



State of Wisconsin
2005 - 2006 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,
TO 2005 SENATE BILL 391**

February 7, 2006 - Offered by Senator OLSEN.

1 **AN ACT to repeal** 32.64, 51.20 (7) (d) 1. a., 51.20 (7) (d) 1. b., 51.40 (1) (h), chapter
2 880 (title), subchapter I (title) of chapter 880 [precedes 880.01], 880.01 (intro.),
3 880.01 (4), 880.01 (5), 880.01 (6), 880.03, 880.07 (1m), 880.07 (3), 880.07 (4),
4 880.08 (1) (title), 880.08 (2), 880.08 (3) (title), 880.08 (3) (e), 880.09 (1) (title),
5 880.09 (3) (title), 880.09 (4), 880.09 (5), 880.09 (7) (title), 880.12, 880.125, 880.13
6 (3), 880.15 (title), 880.15 (1m), 880.15 (2), 880.16, 880.173 (title), 880.173 (2),
7 880.175 (title), 880.19 (title), 880.19 (1) (title), 880.19 (2) (title), 880.19 (3)
8 (title), 880.19 (4) (title), 880.19 (5) (title), 880.19 (5) (d), 880.19 (6), 880.191
9 (title), 880.192, 880.21, 880.22 (title), 880.22 (1) (title), 880.22 (2) (title), 880.23
10 (title), 880.24 (title), 880.24 (1), 880.25 (title), 880.251, 880.26 (title), 880.295,
11 880.31 (title), 880.33 (title), 880.33 (2) (d), 880.33 (3), 880.33 (4), 880.33 (4m)
12 and (4r), 880.33 (8) (intro.), 880.33 (8) (a), 880.34 (3), 880.34 (6), 880.37, 880.38
13 (1), 880.39 (title), subchapter II (title) of chapter 880 [precedes 880.60],

1 subchapter III (title) of chapter 880 [precedes 880.61], subchapter IV (title) of
2 chapter 880 [precedes 880.75] and subchapter V (title) of chapter 880 [precedes
3 880.81]; **to renumber** 880.06 (title), 880.07 (1) (a), 880.07 (1) (c), 880.07 (1) (e),
4 880.07 (1) (f), 880.07 (1) (g), 880.13 (title), 880.13 (2) (title), 880.157 (title),
5 880.18 (title), 880.24 (3) (a) 1. to 3., 880.24 (3) (a) 4., 880.331 (4) (intro.), 880.331
6 (5) (d), 880.331 (5) (g), 880.36 (title), 880.60 (title), 880.60 (1) (intro.), 880.60 (1)
7 (a), 880.60 (5) (b), 880.60 (19), 880.60 (20) and (21), 880.65, 880.665, 880.675,
8 880.69, 880.75, 880.82, 880.825, 880.84, 880.85, 880.86, 880.865, 880.875,
9 880.88 and 880.885; **to renumber and amend** 51.20 (7) (d) 1. (intro.), 51.40 (2)
10 (b) 2. a., 51.40 (2) (b) 2. b., 51.40 (2) (b) 2. c., 51.40 (2) (b) 2. d., 880.01 (1), 880.01
11 (2), 880.01 (3), 880.01 (7), 880.01 (7m), 880.01 (8), 880.01 (9), 880.01 (10),
12 880.02, 880.04 (title), 880.04 (1), 880.04 (2), 880.04 (2m), 880.04 (3), 880.05,
13 880.06 (1), 880.06 (2), 880.07 (title), 880.07 (1) (intro.), 880.07 (1) (b), 880.07 (1)
14 (d), 880.07 (1) (h), 880.07 (1) (i), 880.07 (1) (j), 880.07 (2), 880.075, 880.08
15 (intro.), 880.08 (1), 880.08 (3) (am) (intro.), 880.08 (3) (am) 1., 880.08 (3) (am)
16 2., 880.08 (3) (am) 3., 880.08 (3) (am) 4., 880.08 (4), 880.09 (intro.), 880.09 (1),
17 880.09 (2), 880.09 (3), 880.09 (6), 880.09 (7), 880.10, 880.13 (1), 880.13 (2) (a),
18 880.13 (2) (b), 880.14, 880.15 (1), 880.15 (1s), 880.15 (3), 880.155, 880.157 (1),
19 880.157 (2), 880.17, 880.173 (1), 880.175, 880.18, 880.19 (1), 880.19 (2) (a),
20 880.19 (2) (b), 880.19 (3), 880.19 (4) (a), 880.19 (4) (b), 880.19 (4) (c), 880.19 (5)
21 (a), 880.19 (5) (b), 880.19 (5) (c), 880.191 (1), 880.191 (2), 880.195, 880.215,
22 880.22 (1), 880.22 (2), 880.23, 880.24 (2), 880.24 (3) (title), 880.24 (3) (a) (intro.),
23 880.24 (3) (b), 880.245, 880.25 (1), 880.25 (2), 880.25 (3), 880.25 (4), 880.25 (5),
24 880.252, 880.253, 880.26 (1) (intro.), 880.26 (1) (a), 880.26 (1) (b), 880.26 (1) (c),
25 880.26 (2) (intro.), 880.26 (2) (a), 880.26 (2) (b), 880.26 (2) (c), 880.26 (2) (d),

1 880.26 (3), 880.27, 880.28, 880.29, 880.31 (2), 880.31 (3), 880.31 (6), 880.32,
2 880.33 (1), 880.33 (2) (a) 1., 880.33 (2) (a) 2., 880.33 (2) (a) 3., 880.33 (2) (b),
3 880.33 (2) (e), 880.33 (5), 880.33 (5m), 880.33 (6), 880.33 (7), 880.33 (8) (b),
4 880.33 (9), 880.331 (title), 880.331 (1), 880.331 (2), 880.331 (3), 880.331 (4) (a),
5 880.331 (4) (b), 880.331 (4) (c), 880.331 (4) (d), 880.331 (4) (e), 880.331 (4) (f),
6 880.331 (5) (intro.), 880.331 (5) (a), 880.331 (5) (b), 880.331 (5) (c), 880.331 (5)
7 (e), 880.331 (5) (f), 880.331 (6), 880.331 (7), 880.331 (8), 880.34 (title), 880.34 (1),
8 880.34 (2), 880.34 (4), 880.34 (5), 880.35, 880.36 (1), 880.36 (2), 880.38 (title),
9 880.38 (2), 880.38 (3), 880.39, 880.60 (1) (b) to (g), (2) to (4) and (5) (title) and
10 (a), 880.60 (5) (c) and (d) and (6) to (18), 880.61, 880.615, 880.62, 880.625,
11 880.63, 880.635, 880.64, 880.645, 880.655, 880.66, 880.67, 880.68, 880.685,
12 880.695, 880.70, 880.705, 880.71, 880.715, 880.72, 880.76, 880.81, 880.815,
13 880.83, 880.835, 880.845, 880.855, 880.87, 880.89, 880.895, 880.90 and
14 880.905; **to consolidate, renumber and amend** 880.31 (1) and (7) and 880.31
15 (4) and (5); **to amend** 6.03 (1) (a), 6.03 (3), 17.03 (6), 19.32 (1m), 29.161, 29.171
16 (1), 29.173 (1), 29.182 (4m), 29.184 (6) (c) 1r., 29.184 (6) (c) 2., 29.231 (1), 29.235
17 (1), 29.512 (1), 32.05 (4), 32.06 (4), 32.06 (7), 32.075 (3) (b), 32.22 (6) (b), 36.27
18 (2) (a) 5., 40.08 (9), 45.36 (1) (b), 46.011 (intro.), 46.27 (1) (e), 46.977 (1) (a),
19 46.977 (2) (a), 46.977 (2) (c), 48.14 (2) (b), 48.14 (11), 48.345 (intro.), 48.347
20 (intro.), 48.62 (2), 48.831 (1), 48.831 (1m) (e), 48.977 (8), 48.978 (7), 49.001 (8),
21 49.498 (3) (a) 1., 49.498 (3) (c), 50.03 (14) (c) 8. e., 50.06 (2) (intro.), 50.06 (2) (c),
22 50.09 (3), 50.94 (2) (intro.), 50.94 (6), 51.01 (5) (a), 51.01 (14), 51.03 (3) (a) 6.,
23 51.05 (2), 51.10 (8), 51.22 (4), 51.30 (4) (b) 8m., 51.30 (4) (b) 18. a., 51.30 (4) (b)
24 18. c., 51.30 (4) (b) 20. (intro.), 51.30 (4) (dm) 2., 51.30 (4) (f), 51.30 (5) (a), 51.30
25 (5) (b) 1., 51.30 (5) (e), 51.35 (7), 51.40 (title), 51.40 (1) (e), 51.40 (1) (f), 51.40 (1)

1 (g) 1., 51.40 (2) (intro.), 51.40 (2) (a) 1., 51.40 (2) (a) 2., 51.40 (2) (b) (intro.), 51.40
2 (2) (b) 1., 51.40 (2) (b) 2. (intro.), 51.40 (2) (g) 1., 51.45 (2) (e), 51.45 (10) (a), 51.45
3 (10) (c), 51.45 (13) (c), 51.45 (13) (e), 51.61 (1) (o), 51.61 (1) (w) 3., 55.02, 55.03,
4 55.05 (2) (d), 55.05 (5) (b) 1., 55.05 (5) (b) 2., 55.06 (1) (intro.), 55.06 (1) (a), 55.06
5 (2) (b), 55.06 (3) (c), 55.06 (4), 55.06 (5), 55.06 (6), 55.06 (8) (c), 55.06 (10) (c),
6 55.06 (14), 55.06 (17) (b), 58.05 (2), 66.0915 (1), 66.0915 (2), 71.07 (3m) (a) 1. e.,
7 71.28 (2m) (a) 1. e., 71.47 (2m) (a) 1. e., 71.58 (1) (f), 75.03 (title), 75.521 (8),
8 75.521 (12) (b), 75.521 (13) (b), 88.04 (2), 88.10, 92.03 (4) (intro.), 93.11 (6) (a)
9 1., 114.135 (2), 115.76 (12) (b) 2., 115.797 (1) (c), 115.807 (intro.), 146.34 (1) (d),
10 146.81 (5), 146.82 (2) (a) 9. a., 146.82 (2) (a) 9. c., 146.83 (4) (b), 154.07 (2), 154.13
11 (2) (c), 155.05 (1), 155.60 (1), 155.60 (2), 155.65 (2) (c), 179.65, 180.0103 (11),
12 181.0103 (14), 186.10 (2), 214.37 (4) (k) 1., 215.14 (9) (title), 215.26 (8) (e) 1.,
13 223.03 (6) (intro.), 223.10, 243.07 (3) (a), 243.07 (3) (b), 252.15 (2) (a) 4. a., 252.15
14 (2) (a) 4. b., 252.15 (2) (bm) (intro.), 252.15 (5) (a) 15., 253.10 (3) (c) 7., 343.31
15 (title), 343.31 (3) (a), 403.308 (1), 565.30 (2), 609.65 (1) (intro.), 628.10 (1),
16 705.04 (2), 706.03 (4), 706.09 (1) (f), 753.30 (1), 757.48 (1) (a), 757.48 (3), 757.69
17 (1) (h), 758.19 (6) (a), 758.19 (6) (d) 1., 758.19 (6) (d) 2., 765.11 (1), 766.51 (7),
18 767.29 (3) (a), 786.01, 786.02, 786.03, 786.04, 786.05, 786.06 (intro.), 786.06 (1),
19 786.06 (2), 786.07, 786.08 (1) (a), 786.08 (1) (b), 786.08 (2), 786.10, 786.13,
20 786.14, 786.15, 786.16, 786.17 (1), 786.18 (1), 786.19, 786.20, 786.21, 786.25 (1),
21 786.25 (2), 786.25 (3), 801.11 (2) (intro.), 801.11 (2) (b), 802.10 (1), 803.01 (3)
22 (title), 803.01 (3) (a), 803.01 (3) (b) 2., 803.01 (3) (b) 3., 803.01 (3) (b) 4., 803.01
23 (3) (b) 5., 803.01 (3) (b) 6., 803.01 (3) (c) (title), 803.01 (3) (c) 2. (intro.), 803.01
24 (3) (c) 2. a., 803.01 (3) (c) 2. b., 803.10 (2), 804.02 (1) (b), 806.04 (4) (intro.), 807.10
25 (title), 807.10 (1), 807.10 (2), 807.10 (3), 807.13 (2) (intro.), 808.075 (4) (f)

