans.** Notwithstanding any  
19 provision of this chapter or any other law to the contrary, any minor who served in  
20 the active armed forces of the United States at any time after August 27, 1940, and  
21 the husband or wife of such a minor may execute, in his or her own right, notes or  
22 mortgages, as defined in s. 851.15, the payment of which is guaranteed or insured  
23 by the U.S. department of veterans affairs or the federal housing administrator  
24 under the servicemen's readjustment act of 1944 ~~or~~, the national housing act, or any  
25 acts ~~supplementary thereto or amendatory thereof~~ supplementing or amending

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1 these acts. In connection with ~~such~~ these transactions, ~~such~~ the minors may sell,  
 2 release or convey ~~such~~ the mortgaged property and litigate or settle controversies  
 3 arising therefrom, including the execution of releases, deeds, and other necessary  
 4 papers or instruments. ~~Such~~ The notes, mortgages, releases, deeds and other  
 5 necessary papers or instruments when so executed ~~shall~~ are not be subject to  
 6 avoidance by ~~such~~ the minor or the husband or wife of ~~such~~ the minor upon either  
 7 or both of them attaining the age of 18 because of the minority of either or both of  
 8 them at the time of the execution thereof.

*that a proposed ward  
allegedly has*

9 **SECTION 461.** 880.33 (title) of the statutes is repealed.

10 **SECTION 462.** 880.33 (1) of the statutes is renumbered 54.36 (1) and amended  
 11 to read:

*is a  
spendthrift*

12 **54.36 Examination of proposed ward.** (1) Whenever it is proposed to  
 13 appoint a guardian on the ground ~~of a proposed ward's alleged~~ incompetency, a  
 14 licensed physician or licensed psychologist, or both, shall examine the proposed ward  
 15 and furnish a written statement concerning the mental condition <sup>of</sup> report stating the  
 16 physician's or psychologist's professional opinion regarding the presence and likely  
 17 duration of any medical or other condition causing ~~incapacity~~ of the proposed ward,  
 18 based upon examination. The privilege under s. 905.04 shall does not apply to this  
 19 the statement. ~~A~~ The petitioner shall provide a copy of the statement shall be  
 20 provided report to the proposed ward, or his or her counsel, the guardian ad litem,  
 21 and the petitioner's attorney, if any. Prior to the examination, ~~under this subsection,~~  
 22 ~~of a person alleged to be not competent to refuse psychotropic medication under s.~~  
 23 ~~880.07 (1m), the person shall be informed that his or her~~ on which the report is based,  
 24 the guardian ad litem, physician, or psychologist shall inform the proposed ward that  
 25 statements made by the proposed ward may be used as a basis for a finding of

*to have incapacity  
or to be a spendthrift*

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or a finding that she or she is a spendthrift

1 incompetency and an order for protective services, including psychotropic  
 2 medication. The person shall also be informed, that he or she has a right to remain  
 3 silent refuse to participate in the examination, absent a court order, or speak to the  
 4 physician or psychologist and that the examiner physician or psychologist is  
 5 required to report to the court even if the person remains silent proposed ward does  
 6 not speak to the physician or psychologist. The issuance of such a warning to the  
 7 person proposed ward prior to each examination establishes a presumption that the  
 8 person proposed ward understands that he or she need not speak to the examiner.  
 9 physician or psychologist. Nothing in this section prohibits the use of a report by a  
 10 physician or psychologist that is based on an examination of the proposed ward by  
 11 the physician or psychologist before filing the petition for appointment of a guardian,  
 12 but the court will consider the recency of the report in determining whether the  
 13 report sufficiently describes the proposed ward's current state and in determining  
 14 the weight to be given to the report.

