

1 A bill to be entitled
2 An act relating to guardianship proceedings; amending
3 s. 744.1097, F.S.; applying provisions related to
4 determination of venue in guardianship proceedings to
5 minors; amending s. 744.331, F.S.; providing
6 procedures for a verified motion challenging the
7 examining committee's conclusion; authorizing the
8 court to impose sanctions under certain conditions;
9 amending s. 744.3701, F.S.; making technical changes;
10 providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsections (2), (3), and (4) of section
15 744.1097, Florida Statutes, are amended to read:

16 744.1097 Venue.—

17 (2) The venue in proceedings for the appointment of a
18 guardian shall be:

19 (a) If the incapacitated person or minor is a resident of
20 this state, in the county where the incapacitated person or
21 minor resides.

22 (b) If the incapacitated person or minor is not a resident
23 of this state, in any county in this state where property of the
24 incapacitated person or minor is located.

25 (c) If the incapacitated person or minor is not a resident

26 | of this state and owns no property in this state, in the county
 27 | where any debtor of the incapacitated person or minor resides.

28 | (3) When the residence of an incapacitated person or minor
 29 | is changed to another county, the guardian shall petition to
 30 | have the venue of the guardianship changed to the county of the
 31 | acquired residence, except as provided in s. 744.1098.

32 | (4) If an incapacitated person or minor is a resident of
 33 | this state and is found in a county other than the county of
 34 | residence, the venue for declaration of incapacity and for the
 35 | appointment of a guardian may be the county where the
 36 | incapacitated person or minor is found. Upon transfer of the
 37 | incapacitated person or minor to the county of residence, the
 38 | guardian may have the venue of the guardianship changed to the
 39 | county of residence and a successor guardian may be appointed.

40 | Section 2. Subsection (4) of section 744.331, Florida
 41 | Statutes, is amended to read:

42 | 744.331 Procedures to determine incapacity.—

43 | (4) DISMISSAL OF PETITION.—If a majority of the examining
 44 | committee members conclude that the alleged incapacitated person
 45 | is not incapacitated in any respect, the court shall dismiss the
 46 | petition unless a verified motion challenging the examining
 47 | committee's conclusion is filed no later than 10 days after
 48 | service of the examining committee's most recent report pursuant
 49 | to subsection (3) or the court determines, without a motion,
 50 | that a hearing on the petition is advisable. The verified motion

51 must make a reasonable showing, by evidence in the record or
 52 proffered by the petitioner, that a hearing on the petition is
 53 necessary. The court shall hold a hearing and rule on the
 54 verified motion as soon as is practicable. If the court finds
 55 that the verified motion is filed in bad faith, the court may
 56 impose costs and fees pursuant to paragraph (7) (c).

57 Section 3. Subsection (1) of section 744.3701, Florida
 58 Statutes, is amended to read:

59 744.3701 Confidentiality.—

60 (1) Unless otherwise ordered by the court, upon a showing
 61 of good cause, an initial, annual, or final guardianship report
 62 or amendment thereto, or a court record relating to the
 63 settlement of a claim, is subject to inspection ~~only~~ by any of
 64 the following:

65 (a) The court.

66 (b) The clerk or the clerk's representative.

67 (c) The guardian and the guardian's attorney.

68 (d) The guardian ad litem with regard to the settlement of
 69 the claim.

70 (e) The ward if he or she is at least 14 years of age and
 71 has not been determined to be totally incapacitated.

72 (f) The ward's attorney.

73 (g) The minor if he or she is at least 14 years of age.

74 ~~or~~

75 (h) The attorney representing the minor with regard to the

76 | minor's claim. ~~or~~

77 | (i) A person ~~as~~ otherwise provided by this chapter.

78 | Section 4. This act shall take effect July 1, 2019.