1 (intro.), 808.075 (4) (f) 1., 808.075 (4) (f) 2., 808.075 (4) (f) 3., 808.075 (4) (f) 4.,
2 808.075 (4) (f) 5., 808.075 (4) (f) 6., 808.075 (4) (f) 7., 808.075 (4) (f) 8., 808.075
3 (4) (f) 9., 808.075 (4) (f) 11., 808.075 (4) (f) 12., 808.075 (4) (f) 13., 813.12 (5) (d),
4 813.123 (3) (b) 1., 814.61 (12) (a) 1., 814.66 (1) (b) 2., 814.66 (1) (m), 842.25,
5 851.72 (2), 851.72 (3), 851.73 (1) (a), 854.08 (5) (title), 854.13 (2) (f), 854.17,
6 857.15, 860.13, 862.03 (title), 862.03 (1), 862.03 (4), 863.43, 863.45, 865.02 (1)
7 (b) 1., 865.03 (1), 867.03 (1c), 878.07 (4), 879.09, 879.11, 879.13, 879.15 (1),
8 879.19, 879.23 (1), 879.23 (4) (a), 879.23 (4) (c), 879.23 (5), 879.26, 879.27 (4),
9 879.27 (5), 879.57, 885.17, 905.04 (4) (a), 905.04 (4) (am), 938.02 (20m) (a) 5.,
10 938.345 (1) (e), 949.04 (1) (b), 950.02 (4) (a) 5., 968.20 (1m) (a) 1. and 992.08; **to**
11 **repeal and recreate** 29.164 (3) (e) and 51.40 (2) (f); and **to create** 29.024 (2u),
12 50.02 (2) (ad), 51.01 (4g), 51.01 (4r), 51.01 (14t), 51.40 (1) (em), 51.40 (1) (hm),
13 51.40 (1) (m), 51.40 (2) (b) 2. g., 51.40 (2) (g) 6., chapter 54, 55.01 (1v), 55.01 (6t),
14 55.01 (6v), 55.06 (3) (d), 55.14, 55.19, 55.195 (7), 55.195 (9), 155.40 (2m), 243.10
15 (7) (c), 343.06 (1) (L), 343.31 (2x), 440.121 and 814.66 (1) (n) of the statutes;
16 **relating to:** guardianships, conservatorships, and wards; involuntary
17 administration of psychotropic medication; protective placements and
18 protective services; powers of attorney for health care; durable powers of
19 attorney; venue, residence, and county of responsibility; requiring the exercise
20 of rule-making authority; receipt and acceptance of foreign guardianships; and
21 providing a penalty.

Analysis by the Legislative Reference Bureau

CURRENT GUARDIANSHIP LAW

Current guardianship law specifies standards and procedures for determinations by courts that certain individuals are proper subjects for

guardianship or conservatorship because of incompetency, spendthriftiness, or minority. For such an individual, after presentation of evidence in a hearing, the court may approve a petition for guardianship and appoint a guardian of the person or guardian of the estate, or both, may dismiss the petition, or, for small estates, order that certain payments be made on behalf of the individual without appointment of a guardian. A court may consider a petition for appointment of a temporary guardian and, after presentation of evidence in a hearing, appoint a temporary guardian for a period not to exceed 60 days or may consider a petition for limited guardianship of property and, after presentation of evidence in a hearing, appoint such a limited guardian of property. As an alternative to guardianship, a court may after presentation of evidence in a hearing, appoint a conservator for an adult who feels unable to manage his or her own property and has applied for a conservatorship. No adult may be protectively placed or receive protective services unless he or she has been determined incompetent under the guardianship laws.

DETERMINATION OF INCOMPETENCE AND APPOINTMENT OF GUARDIAN

Jurisdiction and venue; county of residence

Currently, the circuit courts have jurisdiction over all petitions for guardianship; petitions must be directed to the circuit court of the county of residence of the proposed ward or of the county in which the proposed ward is physically present. For nonresidents, the petition may be directed to the circuit court of a county in which the nonresident or his or her property may be found. The court in which a petition is first filed must determine venue for a nonresident.

This substitute amendment also permits a petition for guardianship to be directed to the county in which the petitioner proposes that the proposed ward reside.

Under current law, for purposes of determining responsibility for funding the provision of social services, mental health and alcohol and other drug abuse services, and protective placements and protective services, the county of residence of individuals aged 18 or older with developmental disability or chronic mental illness in state facilities or nursing homes is determined under numerous criteria. As an exception to these criteria, the individual's county of residence is that of his or her guardian if the individual is incapable of indicating intent and has a parent or sibling who serves as his or her guardian or if the individual's guardian states that the individual is expected to return to the guardian's county of residence when the purpose of entering the state facility or nursing home has been accomplished or when needed care and services can be obtained in the guardian's county of residence. An individual, an interested person on his or her behalf, or a county may request that the Department of Health and Family Services (DHFS) make a determination of the county of responsibility of the individual. The decision is binding on the individual and on any county that received notice of the proceeding. Currently, under the laws relating to protective placements and protective services, a petition for appointment of a guardian and for protective services or protective placement for an individual must be filed in the county of residence of the individual to be protected. Currently, under the laws relating to guardianship, all petitions for guardianship must be directed to the circuit court of the county of residence of the proposed ward or of the county in which the proposed ward is physically present. For a nonresident, the

petition may be directed to the circuit court of any county in which the nonresident or his or her property may be found. The court in which the petition is first filed must determine venue and must order the record certified to the proper court in another county if it is determined that venue lies in that county. If a guardian or a ward changes residence to another county, the circuit court for the county in which the ward resides may appoint a new guardian and may order the guardianship accounts settled and the property delivered to the new guardian.

With respect to determining a county of residence, the substitute amendment clarifies that a determination may be made for adults with developmental disabilities, serious and persistent mental illnesses, degenerative brain disorders, or other like incapacities who reside in any place, other than a hospital that is licensed, registered, certified, or approved by DHFS or a county under certain laws. The substitute amendment also clarifies that a court that issues an order for involuntary commitment or protective placement or protective services may, after notice and an opportunity for affected counties and parties to be heard have been provided, make a specific finding of a county of residence. If an affected county or party objects, the county or party may request that DHFS make a determination and a transfer of venue may be suspended until the determination of DHFS is final. The substitute amendment modifies the criteria for determining a county of residence and authorizes a guardian to declare a county of residence under certain circumstances. The substitute amendment requires that the county that is determined to be the county of residence reimburse any other county, under specified time limits, for all social services, mental health, alcohol and other drug abuse, protective placement, and protective services care, treatment, and services.

For laws relating to protective placements or protective services and to guardianship, the substitute amendment modifies requirements for filing a petition for protective placement or protective services or guardianship to require filing either in the county of residence or, under certain circumstances, where the individual to be protected is physically present. If a person has not previously received services or has established residence in a different county after receiving and terminating services, the court may determine the individual's county of residence. The substitute amendment also requires that the court in which a petition for protective placement or protective services is first filed determine venue, after notice to and an opportunity to be heard by potentially affected counties. If an affected county or party objects to the court's determination, the court may refer the issue to DHFS for determination and may suspend ruling on a motion for change of venue until the DHFS determination is final.

Petition for guardianship

Currently, any person may petition for the appointment of a guardian for an individual. Each petition must state certain information about the individual. If the petition alleges that the individual is not competent to refuse psychotropic medication, the petition must also allege certain matters concerning the necessity for involuntary administration of psychotropic medication.

The substitute amendment eliminates the petition requirements concerning the involuntary administration of psychotropic medication. The substitute

amendment requires that certain additional information be included in a petition for guardianship, including whether the proposed ward is a recipient of a public benefit, the agent under any power of attorney for health care or financial power of attorney executed by the proposed ward, and whether a full or limited guardian is requested and, if limited, the specific guardian authority or limitation on the ward's rights that is sought.

Examination of proposed ward

Under current law, when a guardian is proposed to be appointed for a ward on the ground of alleged incompetency, a physician or psychologist, or both, must furnish a written statement, based on an examination, concerning the proposed ward's mental condition. The proposed ward must be informed that his or her statements may be used as a basis for a finding of incompetency and for an order for protective services, including the involuntary administration of psychotropic medication, and that he or she may remain silent. The statement must be provided to the proposed ward and his or her guardian ad litem and attorney.

The substitute amendment requires that the physician or psychologist examining the proposed ward furnish a report, instead of a statement, stating his or her professional opinion regarding the presence and likely duration of any medical or other condition causing the proposed ward's incapacity. The petitioner must provide a copy of the report to the petitioner's attorney, if any, as well as to the proposed ward and his or her counsel and guardian ad litem. Either the guardian ad litem or the physician or psychologist must inform the proposed ward that, absent a court order, he or she may refuse to participate in the examination. The court must consider the recency of any such report in determining its accuracy and the weight to be given to it. The substitute amendment also authorizes submitting a petition to the court to order the proposed ward to submit to an examination and permits access by the physician or psychologist to the proposed ward's patient health care records and mental health treatment records.

Notice

Current law specifies differing requirements for provision of notice, time limits for service of notice, and required recipients of notice for the appointment of a guardian for an individual on the basis of incompetency, spendthriftiness, and minority.

The substitute amendment requires that a notice be in writing and specifies requirements and standards for the giving of notice. The substitute amendment requires that, for all notices of proposed guardian appointment on the basis of incompetency or spendthriftiness, or for rehearings, the petitioner provide notice to the proposed ward and existing guardian, if any, and to the proposed ward's counsel, guardian ad litem, presumptive adult heirs, any agent under a financial power of attorney or power of attorney for health care, custodian, and proposed guardian; any agency, charity, or foundation from which the proposed ward is receiving aid or assistance; and any other person required by the court. Special requirements apply for notice of hearing for the proposed guardianship of a minor and to a notice and hearing for temporary guardianships.