15 SECTION 463. 880.33 (2) (a) 1. of the statutes is renumbered 54.42 (1) (a) (intro.)  
 16 and amended to read:

17 54.42 (1) (a) (intro.) The proposed ward or ward has the right to counsel  
 18 ~~whether or not present at the hearing on determination of competency. The court~~  
 19 ~~shall in all cases require the appointment of an attorney as guardian ad litem in~~  
 20 ~~accordance with s. 757.48 (1) and shall in addition require representation by full~~  
 21 ~~legal counsel whenever the petition contains the allegations under s. 880.07 (1m) or~~  
 22 ~~if, at least 72 hours before the hearing, the alleged incompetent requests; the~~  
 23 ~~guardian ad litem or any other person states that the alleged incompetent is opposed~~  
 24 ~~to the guardianship petition; or the court determines that the interests of justice~~  
 25 ~~require it. The proposed ward has the right to a trial by a jury if demanded by the~~

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1 ~~proposed ward, attorney or guardian ad litem, except that if the petition contains the~~  
2 ~~allegations under s. 880.07 (1m) and if notice of the time set for the hearing has~~  
3 ~~previously been provided to the proposed ward and his or her counsel, a jury trial is~~  
4 ~~deemed waived unless demanded at least 48 hours prior to the time set for the~~  
5 ~~hearing. The number of jurors shall be determined under s. 756.06 (2) (b). The~~  
6 ~~proposed ward, attorney or guardian ad litem shall have the right to present and~~  
7 ~~cross-examine witnesses, including the physician or psychologist reporting to the~~  
8 ~~court under sub. (1). The attorney or guardian ad litem for the proposed ward shall~~  
9 ~~be provided with a copy of the report of the physician or psychologist at least 96 hours~~  
10 ~~in advance of the hearing. Any final decision of the court is subject to the right of~~  
11 ~~appeal. if any of the following occurs:~~

12 **SECTION 464.** 880.33 (2) (a) 2. of the statutes is renumbered 54.42 (1) (c) and  
13 amended to read:

14 54.42 (1) (c) If the person requests but is par. (a) 1., 2., or 3. applies but the  
15 proposed ward or ward is unable to obtain legal counsel, the court shall appoint legal  
16 counsel. If the person is represented by counsel appointed under s. 977.08 in a  
17 proceeding for a protective placement under s. 55.06 or for the appointment of a  
18 guardian under s. 880.07 (1m), the court shall order the counsel appointed under s.  
19 977.08 to represent the person.

20 **SECTION 465.** 880.33 (2) (a) 3. of the statutes is renumbered 54.46 (3) (b) and  
21 amended to read:

22 54.46 (3) (b) *Guardian ad litem and defense fees for indigents; liability.* If the  
23 person proposed ward is an adult who is indigent, the county of legal settlement shall  
24 be in which venue lies for the guardianship proceeding is the county liable for any  
25 fees due the guardian ad litem and, if counsel was not appointed under s. 977.08, for

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1 any legal fees due the person's proposed ward's legal counsel. If the person is a minor,  
2 ~~the person's parents or the county of legal settlement shall be liable for any fees due~~  
3 ~~the guardian ad litem as provided in s. 48.235 (8).~~

4 **SECTION 466.** 880.33 (2) (b) of the statutes is renumbered 54.42 (3) and  
5 amended to read:

6 54.42 (3) RIGHT TO INDEPENDENT EXAMINATION. If requested by the proposed  
7 ward, ward, or anyone on the proposed ward's or ward's behalf, the proposed ward  
8 or ward has the right at his or her own expense, or if indigent at the expense of the  
9 county where the petition is filed heard on the merits, to secure an independent  
10 medical or psychological examination relevant to the issue involved in any hearing  
11 under this chapter, and to present a report of this independent evaluation or the  
12 evaluator's personal testimony as evidence at the hearing.

13 **SECTION 467.** 880.33 (2) (d) of the statutes is repealed.

14 **SECTION 468.** 880.33 (2) (e) of the statutes is renumbered 54.44 (5) and  
15 amended to read:

16 54.44 (5) PRIVACY OF HEARING. Every hearing on a petition under s. 880.07 (1m)  
17 under this chapter shall be ~~open~~ closed, unless the proposed ward or his or her  
18 attorney acting with the proposed ward's consent moves that it be closed open. If the  
19 hearing is closed, only ~~persons in interest, including representatives of providers of~~  
20 ~~service and~~ interested persons, their attorneys, and witnesses, may be present.

21 **SECTION 469.** 880.33 (3) of the statutes is repealed.

22 **SECTION 470.** 880.33 (4) of the statutes is repealed.

23 **SECTION 471.** 880.33 (4m) and (4r) of the statutes are repealed.

24 **SECTION 472.** 880.33 (5) of the statutes is renumbered 54.15 (1) and amended  
25 to read:

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(1m)  
B

1            54.15 (1) OPINIONS OF PROPOSED WARD AND FAMILY. ~~In appointing a guardian, the~~  
 2            The court shall take into consideration the opinions of the alleged incompetent  
 3            proposed ward and of the members of the his or her family as to what is in the best  
 4            interests of the proposed incompetent ward. However, the best interests of the  
 5            proposed incompetent ward shall control in making the determination when the  
 6            opinions of the family are in conflict with ~~the clearly appropriate decision~~ those best  
 7            interests. The court shall also consider potential conflicts of interest resulting from  
 8            the prospective guardian's employment or other potential conflicts of interest. ~~If the~~  
 9            ~~proposed incompetent has executed a power of attorney for health care under ch. 155,~~  
 10            ~~the court shall give consideration to the appointment of the health care agent for the~~  
 11            ~~individual as the individual's guardian.~~

12            **SECTION 473.** 880.33 (5m) of the statutes is renumbered 54.15 (9) and amended  
 13            to read:

14            54.15 (9) LIMITATION ON NUMBER OF WARDS OF GUARDIAN. ~~No person, except a~~  
 15            ~~nonprofit corporation approved by the department of health and family services~~  
 16            ~~under s. 880.35, who has~~ individual may have guardianship of the person of more  
 17            than 5 or more adult wards who are unrelated to the person ~~may accept appointment~~  
 18            individual, except that a court may, under circumstances that the court determines  
 19            are appropriate, waive this limitation to authorize appointment of the individual as  
 20            guardian of the person of ~~another adult ward unrelated to the person, unless~~  
 21            ~~approved by the department. No such person may accept appointment as guardian~~  
 22            ~~of more than 10 such~~ additional adult wards who are unrelated to the person  
 23            individual. A corporation or association that is approved by the department under  
 24            sub. (7) is not limited in the number of adult wards for which the corporation or  
 25            association may accept appointment by a court as guardian.

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SECTION 474

1 SECTION 474. 880.33 (6) of the statutes is renumbered 54.75 and amended to  
2 read: or under an order of a court under this  
chapter

3 **54.75 Access to court records.** All court records pertinent to the finding of  
4 incompetency are closed but subject to access as provided in s. 55.06 (17) 51.30 (5).

5 The fact that a person has been found incompetent is accessible to any person who  
6 demonstrates to the custodian of the records a need for that information. and the  
name of

7 SECTION 475. 880.33 (7) of the statutes is renumbered 54.48 and amended to  
8 read: and  
contact information  
for the guardian

9 **54.48 Protective placement and protective services.** A finding of  
10 incompetency and appointment of a guardian under this ~~subchapter~~ chapter is not  
11 grounds for involuntary protective placement. ~~Such~~ or the provision of protective  
12 services. Protective placement and the provision of protective services may be made  
13 only in accordance with s. 55.06 ch. 55.

14 SECTION 476. 880.33 (8) (intro.) of the statutes is repealed.

15 SECTION 477. 880.33 (8) (a) of the statutes is repealed.

16 SECTION 478. 880.33 (8) (b) of the statutes is renumbered 54.46 (2) (b) and  
17 amended to read:

18 54.46 (2) (b) Power of attorney for health care. If the proposed incompetent has  
19 ward executed a power of attorney for health care under ch. 155, ~~find that~~ before a  
20 finding of incompetency and appointment of a guardian is made for the ward under  
21 this chapter, the power of attorney for health care ~~instrument should remain~~ remains  
22 in effect. ~~If the court so finds, the court shall so order and shall,~~ except that the court  
23 may, only for good cause shown, revoke the power of attorney for health care or limit  
24 the power of the guardian to make those health care decisions for the ward that are  
25 not to be made by the health care authority of the agent under the terms of the power

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1 of attorney for health care instrument. Unless the court makes this revocation or  
2 limitation, the ward's guardian may not make health care decisions for the ward that  
3 may be made by the health care agent, unless the guardian is the health care agent  
4 under those terms.