Appointment of guardian ad litem

Currently, a court must appoint a guardian ad litem when appointment of a guardian on the ground of incompetency is proposed, to protectively place or provide protective services to an individual or review a protective placement or protective services order, or to terminate a protective placement. An interested party in a proceeding, who appears as counsel in a proceeding, or who is a relative or representative of an interested person, may not be appointed as guardian ad litem in that proceeding. A guardian ad litem has numerous duties, including interviewing the proposed ward and explaining the hearing procedure, right to counsel, and right to request or continue a limited guardianship; advising the proposed ward of his or her rights; and presenting evidence concerning the proposed ward's best interests.

The substitute amendment expands the circumstances under which a court must appoint a guardian ad litem to include whenever a petition is brought for appointment of a guardian, to review the scope of guardianship, to expand an order of guardianship, to review incompetency and terminate a guardianship, and to review the conduct of a guardian, and any other time that a court determines it necessary. The substitute amendment expands the prohibition on appointment of an interested person, as defined in the substitute amendment, or a relative or representative of an interested person, from appointment as guardian ad litem in any proceeding that involves the same ward. The substitute amendment also expands duties of the guardian ad litem, including requiring that the guardian ad litem interview the proposed guardian, any proposed standby guardian, and any other person seeking appointment as guardian and report to the court concerning the fitness of each individual interviewed; review any power of attorney for health care or financial power of attorney executed by the proposed ward and any other advance planning for financial and health care decision making of the proposed ward; interview any agent under such a power of attorney; inform the court if the proposed ward or ward requests representation by counsel; and attend all court proceedings related to the guardianship.

Rights of the proposed ward

Currently, a proposed ward has the right to counsel, the right to a trial by jury if requested at least 72 hours before the hearing, the right to present and cross-examine witnesses, the right to receipt of the physician's or psychologist's report 96 hours in advance of the hearing, and the right to secure an independent medical or psychological evaluation. A court must appoint a guardian ad litem and require attorney representation if requested, if the involuntary administration of psychotropic medication is proposed, if the proposed ward is opposed to the guardianship, or if the interests of justice require it. If a guardian is appointed, a court may allow payment of reasonable expenses incurred by the ward in contesting the appointment.

The substitute amendment expands these rights to wards (for reviews of guardianships and other matters) and provides to the proposed ward or ward the rights to be present at any hearing regarding the guardianship and to have any such hearing conducted in a location and manner that is accessible to the proposed ward.

The substitute amendment allows a request for a jury trial to be made at least 48 hours before a hearing. The substitute amendment clarifies that expenses incurred by the ward in contesting the appointment are payable from the ward's income or assets before other attorney or guardian ad litem fees.

Appointment of guardian; determination of incompetence

Under current law, a court may appoint a guardian to have care, custody, and control of, or to manage the estate of, an individual who is determined by the court to be incompetent, a spendthrift, or a minor. The standard for a finding of incompetency includes substantial incapability of managing one's property or caring for oneself by reason of infirmities of aging, developmental disabilities, or other like incapacities; physical disability without mental incapacity is insufficient to establish incompetence.

The substitute amendment changes the standard for a finding of incompetence and appointment of a guardian of the person or a guardian of the estate, or both, for an individual, to authorize the finding and appointment only if the court finds, by clear and convincing evidence, that the individual is aged at least 17 years and nine months; that (for purposes of appointment of a guardian of the person) because of an impairment, as defined in the substitute amendment, the individual is unable effectively to receive and evaluate information or to make or communicate decisions to such an extent that the individual is unable to meet the essential requirements for his or her physical health and safety; and that (for purposes of appointment of a guardian of the estate) because of an impairment, the individual is unable effectively to receive and evaluate information or to make or communicate decisions related to management of his or her property or financial affairs, to the extent that the property will be dissipated, the individual is unable to provide for his or her support, or the individual is unable to prevent financial exploitation. Further, the individual's need for assistance in decision making or communication must be unable to be met effectively and less restrictively through appropriate and reasonably available training, education, support services, health care, assistive devices, or other means that the individual will accept. Unless the proposed ward is unable to communicate decisions effectively in any way, this determination may not be based on mere old age, eccentricity, poor judgment, or physical disability.

The substitute amendment requires that, in appointing a guardian for an individual who is found to be incompetent or in appointing a guardian of the estate for an individual who is found to be a spendthrift, declaring incompetence of the individual to exercise certain rights, or in determining the powers that are appropriate for a guardian to exercise, the court consider numerous matters, including the guardian ad litem report; the medical or psychological report and any other evaluation; whether appointment of a guardian is the least restrictive means, as defined in the substitute amendment, to provide for the individual's need; and the preferences of the individual with regard to personal needs or property management. The substitute amendment specifies evidence that the court must consider in appointing a guardian of the estate for a spendthrift or in determining what powers are appropriate for a guardian of the estate of a spendthrift to exercise. The evidence includes the report of the guardian ad litem, the required medical or psychological

report, whether other reliable resources are available to provide for the individual's personal needs or property management, and other matters. As with the appointment of a guardian for a person who is found to be incompetent, the court must determine if additional medical, psychological, social, vocational, or educational evaluation is necessary to make an informed decision concerning the individual's competency to exercise legal rights. The court must authorize a guardian of an individual found to be incompetent or, for a spendthrift, a guardian of the estate to exercise only necessary powers and to exercise them in a manner that is appropriate and that constitutes the least restrictive form of intervention.

Exceptions to appointment of guardian

Currently, if a minor or an individual who is found incompetent is, except for his or her incapacity, entitled to have personal property of \$10,000 or less, a court, without requiring the appointment of a guardian, may order the property be deposited in a bank or other financial institution or invested, make payment to the natural guardian or person having custody of the minor, make payment to the minor, or make payment to the person with actual or legal custody of the individual found incompetent or to the person providing for the care and maintenance of the individual found incompetent. Similar provisions apply for possession by a minor or individual found incompetent of \$5,000 or less from an estate. The substitute amendment increases to \$20,000 the dollar limitation on personal property for these types of dispositions.

Nomination of guardian

Currently, a court must consider nominations for guardian that are made by any interested person, by a minor over 14 years, by a parent in a will, and by an individual for himself or herself in an anticipatory document. The court must also consider the opinions of an individual who is alleged to be incompetent and of the members of the individual's family, potential conflicts of interest, the appointment of an individual's agent under a power of attorney for health care, and whether a nonprofit corporation is qualified to serve as guardian. The court must appoint one or both parents, if suitable and willing, of a minor or person with developmental disabilities or other like incapacity. No person, except a nonprofit corporation, may accept guardianship of the person of more than five adult wards who are unrelated to the person, unless, up to a limit of ten, the additional guardianships are approved by DHFS under rules promulgated by DHFS under the laws relating to protective placement.

The substitute amendment requires, unless the court finds that the appointment is not in the proposed ward's best interests, that the court appoint, as guardian of the estate, an agent under a proposed ward's financial power of attorney; as guardian of the person, the agent under a proposed ward's power of attorney for health care; and as guardian, one or both parents of a minor, or an individual with developmental disability or with serious and persistent mental illness, as defined in the substitute amendment. The substitute amendment limits the power of a parent to nominate by will a guardian of the person or guardian of the estate for the parent's minor child if the court finds that the appointment is not in the minor's best interests. A private nonprofit corporation or an unincorporated association that is approved by

the court may be appointed as guardian if no suitable individual is available and if DHFS, under rules promulgated under the guardianship laws, finds the corporation or association suitable. The substitute amendment limits the number of adult wards for whom an individual may have guardianship to five adult wards who are unrelated to the individual, unless the limitation is waived by a court, and eliminates restrictions on the number of adult wards for which a nonprofit corporation or unincorporated association may accept guardianship. At least 96 hours before the hearing the proposed guardian must submit to the court a sworn and notarized statement as to whether, among other things, the proposed guardian is currently charged with or has been convicted of a crime, has filed for or received protection under the federal bankruptcy laws, has had a professional license suspended or revoked, or is listed on the caregiver abuse registry.

Hearing

Under current law, a hearing on a petition for guardianship must be open unless the proposed ward or his or her counsel moves that it be closed. If closed, only certain persons may be present.

This substitute amendment requires that each hearing under the guardianship laws be closed unless the proposed ward or his or her counsel moves that it be open. The substitute amendment requires that petitions for guardianship, except for temporary guardianship and petitions for protectively placed individuals in certain facilities, be heard within 90 days after they are filed; that court determinations of incompetency or spendthriftiness be made by clear and convincing evidence; that the proposed guardian and any proposed standby guardian be physically present at the hearing unless excused by the court or unless the court permits their attendance by telephone; and that an adult proposed ward attend the hearing unless the guardian ad litem, under certain standards, waives attendance. If the proposed ward is unable to attend the hearing because he or she resides in a facility or because of physical inaccessibility or a lack of transportation, and the proposed ward, guardian ad litem, advocate counsel, or other interested person so requests, the court must hold the hearing in a place where the proposed ward may attend. A court that finds a proposed guardian to be inappropriate must require another petition proposing a suitable guardian, set a date for a subsequent hearing, and require the guardian ad litem to investigate the suitability of a new proposed guardian.

Disposition of petition

Currently, if a proposed ward has executed a power of attorney for health care, the court, in a determination of incompetency, may find that the power of attorney should remain in effect and, if so, must limit the power of the guardian from making health care decisions for the ward that the agent under the power of attorney may make, unless the guardian is also the agent. The substitute amendment requires that such a health care power of attorney remain in effect and permits a court to revoke it or limit the power of the agent only for good cause shown. Unless the court makes a revocation or limitation, the guardian is prohibited from making health care decisions for the ward that may be made by the agent.

Currently, when a guardian is appointed, the court must award from the ward's estate payment of the petitioner's reasonable attorney fees and costs, including those

related to protective placement, unless the court finds it inequitable to do so after considering the petitioner's interest in the matter, including a conflict of interest, the ability of the ward's estate to pay the fees and costs, whether the guardianship was contested, and any other relevant factor. This award may not be made if the ward had engaged in advance planning (by, among other things, executing a financial power of attorney) to avoid guardianship. The substitute amendment eliminates payment, from the ward's income and assets, of the costs of a protective placement and changes a finding that the ward had engaged in advance planning for financial health care decision making to be a factor in awarding payment of the petitioner's reasonable attorney fees and costs, rather than a prohibition on that payment.

Currently, the court may require a bond from the person appointed guardian of the estate of a ward and may require a "blanket bond" from a county institutional employee who is appointed a guardian for numerous residents of county facilities. The substitute amendment requires that the court order specify the bond amount, prohibits requiring a bond for the guardian of the person of the ward, and eliminates the authority to require "blanket bonds."