5 **SECTION 479.** 880.33 (9) of the statutes is renumbered 54.25 (2) (c) 1. g. and  
6 amended to read:

7 54.25 (2) (c) 1. g. ~~All the rights and privileges afforded a proposed incompetent~~  
8 ~~under this section shall be given to any person who is alleged to be ineligible to~~  
9 ~~register to vote or to vote in an election by reason that such person is incapable of~~  
10 ~~understanding the objective of the elective process. The determination of the court~~  
11 ~~shall be limited to a finding that the elector is either eligible or ineligible~~ The right  
12 to register to vote or to vote in an election by reason that the person is or is not  
13 capable, if the court finds that the individual is incapable of understanding the  
14 objective of the elective process. Also, in accordance with s. 6.03 (3), any elector of  
15 a municipality may petition the circuit court for a determination that an individual  
16 residing in the municipality is incapable of understanding the objective of the  
17 elective process and thereby ineligible to register to vote or to vote in an election. This  
18 determination shall be made by the court in accordance with the procedures specified  
19 in this paragraph. If a petition is filed under this subd. 1. g., the finding of the court  
20 shall be limited to a determination as to voting eligibility. The appointment of a  
21 guardian is not required for an individual whose sole limitation is ineligibility to  
22 vote. The determination of the court shall be communicated in writing by the clerk  
23 of court to the election official or agency charged under s. 6.48, 6.92, 6.925, or 6.93  
24 with the responsibility for determining challenges to registration and voting which  
25 that may be directed against that elector. The determination may be reviewed as

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## SECTION 479

1 provided in s. 880.34 (4) and (5) 54.64 (2) and any subsequent determination of the  
2 court shall be likewise communicated by the clerk of court.

3 **SECTION 480.** 880.331 (title) of the statutes is renumbered 54.40 (title) and  
4 amended to read:

5 **54.40 (title) Guardian ad litem in incompetency cases; appointment;**  
6 **duties; termination.**

7 **SECTION 481.** 880.331 (1) of the statutes is renumbered 54.40 (1) and amended  
8 to read:

INSERT 220-12

9 54.40 (1) APPOINTMENT. The court shall appoint a guardian ad litem whenever  
10 it is proposed that the court appoint a guardian on the ground of incompetency under  
11 s. 880.33, when a petition for appointment of a guardian is brought under s. 54.34,  
12 to review the scope of a guardianship, to protectively place a person or order  
13 protective services under s. 55.06, to review any protective placement or protective  
14 service order under s. 55.06 or, to terminate a protective placement under s. 55.06,  
15 to expand an order of guardianship under s. 54.63, to review incompetency and  
16 terminate a guardianship under s. 54.64, to review the conduct of a guardian under  
17 s. 54.68, to expand an order of guardianship under s. 54.3, to review incompetency  
18 and terminate a guardianship under s. 54.64, to review the conduct of a guardian  
19 under s. 54.68, or at any other time that the court determines it is necessary.

20 **SECTION 482.** 880.331 (2) of the statutes is renumbered 54.40 (2) and amended  
21 to read:

22 54.40 (2) QUALIFICATIONS. The guardian ad litem shall be an attorney admitted  
23 to practice in this state and in compliance with SCR chapter 36. No person one who  
24 is an interested party person in a proceeding, appears as counsel in a proceeding on  
25 behalf of any party, or is a relative or representative of an interested party person

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1 may be appointed guardian ad litem in that proceeding or in any other proceeding  
2 that involves the same proposed ward or ward.

3 **SECTION 483.** 880.331 (3) of the statutes is renumbered 54.40 (3) and amended  
4 to read:

5 54.40 (3) RESPONSIBILITIES. The guardian ad litem shall be an advocate for the  
6 best interests of the proposed ward or ~~alleged incompetent~~ ward as to guardianship,  
7 protective placement, and protective services. The guardian ad litem shall function  
8 independently, in the same manner as an attorney for a party to the action, and shall  
9 consider, but ~~shall not be~~ is not bound by, the wishes of the proposed ward or ~~alleged~~  
10 ~~incompetent~~ ward or the positions of others as to the best interests of the proposed  
11 ward or ~~alleged incompetent~~ ward. The guardian ad litem has none of the rights or  
12 duties of a general guardian.

13 **SECTION 484.** 880.331 (4) (intro.) of the statutes is renumbered 54.40 (4)  
14 (intro.).

15 **SECTION 485.** 880.331 (4) (a) of the statutes is renumbered 54.40 (4) (a) and  
16 amended to read:

17 54.40 (4) (a) Interview the proposed ward or ~~alleged incompetent~~ ward and  
18 explain the contents of the petition, the applicable hearing procedure, the right to  
19 counsel, and the right to request or continue a limited guardianship.

20 **SECTION 486.** 880.331 (4) (b) of the statutes is renumbered 54.40 (4) (b) and  
21 amended to read:

22 54.40 (4) (b) Advise the proposed ward or ~~alleged incompetent~~ ward, both orally  
23 and in writing, of that person's rights to be present at the hearing, to a jury trial, to  
24 an appeal, to counsel, and to an independent medical or psychological examination  
25 on the issue of competency, at county expense if the person is indigent.

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## SECTION 487

1           **SECTION 487.** 880.331 (4) (c) of the statutes is renumbered 54.40 (4) (e) and  
2 amended to read:

3           54.40 (4) (e) Request that the court order additional medical, psychological, or  
4 other evaluation, if necessary.

5           **SECTION 488.** 880.331 (4) (d) of the statutes is renumbered 54.40 (4) (f) and  
6 amended to read:

7           54.40 (4) (f) If applicable, inform the court and petitioner's attorney or, if none,  
8 the petitioner that the proposed ward or ~~alleged incompetent ward~~ objects to a  
9 finding of incompetency, the present or proposed placement, or the recommendation  
10 of the guardian ad litem as to the proposed ward's or ~~alleged incompetent's~~ ward's  
11 best interests or that the proposed ward's or ~~alleged incompetent's~~ ward's position  
12 on these matters is ambiguous. If the guardian ad litem recommends that the  
13 hearing be held in a place other than a courtroom, the guardian ad litem shall provide  
14 the information under this paragraph as soon as possible.

15           **SECTION 489.** 880.331 (4) (e) of the statutes is renumbered 54.40 (4) (i) and  
16 amended to read:

17           54.40 (4) (i) Present evidence concerning the best interests of the proposed  
18 ward or ~~alleged incompetent ward~~, if necessary.

19           **SECTION 490.** 880.331 (4) (f) of the statutes is renumbered 54.40 (4) (j) and  
20 amended to read:

21           54.40 (4) (j) Report to the court on any ~~other relevant~~ matter that the court  
22 requests.

23           **SECTION 491.** 880.331 (5) (intro.) of the statutes is renumbered 55.195 (intro.)  
24 and amended to read:

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1           **55.195 Duties in of guardian ad litem for reviews.** (intro.) In any review  
2 of a protective placement under s. 55.06 or of a protective ~~service~~ services order under  
3 s. 55.05, except as provided in s. 55.19 (2), the guardian ad litem shall do all of the  
4 following:

5           **SECTION 492.** 880.331 (5) (a) of the statutes is renumbered 55.195 (1) and  
6 amended to read:

7           55.195 (1) Interview the ward to explain the review procedure, the right to an  
8 independent evaluation, the right to counsel, and the right to a hearing.

9           **SECTION 493.** 880.331 (5) (b) of the statutes is renumbered 55.195 (2) and  
10 amended to read:

11           55.195 (2) Provide the information under ~~par. (a)~~ sub. (1) to the ward in writing.

12           **SECTION 494.** 880.331 (5) (c) of the statutes is renumbered 55.195 (3) and  
13 amended to read:

14           55.195 (3) Secure Request that the court order an additional medical,  
15 psychological, or other evaluation of the ward, if necessary.

16           **SECTION 495.** 880.331 (5) (d) of the statutes is renumbered 55.195 (4).

17           **SECTION 496.** 880.331 (5) (e) of the statutes is renumbered 55.195 (5) and  
18 amended to read:

19           55.195 (5) Review the ward's condition, placement, and rights with the  
20 guardian.

21           **SECTION 497.** 880.331 (5) (f) of the statutes is renumbered 55.195 (6) and  
22 amended to read:

23           55.195 (6) If relevant, report to the court that the ward objects to the finding  
24 of continuing incompetency, the present or proposed placement, the position of the

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1 guardian, or the recommendation of the guardian ad litem as to the best interests of  
2 the ward or if there is ambiguity about the ward's position on these matters.

3 **SECTION 498.** 880.331 (5) (g) of the statutes is renumbered 55.195 (8).

4 **SECTION 499.** 880.331 (6) of the statutes is renumbered 54.40 (5) and amended  
5 to read:

6 54.40 (5) COMMUNICATION TO A JURY. In jury trials under this chapter or ch. 55  
7 ~~or 880~~, the court or guardian ad litem may tell the jury that the guardian ad litem  
8 represents the best interests of the proposed ward or ~~alleged incompetent~~ ward.