The substitute amendment clarifies the grounds under which a court must dismiss a petition for guardianship. If a guardian is appointed, the substitute amendment specifies the joint decision making powers of any coguardians appointed; specifies that any financial power of attorney executed by the proposed ward remains in effect unless, only for good cause shown, it may be revoked or the agent's powers limited, and prohibits the guardian from making decisions for the ward that may be made by the agent; specifies that, if a guardian is not appointed, the petitioner is liable for guardian ad litem fees and fees of the proposed ward's legal counsel.

Involuntary administration of psychotropic medication

Under current law relating to guardianship, a petition for appointment of a guardian may allege that the proposed ward is not competent to refuse psychotropic medication and that the medication is, under several criteria, necessary as a protective service. "Not competent to refuse psychotropic medication" is defined to mean that, because of chronic mental illness and after advantages and disadvantages of and alternatives to accepting psychotropic medication have been explained to an individual, he or she is incapable of expressing an understanding of the advantages and disadvantages or is substantially incapable of applying an understanding of the advantages, disadvantages, and alternatives in order to make an informed choice about acceptance or refusal. If, at hearing, the court finds that the individual is not competent to refuse psychotropic medication and that the medication is necessary, the court must appoint a guardian to consent to or refuse the medication on behalf of the individual and order development of a treatment plan for the person. The relevant county department must at least annually review and evaluate the individual's status and, if appropriate, recommend discharge or change in the treatment plan. The court also must annually appoint a guardian ad litem to review the county department's evaluations, inform the individual and his or her guardian of certain rights, and file a report with the court. The court must order an independent evaluation and a hearing to continue, modify, or terminate the

guardianship, if requested or on the court's own motion. If the individual substantially fails to comply with the treatment plan and if certain conditions are met, the court may authorize the guardian to consent to the involuntary administration of psychotropic medication to the individual.

For purposes of the guardianship laws, the substitute amendment defines "psychotropic medication" and establishes a standard for the power of a guardian to give informed consent (subject to the power of an agent under any power of attorney for health care of the ward) to the ward's voluntary receipt of psychotropic medication.

The substitute amendment clarifies that a guardian may consent to the involuntary administration of psychotropic medication only under a court order under the laws relating to protective placement and protective services. Under these laws, the substitute amendment establishes an exclusive procedure for involuntary administration of psychotropic medication as a protective service to an individual who has been protectively placed. Under this procedure, a petition for involuntary administration of psychotropic medication must meet all requirements for a protective services petition and also allege the condition, past behavior, and numerous other matters relating to the individual's competence to refuse psychotropic medication. A guardian ad litem must be appointed for the individual and must report to the court his or her conclusions concerning the allegations, and the court must appoint legal counsel on behalf of the individual. If requested, the individual may have an independent medical or psychological evaluation that is relevant to his or her competency to refuse the medication, the truth of the petition's allegations, and whether involuntary administration is in the individual's best interests. After hearing, the court may authorize a guardian to consent to involuntary administration of psychotropic medication to a ward as a protective service, if the court or jury finds that, by clear and convincing evidence, the requirements for the involuntary administration are met. If the court issues such an order, the order must specify the methods of involuntary administration to which the guardian may consent; require the presence of certain medical personnel when administered; require the maintenance of records concerning the methods of administration used; and require development of a treatment plan. The substitute amendment specifies procedures for noncompliance with the order, requires annual review of the order, and requires performance of annual review of the status of the individual by the relevant county department. Further, the substitute amendment requires the court to appoint a guardian ad litem after receipt of the annual county department report and specifies responsibilities of the guardian ad litem with respect to the ward. The substitute amendment requires the court that issued the order for involuntary administration of psychotropic medication annually to review reports of the county department and the guardian ad litem and order either a summary hearing or full due process hearing, after which the court must terminate, modify, or order continuation of the order.

Duties and powers of a guardian; limitations

Currently, no guardian may lend guardianship funds to himself or herself and a guardian is limited in purchasing property of the guardian's ward. A guardian must pay just debts of the ward from the ward's estate and its income.

The substitute amendment specifies in detail numerous powers and duties of a guardian (either a guardian of the person or a guardian of the estate) and clarifies that a guardian's powers are limited to those authorized by statute or court order, that a ward retains all rights that are not assigned to the guardian or otherwise limited by statute, and that a guardian's powers are limited to those necessary to provide for the personal needs or property management of the ward in a manner that is appropriate to the ward and that constitutes the least restrictive form of intervention. Under the substitute amendment, a guardian may not lend the ward's funds to another unless the court first approves the terms, rate of interest, and any requirement for security, and may purchase property of the ward only at fair market value and with the approval of the court. The requirement to pay legally enforceable debts of the ward, including by filing tax returns and paying taxes owed is, under the substitute amendment, made a duty of a guardian of the estate.

Duties and powers of a guardian of the estate

Currently, although the title to the ward's estate remains the ward's, the guardian of the estate must take possession of and protect and preserve the ward's property; rents, income, and other benefits from the property; and any proceeds arising from the sale or other actions to the property. The substitute amendment specifies numerous duties of the guardian of the estate, and requires that the guardian of the estate, after following any applicable requirements concerning petitioning the court for the authority to sell, mortgage, pledge, lease, or exchange the ward's property, perform these duties so as to provide the ward with the greatest amount of independence and self-determination with respect to property management in light of the ward's functional level, understanding, and appreciation of his or her functional limitations and in light of the ward's personal wishes and preferences.

Currently, in exercising powers, the guardian of the estate must use the judgment and care exercised by persons of prudence, discretion, and intelligence in the management of their own affairs. Currently, after submittal of a petition and under court order, assets of a ward may be transferred to the trustee of an existing revocable living trust for the benefit of the ward or dependents or to the trustee of a trust for the benefit of a minor ward or, if the minor dies, to his or her estate. A guardian of the estate appointed for a married ward may exercise, with court approval, management and control rights over marital or nonmarital property and the ward's business affairs, join in a transaction for which joinder of both spouses is required, or execute a marital property agreement, but not make, amend, or revoke a will. The guardian of the estate may also, if specified in the court's order, continue the business of a ward, and may apply to the court for adjustment of claims of the ward. The guardian of the estate may, with court approval, retain real or personal property of the ward or that the ward acquires by gift or inheritance. The guardian

of the estate may, without court approval, do numerous things on behalf of the ward, including entering into contracts and applying for public and private benefits.

The substitute amendment requires that the guardian of the estate, in exercising powers, consider, consistent with the functional limitations of the ward, the ward's understanding of the harm that he or she is likely to suffer as the result of his or her inability to manage property and financial affairs, the ward's personal preferences and desires, and the least restrictive form of intervention for the ward. The substitute amendment requires that certain actions specified in current law and numerous others specified in the substitute amendment may be performed by the guardian of the estate with respect to the ward's income and assets only with the court's prior written approval following any petition and upon any notice and hearing that the court requires. Further, the substitute amendment specifies a detailed procedure that a guardian of the estate must follow in order to transfer any of a ward's assets to or for the benefit of another person. For a ward who receives governmental benefits for which a representative payee is appropriate, the substitute amendment requires that, if no representative payee is appointed, the guardian apply to be appointed or ensure that a representative payee is appointed. The substitute amendment also specifies numerous powers, in addition to those in current law, which the guardian of the estate may perform without first receiving the court's approval.

Duties and powers of guardian of the person

Under current law, a guardian of the person of a ward must annually report on the ward's condition to the court and the relevant county department, and must endeavor to secure necessary care or services on behalf of the ward. If a court finds that an individual for whom a determination of incompetency is proposed is not capable of understanding the objective of the elective process, the court may find the individual ineligible to register to vote or to vote in an election.

The substitute amendment requires that a guardian of the person endeavor to secure care or services that are in the ward's best interests by, among other things, regular inspection, in person, of the ward's condition, surroundings, and treatment; examination of the ward's patient health care records; and inquiry into alternatives to treatment for the ward if drastic or restrictive treatment is proposed.

The substitute amendment specifies that a guardian of the person has only those rights and powers that he or she is specifically authorized to exercise by statute, rule, or court order; any other right is retained by the ward, unless the ward has been declared by a court incompetent to exercise a right or the guardian of the person has been authorized by a court to exercise certain rights usually retained by the ward. The substitute amendment specifies numerous rights that are retained by individuals who are determined incompetent, specifies a proceeding in which a court may find, by clear and convincing evidence, that an individual has incapacity to exercise specified rights, including the right to register to vote or vote and the right to consent to organ donation. A guardian of the person may not exercise a right on behalf of a ward who is declared not competent to exercise that right, unless so authorized by a court. The substitute amendment specifies the standard under which a court may make this authorization, including the power to give informed

consent, if in the ward's best interests, to voluntary or involuntary administration of psychotropic medication. Lastly, the substitute amendment specifies a standard that the guardian of the person must follow in exercising powers and duties delegated to the guardian of the person by a court.

Temporary guardianships

Currently, after considering a petition, a court may appoint a temporary guardian for a ward, including for a minor for a medical purpose, for 60 days and may extend the order for one additional 60-day period. The temporary guardian may perform duties concerning specific property or as ordered by the court. Statutory provisions concerning the powers and duties of guardians apply, except as limited by the court's order. The temporary guardian must report as directed by the court, account to the court at the termination of the temporary guardianship, and deliver the ward's estate to those entitled to it. Duties and powers of a temporary guardianship cease upon the appointment of a guardian, when a minor for whom a temporary guardianship attains the age of 18, or if the court determines that the ward's situation that was the cause of the temporary guardianship has ended.

The substitute amendment establishes a standard for the appointment of a temporary guardian; establishes procedures for appointment of a temporary guardian, including appointment of a guardian ad litem; provides for a rehearing on the issue of appointment of the temporary guardian, if requested; clarifies the duration of the temporary guardianship and the authority of the temporary guardian; and prohibits the temporary guardian from selling real estate or expending more than \$2,000 unless authorized by the court.

Standby guardianships

Under current law, a person may at any time bring a petition for the appointment of a standby guardian of the person or estate of a minor or an individual found incompetent, to assume the duty and authority of guardianship on the death, incapacity, or resignation of the guardian. If appointed, the standby guardian has the powers and duties of the guardian and must notify the court upon assuming office.

The substitute amendment clarifies that a standby guardian of the person may be appointed for a spendthrift and that appointment of a standby guardian is effective upon the unwillingness or inability to act, resignation, or court's removal of the guardian, or during a period when the guardian is temporarily unable to fulfill his or her duties, including during an extended vacation or illness. Under the substitute amendment, when a standby guardianship takes effect, the court must issue new letters of guardianship that specify that the standby guardianship is permanent or that specify the time period for a limited standby guardianship.

Termination of limited guardianship of property

Currently, upon petition, in a procedure separate from appointment of a guardian, a court may appoint a limited guardian of property, under which the limited guardian receives, manages, disburses, and accounts for property of the ward. Unless limited by a court, an adult ward under a limited guardian of property may receive and expend wages and other earnings and may contract under certain circumstances.

This substitute amendment eliminates the appointment of a limited guardian of property as a procedure separate from appointment of a guardian.