9 **SECTION 500.** 880.331 (7) of the statutes is renumbered 54.40 (6) and amended  
10 to read:

11 54.40 (6) TERMINATION AND EXTENSION OF APPOINTMENT. The appointment of a  
12 guardian ad litem under sub. (1) terminates upon the entry of the court's final order  
13 or upon the termination of any appeal in which the guardian ad litem participates,  
14 even if counsel has been appointed for the proposed ward or ~~alleged incompetent~~  
15 ward. The court may extend that appointment, or reappoint a guardian ad litem  
16 whose appointment under this section has terminated, by an order specifying the  
17 scope of responsibilities of the guardian ad litem. At any time, the guardian ad litem,  
18 any party, or the ~~person~~ individual for whom the appointment is made may request  
19 that the court terminate any extension or reappointment. The guardian ad litem  
20 may appeal, or may participate in an appeal ~~or may do neither~~. If an appeal is taken  
21 by any party and the guardian ad litem chooses not to participate in that appeal, he  
22 or she shall file with the appellate court a statement of reasons for not participating.  
23 Irrespective of the guardian ad litem's decision not to participate in an appeal, the  
24 appellate court may order the guardian ad litem to participate in the appeal.

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## SECTION 501

1           SECTION 501. 880.331 (8) of the statutes is renumbered 54.74 and amended to  
2 read:

3           **54.74 Compensation of guardian ad litem.** ~~On order of the court, the~~  
4 ~~guardian ad litem appointed under this chapter shall be allowed reasonable~~  
5 ~~compensation to be paid by the county of venue, unless~~ Unless the court otherwise  
6 ~~directs or unless the guardian ad litem is appointed for a minor, in which case the~~  
7 ~~compensation of the guardian ad litem shall be paid by the minor's parents or the~~  
8 ~~county of venue as provided in s. 48.235 (8), the court shall order reasonable~~  
9 ~~compensation to be paid to a guardian ad litem appointed under s. 54.40 (1) from the~~  
10 ~~ward's income or assets, if sufficient, or, if insufficient, by the county of venue.~~ If the  
11 court orders a county to pay the compensation of the guardian ad litem, the amount  
12 ordered may not exceed the compensation paid to a private attorneys attorney under  
13 s. 977.08 (4m) (b). The guardian ad litem shall receive compensation for performing  
14 all duties required under s. 54.40 (4) and for any other acts that are approved by the  
15 court and are reasonably necessary to promote the ward's best interests.

16           SECTION 502. 880.34 (title) of the statutes is renumbered 54.64 (title) and  
17 amended to read:

18           **54.64 (title) Duration Review of incompetency and termination of**  
19 **guardianship; review.**

20           SECTION 503. 880.34 (1) of the statutes is renumbered 54.64 (1) and amended  
21 to read:

22           54.64 (1) DURATION. Any guardianship of an individual found to be incompetent  
23 under this chapter shall continue during the life of the incompetent, or ward, until  
24 terminated by the court, or as provided under sub. (3) or (4). Upon reaching the age  
25 of majority, an incompetent subject to guardianship under this chapter shall be

*or unless a petition to  
the court under this chapter is dismissed*

*If a petition to the court under this  
chapter is dismissed, the court shall order the  
petitioner to pay the compensation of the guardian ad litem*

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## SECTION 503

1 reviewed by the court for the purpose of determining whether the guardianship  
2 should be continued or modified. The court shall make a specific finding of any rights  
3 under s. 880.33 (3) which the individual is competent to exercise at the time.

4 SECTION 504. 880.34 (2) of the statutes is renumbered 54.64 (2) (d) and  
5 amended to read:

6 54.64 (2) (d) The court shall review and may terminate the guardianship of the  
7 person of an individual found incompetent upon marriage to any person who is not  
8 subject to a guardianship.