Petition for the receipt and acceptance of a foreign guardian

The substitute amendment establishes a procedure, based on requirements specified by the Wisconsin Supreme Court in *Matter of the Guardianship of Jane E. P.*, 275 Wis. 2d 680 (2005), for the receipt and acceptance by Wisconsin of an out-of-state (foreign) guardianship of a ward who resides in or intends to move to Wisconsin. The substitute amendment specifies requirements for the petition, including a certified copy of the foreign guardian order and the address of the foreign court that issued the guardianship order, and the reason for transfer of the guardianship. The bill also specifies requirements for notice of the petition and how and on whom the notice must be served. Part of the notice to the foreign court must include a request that that court provide certification of any knowledge of failure of the foreign guardian to perform required duties or any prohibited acts of the guardian and copies of all relevant filed documents. Failure by the petitioner to adequately serve the notice deprives a Wisconsin court of jurisdiction, under the substitute amendment, as does failure of the foreign court to provide the certifications and copies within 30 days after receipt of notice or to give indication that the foreign court will comply within a reasonable time. The substitute amendment requires that a guardian ad litem be appointed for the foreign ward and specifies time limits for a hearing on the petition. If an interested person who receives notice of the petition challenges the validity of the foreign guardianship or the authority of the foreign court to appoint the foreign guardian, the court may stay the proceeding so that the foreign court may hear the challenge and determine its merits. The substitute amendment requires the physical or telephone presence of the petitioner at the hearing and requires that the petitioner ensure that the foreign ward attends unless attendance is waived by the guardian ad litem of the foreign ward or the hearing is held in a place where the foreign ward may attend. The substitute amendment requires the court to dismiss the petition if the foreign guardian is not in good standing with the foreign court, the foreign guardian is moving the foreign ward or the ward's property in order to avoid or circumvent the foreign guardianship order, or if the transfer is not in the best interests of the foreign ward. The substitute amendment specifies standards for granting the petition and authorizes the court to make certain modifications to the order. If the petition is granted, the court has continuing jurisdiction over the guardian. The court must coordinate with the foreign court the orderly transfer of the foreign guardianship. Lastly, within a reasonable period of time after a petition for receipt and acceptance of a foreign guardianship is granted, the court must review the guardianship provisions and inform the guardian and ward of available services.

POST-APPOINTMENT MATTERS

Inventory

Currently, when a guardian of the estate is appointed, an inventory must be made of the ward's property under the same requirements as for the inventory of the estate of a decedent. The guardian of the estate must by oath verify that the inventory includes all the ward's property; the court may examine the guardian of

the estate as to the inventory or any supposed omission. A court may order a guardian who neglects to file an inventory to do so.

The substitute amendment establishes requirements for information that the inventory must provide with respect to each asset of the ward and the time by which the guardian of the estate must file the initial inventory, specifies persons to whom the guardian of the estate must provide copies of the inventory and the fee due when the inventory is filed, and authorizes the court to order that the guardian of the estate appraise any or all of the ward's income and assets.

Accounts

Currently, every guardian except a corporate guardian must annually, before April 15, as specified by court order, or at any other time required by a court, file an account specifying the amount of the ward's property received and held or invested, the nature of the investment, receipts and expenditures, and any change in status of the surety on the guardian's bond. The guardian must produce for the court evidence of the ward's securities, deposits, and other investments. If the account is unsatisfactory, the court may appoint a guardian ad litem for the ward. The court may order any person entrusted by the guardian with part of the ward's estate to appear and render an account. Action by a court on an account is final only if notice is provided. If a guardian fails to file an account, the court may order the guardian to show cause for the failure and may issue a warrant. The guardian may be fined \$50, or imprisoned up to 10 days, or both, if the court finds that failure, refusal, or neglect to file an account under court order is willful or inexcusable.

The substitute amendment makes exceptions to the requirement for annual submittal of an account, for waiver by a court, or for income and assets of a ward that do not exceed \$20,000; the guardian must notify the court if the ward's income and assets exceed this amount. The substitute amendment eliminates the exception from filing for corporate guardians. The substitute amendment creates special requirements for annual accounts of married wards. Under the substitute amendment, an action by a court on an account is final only if the guardian first provides notice to the ward, any guardian ad litem of the ward, and any personal representative or special administrator of the estate of a deceased ward. For a guardian who fails to file the account as required by law or as ordered by the court, the court must direct that a copy of the court's order to the guardian to show cause be served on the guardian at least 20 days before the court-ordered court appearance date. The substitute amendment also increases the fine for guardian failure, refusal, or neglect to \$250.

Procedure to expand an order of guardianship

The substitute amendment creates a procedure by which a guardian or other person may submit to a court a request for removal of rights from a ward and transfer of powers to the guardian in addition to those specified in the order of appointment. If, after notice is provided, no objection is submitted, the court may amend the order, but if an objection to the request is submitted, the court must hold a hearing for review of the ward's incompetency.

Review of incompetency and general termination of guardianship

Currently, a guardianship of an individual who is found incompetent continues during the life of the ward or until terminated by the court. Guardianship of a minor who is found incompetent is reviewed when the minor attains age 18. The court must conduct a hearing, including a jury trial if requested, if an adult ward or his or her guardian petitions for a review of incompetency. After a hearing or on its own motion, a court may terminate or modify the ward's guardianship. Termination of guardianship of the person occurs when a formerly minor ward attains age 18, unless the minor was found incompetent; a minor marries; or the court determines that the ward is competent. Termination of guardianship of the estate occurs under these same grounds and if the ward dies. In addition, the court may terminate a guardianship for a ward whose estate is depleted to below \$5,000 if it is to the advantage of the ward to do so. For property of a nonresident ward in the possession of or due from a guardian appointed in this state, the court may, after receipt of a petition and provision of notice, order the property delivered to the ward's foreign guardian.

For a review of a ward's incompetency, the substitute amendment specifies time limits and procedures; requires the court to appoint a guardian ad litem, fix a time and place for hearing, and designate persons entitled to notice and the manner of giving notice; and specifies the right of the ward to counsel, including at county expense if the ward is indigent. For termination of a guardianship of the person, the substitute amendment clarifies that the guardianship does not terminate on attainment of age 18 years or marriage by a minor ward if the guardianship was ordered on the grounds of incompetency; and expands the grounds for termination of a guardianship of the person or a guardianship of the estate. For a depleted guardianship, the standard for depletion is increased to \$20,000. If terminating the guardianship, the court is authorized to order the guardian to make appropriate financial arrangements for the burial or other disposition of the ward's remains. Alternatively, the court may continue the guardianship, but waive requirements for a bond for the guardian and waive or require an accounting by the guardian.

Final accounts

Currently, if a court terminates a guardianship or a guardian resigns, is removed, or dies, the guardian or the guardian's personal representative must render a final account to the court, the former ward, the successor guardian, or the deceased ward's personal representative. After approval of the account and the filing of receipts, the guardian must be discharged and the guardian's bond released. The guardian of an estate of not more than \$1,000 must render an account only on termination of the guardian's guardianship or as ordered by the court. If a ward dies leaving an estate that may be settled under laws relating to summary settlement of small estates, the court may approve that summary settlement and distribution without appointing a personal representative.

For termination of a guardianship, the substitute amendment additionally authorizes final accounting by the guardian's special administrator and rendering of the account to the ward or the deceased ward's special administrator, as appropriate. If the ward dies and the guardian and the deceased ward's personal

representative or special administrator are the same person, the personal representative or special administrator must give notice of termination and rendering of the final account to all interested persons, as defined in the substitute amendment, of the ward's estate. The substitute amendment increases to \$20,000 the value of small estates of wards for which a final account need not be filed, unless ordered by a court, and requires the guardian to provide the court with a list of the ward's assets when the guardianship terminates, including at the death of the ward.

Review of conduct of guardian

The substitute amendment specifies that the court that appointed a guardian has continuing jurisdiction over the guardian, establishes numerous causes for court action against a guardian, establishes procedures and notice requirements for a hearing to review the guardian's conduct, and establishes remedies of the court. The substitute amendment authorizes a court to remove a paid guardian if changed circumstances indicate that a previously unavailable voluntary guardian is available to serve and that the change would be in the ward's best interest. The court may require the guardian to pay any costs of the proceeding to review the guardian's conduct and authorizes a ward who petitions for review to retain legal counsel and contract for the payment of fees.

Guardian compensation and reimbursement

The substitute amendment establishes conditions under which a guardian of the person or a guardian of the estate is entitled to compensation and to reimbursement for expenses, including factors that a court must use in deciding whether compensation is just and reasonable. The substitute amendment specifies that a court must approve compensation and reimbursement before payment is made but need not do so before charges are incurred.

Conservatorship

Under current law, any adult who believes that he or she is unable properly to manage his or her property or income may voluntarily apply to the circuit court of his or her county of residence for appointment of a conservator of the estate. At a hearing for such an appointment, the court must personally examine the applicant and, if satisfied that the applicant desires a conservator and that the nominated fiduciary is suitable, appoint the conservator and issue letters of conservatorship after the nominee files a bond. A conservator has the powers and duties of a guardian of the estate, and these powers cease if the court removes the conservator or the conservatee dies. Anyone may apply for termination of the conservatorship, for which the court must hold a hearing. Unless it is clearly shown that the conservatee is incompetent, the court must remove the conservator and order the property restored. However, the court may order continuation of the conservatorship or appointment of a successor conservator. Appointment of a conservator does not constitute evidence of competency or incompetency of the conservatee.

The substitute amendment authorizes an individual who is unwilling to manage his or her assets or income to apply for conservatorship and clarifies that a conservatee may make gifts of his or her assets, subject to the conservator's approval. However, if the individual has executed a financial power of attorney before conservatorship, that power of attorney remains in effect, unless revoked or limited

by the court for good cause, and the conservator's authority is limited by the authority expressly granted to the agent under the power of attorney. The substitute amendment authorizes appointment of a standby conservator and specifies the standard for appointment of a standby conservator. The substitute amendment clarifies that a conservatorship may be terminated only by a court after hearing and specifies standards for termination. The substitute amendment also specifies actions by a conservator that constitute cause for his or her removal by a court. The substitute amendment requires that a final account of the former conservatee's income and assets be rendered if a court terminates a conservatorship or a conservator resigns, is removed, or dies.

Other provisions

The substitute amendment makes numerous additional changes to the laws related to guardianships and conservatorships.

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

1 **SECTION 1.** 6.03 (1) (a) of the statutes is amended to read:

2 6.03 (1) (a) Any person who is incapable of understanding the objective of the
3 elective process or is under guardianship pursuant to the order of a court under ch.
4 880, except that when a person is under limited guardianship, unless the court may
5 determine has determined that the person is competent to exercise the right to vote;

6 **SECTION 2.** 6.03 (3) of the statutes is amended to read:

7 6.03 (3) No person may be denied the right to register to vote or the right to vote
8 by reason that the person is alleged to be incapable of understanding the objective
9 of the elective process unless the person has been so adjudicated ~~in a separate~~
10 ~~proceeding instituted for that purpose by an elector of the municipality in accordance~~
11 ~~with the procedures set forth in ch. 880 for determining incompetency~~ incompetent
12 in this state. If a determination of incompetency of the person has already been
13 made, or if a determination of limited incompetency has been made ~~which~~ that does
14 not include a specific finding that the subject is competent to exercise the right to
15 vote, and a guardian ~~or limited guardian~~ has been appointed as a result of any such

1 determination, then no determination of incapacity of understanding the objective
2 of the elective process is required unless the guardianship is terminated or modified
3 under s. ~~880.34~~ 54.64.