9 SECTION 505. 880.34 (3) of the statutes is repealed.

10 SECTION 506. 880.34 (4) of the statutes is renumbered 54.64 (2) (a) (intro.) and  
11 amended to read:

12 54.64 (2) (a) (intro.) A ward who is 18 years of age or older, any interested  
13 person acting on the ward's behalf, or the ward's guardian may petition for a review  
14 of incompetency. Upon such, to have the guardian discharged and a new guardian  
15 appointed, or to have the guardianship limited and specific rights restored. The  
16 petition may be filed at any time after 180 days after any previous hearing under s.  
17 54.44, or at any time if the court determines that exigent circumstances, including  
18 presentation of new evidence, require a review. If a petition for review is filed, the  
19 court shall ~~conduct~~ do all of the following:

20 4. Conduct a hearing at which the ward shall be is present and shall have has  
21 the right to a jury trial, if demanded. ~~The ward shall also have the right to counsel~~  
22 ~~and the court shall appoint counsel if the ward is unable to obtain counsel. If the~~  
23 ward is indigent, counsel shall be provided at the expense of the ward's county of legal  
24 settlement.

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1           **SECTION 507.** 880.34 (5) of the statutes is renumbered 54.64 (2) (c) and  
2 amended to read:

3           54.64 (2) (c) After a hearing under sub. (4) par. (a) or on its own motion, a court  
4 may terminate or modify ~~a~~ the guardianship of an incompetent, including restoring  
5 certain of the ward's rights.

6           **SECTION 508.** 880.34 (6) of the statutes is repealed.

7           **SECTION 509.** 880.35 of the statutes is renumbered 54.15 (7) and amended to  
8 read:

9           54.15 (7) ~~NONPROFIT CORPORATION AS GUARDIAN~~ PRIVATE NONPROFIT CORPORATION  
10 OR OTHER ENTITY. A private nonprofit corporation organized under ch. 181, 187, or 188  
11 is qualified to act or an unincorporated association that is approved by the court may  
12 be appointed as guardian of the person or of the property estate or both, of an  
13 individual found to be in need of guardianship under s. 880.33, if a proposed ward,  
14 if no suitable individual is available as guardian and the department of health and  
15 family services, under rules established promulgated under ch. 55 this chapter, finds  
16 the corporation or association to be a suitable agency to perform such duties.

17           **SECTION 510.** 880.36 (title) of the statutes is renumbered 54.52 (title).

18           **SECTION 511.** 880.36 (1) of the statutes is renumbered 54.52 (1) and amended  
19 to read:

20           54.52 (1) A person may at any time bring a petition for the appointment of a  
21 standby guardian of the person or property or both estate of a minor or person found  
22 incompetent under s. 880.08 to assume the duty and authority of guardianship on  
23 the death, incapacity or resignation of the initially appointed guardian may be  
24 brought under this chapter at any time. A an individual who is determined under  
25 s. 54.10 to be incompetent, a minor, or a spendthrift, except that, as specified in s.

**SENATE BILL 391****SECTION 511**

1 48.97 a petition for the appointment of a standby guardian of the person or property  
2 or both of a minor to assume the duty and authority of guardianship on the  
3 incapacity, death, or debilitation and consent, of the minor's parent ~~shall~~ may be  
4 brought under s. 48.978.

5 **SECTION 512.** 880.36 (2) of the statutes is renumbered 54.52 (2) and amended  
6 to read:

7 54.52 (2) At any hearing conducted under this section the court may designate  
8 one or more standby guardians of the person or ~~property~~ estate whose appointment  
9 shall become effective immediately upon the death, ~~incapacity~~ unwillingness, or  
10 inability to act, or resignation or court's removal of the initially appointed guardian  
11 or during a period, as determined by the initially appointed guardian, when the  
12 initially appointed guardian or the court is temporarily unable to fulfill his or her  
13 duties, including during an extended vacation or illness. The powers and duties of  
14 the standby guardian shall be the same as those of the initially appointed guardian.  
15 The standby guardian shall receive a copy of the court order establishing or  
16 modifying the initial guardianship, and the order designating the standby guardian.  
17 Upon assuming office, the standby guardian shall so notify the court. Upon  
18 notification, the court shall issue new letters of guardianship that specify that the  
19 standby guardianship is permanent or that specify the time period for a limited  
20 standby guardianship.

21 **SECTION 513.** 880.37 of the statutes is repealed.

22 **SECTION 514.** 880.38 (title) of the statutes is renumbered 54.25 (title) and  
23 amended to read:

24 54.25 (title) **Guardian Duties and powers of guardian of the person of**  
25 **incompetent.**