4 **SECTION 3.** 17.03 (6) of the statutes is amended to read:

5 17.03 (6) A competent tribunal voids the election or appointment; or adjudges
6 the incumbent to be incapable of understanding the objective of the elective process;
7 or places the incumbent under guardianship, ~~or under limited guardianship~~ unless
8 the court finds that the incumbent is competent to exercise the right to vote.

9 **SECTION 4.** 19.32 (1m) of the statutes is amended to read:

10 19.32 (1m) "Person authorized by the individual" means the parent, guardian,
11 as defined in s. 48.02 (8), or legal custodian, as defined in s. 48.02 (11), of a child, as
12 defined in s. 48.02 (2), the guardian, ~~as defined in s. 880.01 (3)~~, of an individual
13 ~~adjudged~~ adjudicated incompetent, ~~as defined in s. 880.01 (4) in this state~~, the
14 personal representative or spouse of an individual who is deceased, or any person
15 authorized, in writing, by the individual to exercise the rights granted under this
16 section.

17 **SECTION 5.** 29.024 (2u) of the statutes is created to read:

18 29.024 (2u) REVOCATION OF HUNTING LICENSES BASED ON INCOMPETENCY. The
19 department shall revoke any license authorizing hunting issued to an individual for
20 whom the department receives a record of a declaration under s. 54.25 (2) (c) 1. d.
21 stating that the individual is incompetent to apply for a hunting license under this
22 chapter.

23 **SECTION 6.** 29.161 of the statutes is amended to read:

24 **29.161 Resident small game hunting license.** A resident small game
25 hunting license shall be issued subject to ~~s. ss.~~ ss. 29.024 and 54.25 (2) (c) 1. d. by the

1 department to any resident applying for this license. The resident small game
2 hunting license does not authorize the hunting of bear, deer, elk, or wild turkey.

3 **SECTION 7.** 29.164 (3) (e) of the statutes, as affected by 2000 Wisconsin Act 25,
4 is repealed and recreated to read:

5 29.164 (3) (e) *Notification; issuance; payment.* The department shall issue a
6 notice of approval to those qualified applicants selected to receive a wild turkey
7 hunting license and tag under par. (a). A person who receives a notice of approval
8 and who pays the license fee in the manner required by the department shall be
9 issued a wild turkey hunting license, subject to ss. 29.024 and 54.25 (2) (c) 1. d., and
10 a tag. The department may not charge a fee for a tag that is issued under this
11 paragraph.

12 **SECTION 8.** 29.171 (1) of the statutes is amended to read:

13 29.171 (1) A resident archer hunting license shall be issued subject to ~~s. ss.~~
14 29.024 and 54.25 (2) (c) 1. d. by the department to any resident applying for this
15 license.

16 **SECTION 9.** 29.173 (1) of the statutes is amended to read:

17 29.173 (1) **ISSUANCE.** A resident deer hunting license shall be issued subject to
18 ~~s. ss.~~ 29.024 and 54.25 (2) (c) 1. d. by the department to any resident applying for this
19 license.

20 **SECTION 10.** 29.182 (4m) of the statutes is amended to read:

21 29.182 (4m) **LIMITATION OF ONE LICENSE.** A person may be issued, or transferred
22 under sub. (4) (g), only one resident elk hunting license in his or her lifetime, and the
23 resident elk hunting license shall be valid for only one elk hunting season. The
24 issuance, or transfer under sub. (4) (g), of the license to the person is subject to ~~s. ss.~~
25 29.024 (2g) and 54.25 (2) (c) 1. d.

1 **SECTION 11.** 29.184 (6) (c) 1r. of the statutes is amended to read:

2 29.184 (6) (c) 1r. The department shall issue a notice of approval to those
3 qualified applicants selected to receive a Class A bear license. A person who receives
4 a notice of approval and who pays the fees required for the license shall be issued the
5 license subject to ~~s. ss. 29.024 (2g)~~ and 54.25 (2) (c) 1. d.

6 **SECTION 12.** 29.184 (6) (c) 2. of the statutes is amended to read:

7 29.184 (6) (c) 2. A Class B bear license shall be issued subject to ~~s. ss. 29.024~~
8 ~~(2g)~~ and 54.25 (2) (c) 1. d. by the department to any resident who applies for this
9 license.

10 **SECTION 13.** 29.231 (1) of the statutes is amended to read:

11 29.231 (1) A resident sports license shall be issued subject to ~~s. ss. 29.024~~ and
12 54.25 (2) (c) 1. d. by the department to any resident who applies for this license, and
13 a nonresident sports license shall be issued subject to s. 29.024 by the department
14 to any person who is not a resident and who applies for the license.

15 **SECTION 14.** 29.235 (1) of the statutes, as affected by 2005 Wisconsin Act 25,
16 is amended to read:

17 29.235 (1) ISSUANCE. A resident conservation patron license shall be issued
18 subject to ~~s. ss. 29.024~~ and 54.25 (2) (c) 1. d. by the department to any resident 12
19 years old or older who applies for the license. A nonresident conservation patron
20 license shall be issued subject to s. 29.024 by the department to any person 12 years
21 old or older who is not a resident and who applies for the license.

22 **SECTION 15.** 29.512 (1) of the statutes is amended to read:

23 29.512 (1) No person may engage or be employed for any compensation or
24 reward to guide, direct or assist any other person in hunting, fishing or trapping
25 unless the person is issued a guide license by the department subject to ~~s. ss. 29.024~~

1 and 54.25 (2) (c) 1. d. No guide license for hunting or trapping may be issued to or
2 obtained by any person who is not a resident of this state. No guide license may be
3 issued to any person under the age of 18 years. The holder of a guide license shall
4 comply with all of the requirements of this chapter.

5 **SECTION 16.** 32.05 (4) of the statutes is amended to read:

6 32.05 (4) HOW NOTICE OF JURISDICTIONAL OFFER IS GIVEN. The giving of such
7 notice is a jurisdictional requisite to a taking by condemnation. Such notice may be
8 given by personal service in the manner of service of a circuit court summons, or it
9 may be transmitted by certified mail. If service is by mail, service of the papers shall
10 be deemed completed on the date of mailing and the use of mail service shall not
11 increase the time allowed to act in answer to or in consequence of such service. If such
12 owner or mortgagee is unknown or cannot be found there shall be published in the
13 county wherein the property is located a class 1 notice, under ch. 985. If such owner
14 is a minor, or an ~~incompetent person~~ individual adjudicated incompetent, the
15 condemnor shall serve such notice upon the legal guardian of such the minor or
16 ~~incompetent individual~~, and if there is no such guardian the condemnor shall
17 proceed under s. 32.15 to have a special guardian appointed to represent such the
18 minor or ~~incompetent individual~~ in such the proceeding. The reasonable fees of such
19 any special guardian as approved by the court shall be paid by the condemnor. ~~Such~~
20 The notice shall be called the “jurisdictional offer”. The condemnor shall file a lis
21 pendens on or within 14 days of the date of service or mailing of the jurisdictional
22 offer or within 14 days of the date of publication if publication is necessary. The lis
23 pendens shall include a copy of the jurisdictional offer. From the time of such filing
24 every purchaser or encumbrancer whose conveyance or encumbrance is not recorded
25 or filed shall be deemed a subsequent purchaser or encumbrancer and shall be bound

1 by the terms of the jurisdictional offer and it shall not be necessary to serve other
2 jurisdictional offers on such subsequent purchaser or encumbrancer. In the award
3 the condemnor may name and make payment to parties who were owners or
4 mortgagees at the time of the filing of the lis pendens unless subsequent purchasers
5 or encumbrancers give written notice to the condemnor of their subsequently
6 acquired interests in which event such parties shall be named in the award as their
7 interests may appear.

8 **SECTION 17.** 32.06 (4) of the statutes is amended to read:

9 32.06 (4) RIGHT OF MINORS AND ~~INCOMPETENTS~~ INDIVIDUALS ADJUDICATED
10 INCOMPETENT. If any person having an ownership interest in the property proposed
11 to be condemned is a minor or ~~an~~ is adjudicated incompetent ~~person~~, a special
12 guardian shall be appointed for the person pursuant to s. 32.05 (4).

13 **SECTION 18.** 32.06 (7) of the statutes is amended to read:

14 32.06 (7) PETITION FOR CONDEMNATION PROCEEDINGS. If the jurisdictional offer
15 is not accepted within the periods limited in sub. (6) or the owner fails to consummate
16 an acceptance as provided in sub. (6), the condemnor may present a verified petition
17 to the circuit court for the county in which the property to be taken is located, for
18 proceedings to determine the necessity of taking, where such determination is
19 required, and the amount of just compensation. The petition shall state that the
20 jurisdictional offer required by sub. (3) has been made and rejected; that it is the
21 intention of the condemnor in good faith to use the property or right therein for the
22 specified purpose. It shall name the parties having an interest of record in the
23 property as near as may be and shall name the parties who are minors ~~or persons of~~
24 unsound mind, who are adjudicated incompetent, or whose location is unknown. The
25 petition may not disclose the amount of the jurisdictional offer, and if it does so it is

1 a nullity. The petition shall be filed with the clerk of the court. Notice of the petition
2 shall be given as provided in s. 32.05 (4) to all persons having an interest of record
3 in the property, including the special guardian appointed for minors or individuals
4 adjudicated incompetent persons. A lis pendens shall be filed on the date of filing
5 the petition. The date of filing the lis pendens is the “date of evaluation” of the
6 property for the purpose of fixing just compensation, except that if the property is to
7 be used in connection with the construction of a facility, as defined under s. 196.491
8 (1), the “date of evaluation” is the date that is 2 years prior to the date on which the
9 certificate of public convenience and necessity is issued for the facility. The hearing
10 on the petition may not be earlier than 20 days after the date of its filing unless the
11 petitioner acquired possession of the land under s. 32.12 (1) in which event this
12 hearing is not necessary. If the petitioner is entitled to condemn the property or any
13 portion of it, the judge immediately shall assign the matter to the chairperson of the
14 county condemnation commissioners for hearing under s. 32.08. An order by the
15 judge determining that the petitioner does not have the right to condemn or refusing
16 to assign the matter to the chairperson of the county condemnation commissioners
17 may be appealed directly to the court of appeals.

18 **SECTION 19.** 32.075 (3) (b) of the statutes is amended to read:

19 32.075 (3) (b) If the person is a minor or an individual adjudicated incompetent,
20 the notice under par. (a) shall be to the special guardian appointed for ~~the person~~ him
21 or her. The notice under par. (a) shall state that the person, or, if the person is
22 deceased, the person’s heirs, may petition the circuit court of the county in which the
23 property is located, within 90 days after receipt of the notice, for an order to require
24 the public utility to return the interest in the property to the petitioner. The circuit
25 court shall grant the petition and shall make a formal order returning the

1 petitioner's interest in the property. The order shall operate to divest any title of the
2 public utility to the property subject to the petition and to automatically discharge
3 any lis pendens filed in relation to the condemnation of the property.

4 **SECTION 20.** 32.22 (6) (b) of the statutes is amended to read:

5 32.22 (6) (b) If any owner is a minor or an individual adjudicated incompetent
6 ~~person~~, a special guardian shall be appointed under s. 32.05 (4).

7 **SECTION 21.** 32.64 of the statutes is repealed.

8 **SECTION 22.** 36.27 (2) (a) 5. of the statutes is amended to read:

9 36.27 (2) (a) 5. Any minor student under guardianship in this state pursuant
10 to ~~ch. 48 or 880~~ whose legal guardian has been a bona fide resident of this state for
11 at least 12 months next preceding the beginning of any semester or session for which
12 such student registers at an institution.

13 **SECTION 23.** 40.08 (9) of the statutes is amended to read:

14 40.08 (9) PAYMENTS OF BENEFITS TO MINORS AND INCOMPETENTS INDIVIDUALS FOUND
15 INCOMPETENT. In any case in which a benefit amount becomes payable to a minor or
16 to ~~a person adjudged mentally~~ an individual adjudicated incompetent, the
17 department may waive guardianship proceedings, and pay the benefit to the person
18 providing for or caring for the minor, or to the spouse ~~or the~~ parent, or other relative
19 by blood or adoption providing for or caring for the individual adjudicated
20 incompetent ~~person~~.

21 **SECTION 24.** 45.36 (1) (b) of the statutes is amended to read:

22 45.36 (1) (b) "Duly authorized representative" means any person authorized
23 in writing by the veteran to act for the veteran, or a legally constituted representative
24 if the veteran is adjudicated incompetent or deceased. Where for proper reason no
25 representative has been or will be appointed, the veteran's spouse, an adult child, or,

1 if the veteran is unmarried, either parent shall be recognized as the duly authorized
2 representative.

3 **SECTION 25.** 46.011 (intro.) of the statutes is amended to read:

4 **46.011 Definitions.** (intro.) In chs. 46, 48, 50, 51, 54, 55 and 58:

5 **SECTION 26.** 46.27 (1) (e) of the statutes is amended to read:

6 46.27 (1) (e) “Voluntary” means according to ~~a person’s~~ an individual’s free
7 choice, if competent, or by choice of ~~a~~ his or her guardian, if the individual is
8 adjudicated incompetent.

9 **SECTION 27.** 46.977 (1) (a) of the statutes is amended to read:

10 46.977 (1) (a) “Guardian” has the meaning ~~provided~~ given in s. ~~880.01 (3)~~ 54.01
11 (10).

12 **SECTION 28.** 46.977 (2) (a) of the statutes, as affected by 2005 Wisconsin Act 25,
13 is amended to read:

14 46.977 (2) (a) From the appropriation under s. 20.435 (7) (cg), the department
15 may under this section, based on the criteria under par. (c), award grants to applying
16 organizations for the purpose of training and assisting guardians for ~~persons~~
17 ~~determined to be~~ individuals found incompetent under ch. ~~880~~ 54. No grant may be
18 paid unless the awardee provides matching funds equal to 10% of the amount of the
19 award.

20 **SECTION 29.** 46.977 (2) (c) of the statutes, as affected by 2005 Wisconsin Act 25,
21 is amended to read:

22 46.977 (2) (c) In reviewing applications for grants, the department shall
23 consider the extent to which the proposed program will effectively train and assist
24 guardians for ~~persons determined to be~~ individuals found incompetent under ch. ~~880~~
25 54.

1 **SECTION 30.** 48.14 (2) (b) of the statutes is amended to read:

2 48.14 (2) (b) The appointment and removal of a guardian of the person for a
3 child under ss. 48.427, 48.428, 48.43, 48.831, 48.832, 48.839 (4) (a), 48.977, and
4 48.978 and ch. 880 54 and for a child found to be in need of protection or services
5 under s. 48.13 because the child is without parent or guardian.

6 **SECTION 31.** 48.14 (11) of the statutes is amended to read:

7 48.14 (11) Granting visitation privileges under s. ~~880.155~~ 54.56.

8 **SECTION 32.** 48.345 (intro.) of the statutes is amended to read:

9 **48.345 Disposition of child or unborn child of child expectant mother**
10 **adjudged in need of protection or services.** (intro.) If the judge finds that the
11 child is in need of protection or services or that the unborn child of a child expectant
12 mother is in need of protection or services, the judge shall enter an order deciding one
13 or more of the dispositions of the case as provided in this section under a care and
14 treatment plan, except that the order may not place any child not specifically found
15 under chs. 46, 49, 51, 54, or 115 and ~~880~~ to be developmentally disabled, mentally
16 ill, or to have a disability specified in s. 115.76 (5) in facilities ~~which~~ that exclusively
17 treat those categories of children, and the court may not place any child expectant
18 mother of an unborn child in need of protection or services outside of the child
19 expectant mother's home unless the court finds that the child expectant mother is
20 refusing or has refused to accept any alcohol or other drug abuse services offered to
21 her or is not making or has not made a good faith effort to participate in any alcohol
22 or other drug abuse services offered to her. The dispositions under this section are
23 as follows:

24 **SECTION 33.** 48.347 (intro.) of the statutes is amended to read:

1 **48.347 Disposition of unborn child of adult expectant mother**
2 **adjudged in need of protection or services.** (intro.) If the judge finds that the
3 unborn child of an adult expectant mother is in need of protection or services, the
4 judge shall enter an order deciding one or more of the dispositions of the case as
5 provided in this section under a care and treatment plan, except that the order may
6 not place any adult expectant mother of an unborn child not specifically found under
7 ch. 51, 54, or 55 ~~or 880~~ to be developmentally disabled or mentally ill in a facility
8 ~~which~~ that exclusively treats those categories of individuals, and the court may not
9 place any adult expectant mother of an unborn child in need of protection or services
10 outside of the adult expectant mother’s home unless the court finds that the adult
11 expectant mother is refusing or has refused to accept any alcohol or other drug abuse
12 services offered to her or is not making or has not made a good faith effort to
13 participate in any alcohol or other drug abuse services offered to her. If the judge
14 finds that the unborn child of a child expectant mother is in need of protection or
15 services, the judge shall enter an order deciding one or more of the dispositions of the
16 case as provided in s. 48.345 under a care and treatment plan. The dispositions
17 under this section are as follows:

18 **SECTION 34.** 48.62 (2) of the statutes is amended to read:

19 **48.62 (2)** A relative, as defined in s. 48.02 (15) or as specified in s. 49.19 (1) (a),
20 or a guardian of a child, who provides care and maintenance for a child, is not
21 required to obtain the license specified in this section. The department, county
22 department, or licensed child welfare agency as provided in s. 48.75 may issue a
23 license to operate a foster home or a treatment foster home to a relative who has no
24 duty of support under s. 49.90 (1) (a) and who requests a license to operate a foster
25 home or treatment foster home for a specific child who is either placed by court order

1 or who is the subject of a voluntary placement agreement under s. 48.63. The
2 department, a county department, or a licensed child welfare agency may, at the
3 request of a guardian appointed under s. 48.977 or 48.978, ch. 54, or ch. 880, 2003
4 stats., license the guardian's home as a foster home or treatment foster home for the
5 guardian's minor ward who is living in the home and who is placed in the home by
6 court order. Relatives with no duty of support and guardians appointed under s.
7 48.977 or 48.978, ch. 54, or ch. 880, 2003 stats., who are licensed to operate foster
8 homes or treatment foster homes are subject to the department's licensing rules.

9 **SECTION 35.** 48.831 (1) of the statutes is amended to read:

10 48.831 (1) TYPE OF GUARDIANSHIP. This section may be used for the appointment
11 of a guardian of a child who does not have a living parent if a finding as to the
12 adoptability of a child is sought. Except as provided in ss. 48.977 and 48.978, ch. 880
13 54 applies to the appointment of a guardian for a child who does not have a living
14 parent for all other purposes. An appointment of a guardian of the estate of a child
15 who does not have a living parent shall be conducted in accordance with the
16 procedures specified in ch. 880 54.

17 **SECTION 36.** 48.831 (1m) (e) of the statutes is amended to read:

18 48.831 (1m) (e) A guardian appointed under ch. 54 or ch. 880, 2003 stats.,
19 whose resignation as guardian has been accepted by a court under s. 54.54 (1) or s.
20 880.17 (1), 2003 stats.

21 **SECTION 37.** 48.977 (8) of the statutes is amended to read:

22 48.977 (8) (title) RELATIONSHIP TO CH. 54 AND CH. 880, 2003 STATS. (a) This section
23 does not abridge the duties or authority of a guardian appointed under ch. 54 or ch.
24 880, 2003 stats.

1 (b) Nothing in this section prohibits an individual from petitioning a court
2 under ch. 880 54 for appointment of a guardian.

3 **SECTION 38.** 48.978 (7) of the statutes is amended to read:

4 48.978 (7) RELATIONSHIP TO CH. 880 54. (a) Except when a different right, remedy
5 or procedure is provided under this section, the rights, remedies, and procedures
6 provided in ch. 880 54 shall govern a standby guardianship created under this
7 section.

8 (b) This section does not abridge the duties or authority of a guardian appointed
9 under ch. 54 or ch. 880, 2003 stats.

10 (c) Nothing in this section prohibits an individual from petitioning a court for
11 the appointment of a guardian under ch. 880 54.

12 **SECTION 39.** 49.001 (8) of the statutes is amended to read:

13 49.001 (8) “Voluntary” means according to ~~a person’s~~ an individual’s free
14 choice, if competent, or by choice of ~~a~~ his or her guardian if the individual is
15 adjudicated incompetent.

16 **SECTION 40.** 49.498 (3) (a) 1. of the statutes is amended to read:

17 49.498 (3) (a) 1. The right to choose a personal attending physician, to be fully
18 informed in advance about care and treatment, to be fully informed in advance of any
19 changes in care or treatment that may affect the resident’s well-being, and, except
20 with respect to a resident ~~found~~ who is adjudicated incompetent under s. 880.33, to
21 participate in planning care and treatment or changes in care and treatment.

22 **SECTION 41.** 49.498 (3) (c) of the statutes is amended to read:

23 49.498 (3) (c) For a resident who is ~~found~~ adjudicated incompetent under s.
24 ~~880.33~~ in this state, the rights of a resident under this subsection devolve upon and,

1 to the extent determined necessary by a court of competent jurisdiction, are exercised
2 by the resident's guardian appointed under ~~s. 880.33~~.

3 **SECTION 42.** 50.02 (2) (ad) of the statutes is created to read:

4 50.02 (2) (ad) The department shall promulgate rules that require each facility
5 licensed under this subchapter to provide information necessary for the department
6 to assess the facility's compliance with s. 55.14.

7 **SECTION 43.** 50.03 (14) (c) 8. e. of the statutes is amended to read:

8 50.03 (14) (c) 8. e. A list of the residents whom the facility believes to be
9 ~~incompetent~~ meet the requirements of s. 54.10 (3).

10 **SECTION 44.** 50.06 (2) (intro.) of the statutes is amended to read:

11 50.06 (2) (intro.) An individual under sub. (3) may consent to admission,
12 directly from a hospital to a facility, of an incapacitated individual who does not have
13 a valid power of attorney for health care and who has not been adjudicated
14 incompetent ~~under ch. 880 in this state~~, if all of the following apply:

15 **SECTION 45.** 50.06 (2) (c) of the statutes is amended to read:

16 50.06 (2) (c) A petition for guardianship for the individual under s. ~~880.07~~ 54.34
17 and a petition for protective placement of the individual under s. 55.06 (2) are filed
18 prior to the proposed admission.

19 **SECTION 46.** 50.09 (3) of the statutes is amended to read:

20 50.09 (3) If the resident is ~~adjudged to be~~ adjudicated incompetent ~~under ch.~~
21 ~~51 or 880 in this state~~ and not restored to legal capacity, the rights and
22 responsibilities established under this section which the resident is not competent
23 to exercise shall devolve upon the resident's guardian.

24 **SECTION 47.** 50.94 (2) (intro.) of the statutes is amended to read:

1 50.94 (2) (intro.) A person who is determined to be incapacitated under the
2 requirements of sub. (8), does not have a valid living will or valid power of attorney
3 for health care, and has not been adjudicated incompetent ~~under ch. 880~~ in this state
4 may be admitted to a hospice under this section only if all of the following
5 requirements are met:

6 **SECTION 48.** 50.94 (6) of the statutes is amended to read:

7 50.94 (6) A person who disagrees with a hospice decision made under this
8 section may apply under ~~ch. 880~~ s. 54.50 for temporary guardianship of the person
9 who is incapacitated. In applying for the temporary guardianship, such a person has
10 the burden of proving that the person who is incapacitated would not have consented
11 to admission to a hospice or hospice care.

12 **SECTION 49.** 51.01 (4g) of the statutes is created to read:

13 51.01 (4g) “County of residence” means the county that is determined under
14 s. 51.40 to be the county of residence.

15 **SECTION 50.** 51.01 (4r) of the statutes is created to read:

16 51.01 (4r) “Degenerative brain disorder” means the loss or dysfunction of brain
17 cells to the extent that the individual is substantially impaired in his or her ability
18 to provide adequately for his or her own care or custody or to manage adequately his
19 or her property or financial affairs.

20 **SECTION 51.** 51.01 (5) (a) of the statutes is amended to read:

21 51.01 (5) (a) “Developmental disability” means a disability attributable to
22 brain injury, cerebral palsy, epilepsy, autism, Prader–Willi syndrome, mental
23 retardation, or another neurological condition closely related to mental retardation
24 or requiring treatment similar to that required for mental retardation, which has
25 continued or can be expected to continue indefinitely and constitutes a substantial

1 handicap to the afflicted individual. “Developmental disability” does not include
2 senility ~~which dementia that~~ is primarily caused by the process of aging or the
3 ~~infirmities of aging~~ degenerative brain disorder.

4 **SECTION 52.** 51.01 (14) of the statutes is amended to read:

5 51.01 (14) “Residence”, ~~“legal residency” or “county of residence”~~ has the
6 meaning given under s. 49.001 (6).

7 **SECTION 53.** 51.01 (14t) of the statutes is created to read:

8 51.01 (14t) “Serious and persistent mental illness” means a mental illness that
9 is severe in degree and persistent in duration, that causes a substantially diminished
10 level of functioning in the primary aspects of daily living and an inability to cope with
11 the ordinary demands of life, that may lead to an inability to maintain stable
12 adjustment and independent functioning without long-term treatment and support,
13 and that may be of lifelong duration. “Serious and persistent mental illness” includes
14 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
15 psychiatric diagnostic categories, but does not include degenerative brain disorder
16 or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

17 **SECTION 54.** 51.03 (3) (a) 6. of the statutes is amended to read:

18 51.03 (3) (a) 6. The number of persons authorized to consent to involuntary
19 administration of psychotropic medication under s. 55.14 (8) or for whom guardians
20 are ~~were~~ appointed under s. 880.33 (4m), 2003 stats.

21 **SECTION 55.** 51.05 (2) of the statutes is amended to read:

22 51.05 (2) ADMISSIONS AUTHORIZED BY COUNTIES. The department may not accept
23 for admission to a mental health institute any resident person, except in an
24 emergency, unless the county department under s. 51.42 in the county where the
25 person has ~~legal residency~~ residence authorizes the care, as provided in s. 51.42 (3)

1 (as). Patients who are committed to the department under s. 975.01, 1977 stats., or
2 s. 975.02, 1977 stats., or s. 971.14, 971.17, 975.06 or 980.06, admitted by the
3 department under s. 975.17, 1977 stats., or are transferred from a secured
4 correctional facility, a secured child caring institution or a secured group home to a
5 state treatment facility under s. 51.35 (3) or from a jail or prison to a state treatment
6 facility under s. 51.37 (5) are not subject to this section.

7 **SECTION 56.** 51.10 (8) of the statutes is amended to read:

8 51.10 (8) An adult for whom a guardian of the person has been appointed under
9 ~~ch. 880 in this state~~ because of the subject's incompetency may be voluntarily
10 admitted to an inpatient treatment facility under this section only if the guardian
11 and the ward consent to such admission.

12 **SECTION 57.** 51.20 (7) (d) 1. (intro.) of the statutes is renumbered 51.20 (7) (d)

13 1. and amended to read:

14 51.20 (7) (d) 1. If the court determines after hearing that there is probable cause
15 to believe that the subject individual is a fit subject for guardianship and protective
16 placement or services, the court may, without further notice, appoint a temporary
17 guardian for the subject individual and order temporary protective placement or
18 services under ch. 55 for a period not to exceed 30 days, and shall proceed as if
19 petition had been made for guardianship and protective placement or services. If the
20 court orders only temporary protective services for a subject individual under this
21 paragraph, the individual shall be provided care only on an outpatient basis. The
22 court may order involuntary administration of psychotropic medication as a
23 temporary protective service ~~under this paragraph if it finds that there is probable~~
24 ~~cause to believe that the allegations under s. 880.07 (1m) (e) and (em) apply, that the~~
25 ~~individual is not competent to refuse psychotropic medication and that the~~

1 medication ordered will have therapeutic value and will not unreasonably impair the
2 ability of the individual to prepare for and participate in subsequent legal
3 proceedings. An individual is not competent to refuse psychotropic medication if,
4 because of chronic mental illness, and after the advantages and disadvantages of and
5 alternatives to accepting the particular psychotropic medication have been
6 explained to the individual, one of the following is true: only under the requirements
7 of s. 55.14.

8 **SECTION 58.** 51.20 (7) (d) 1. a. of the statutes is repealed.

9 **SECTION 59.** 51.20 (7) (d) 1. b. of the statutes is repealed.

10 **SECTION 60.** 51.22 (4) of the statutes is amended to read:

11 51.22 (4) If a patient is placed in a facility authorized by a county department
12 under s. 51.42 or 51.437 and such the placement is outside the jurisdiction of that
13 county department under s. 51.42 or 51.437, the placement does not transfer the
14 patient's legal residence to the county of the facility's location while such patient is
15 under commitment or placement.

16 **SECTION 61.** 51.30 (4) (b) 8m. of the statutes is amended to read:

17 51.30 (4) (b) 8m. To appropriate examiners and facilities in accordance with s.
18 54.36 (3), 971.17 (2) (e), (4) (c) and (7) (c), 980.03 (4) or 980.08 (3). The recipient of
19 any information from the records shall keep the information confidential except as
20 necessary to comply with s. 971.17 or ch. 980.

21 **SECTION 62.** 51.30 (4) (b) 18. a. of the statutes is amended to read:

22 51.30 (4) (b) 18. a. In this subdivision, "abuse" has the meaning given in s. 51.62
23 (1) (ag); "neglect" has the meaning given in s. 51.62 (1) (br); and "parent" has the
24 meaning given in s. 48.02 (13), except that "parent" does not include the parent of a

1 minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),
2 or for whom a guardian is appointed under s. 54.10 or s. 880.33, 2003 stats.

3 **SECTION 63.** 51.30 (4) (b) 18. c. of the statutes is amended to read:

4 51.30 (4) (b) 18. c. If the patient, regardless of age, has a guardian appointed
5 under s. 54.10 or s. 880.33, 2003 stats., or if the patient is a minor with developmental
6 disability who has a parent or has a guardian appointed under s. 48.831 and does not
7 have a guardian appointed under s. 54.10 or s. 880.33, 2003 stats., information
8 concerning the patient that is obtainable by staff members of the agency or nonprofit
9 corporation with which the agency has contracted is limited, except as provided in
10 subd. 18. e., to the nature of an alleged rights violation, if any; the name, birth date
11 and county of residence of the patient; information regarding whether the patient
12 was voluntarily admitted, involuntarily committed or protectively placed and the
13 date and place of admission, placement or commitment; and the name, address and
14 telephone number of the guardian of the patient and the date and place of the
15 guardian's appointment or, if the patient is a minor with developmental disability
16 who has a parent or has a guardian appointed under s. 48.831 and does not have a
17 guardian appointed under s. 54.10 or s. 880.33, 2003 stats., the name, address and
18 telephone number of the parent or guardian appointed under s. 48.831 of the patient.

19 **SECTION 64.** 51.30 (4) (b) 20. (intro.) of the statutes is amended to read:

20 51.30 (4) (b) 20. (intro.) Except with respect to the treatment records of a
21 subject individual who is receiving or has received services for alcoholism or drug
22 dependence, to the spouse, parent, adult child or sibling of a subject individual, if the
23 spouse, parent, adult child or sibling is directly involved in providing care to or
24 monitoring the treatment of the subject individual and if the involvement is verified
25 by the subject individual's physician, psychologist or by a person other than the

1 spouse, parent, adult child or sibling who is responsible for providing treatment to
2 the subject individual, in order to assist in the provision of care or monitoring of
3 treatment. Except in an emergency as determined by the person verifying the
4 involvement of the spouse, parent, adult child or sibling, the request for treatment
5 records under this subdivision shall be in writing, by the requester. Unless the
6 subject individual has been ~~adjudged~~ adjudicated incompetent under ~~ch. 880~~ in this
7 state, the person verifying the involvement of the spouse, parent, adult child or
8 sibling shall notify the subject individual about the release of his or her treatment
9 records under this subdivision. Treatment records released under this subdivision
10 are limited to the following:

11 **SECTION 65.** 51.30 (4) (dm) 2. of the statutes is amended to read:

12 51.30 (4) (dm) 2. Conceal or withhold a treatment record with intent to prevent
13 its release to the subject individual under par. (d), to his or her guardian ~~appointed~~
14 ~~under ch. 880~~, or to persons with the informed written consent of the subject
15 individual or with intent to prevent or obstruct an investigation or prosecution.

16 **SECTION 66.** 51.30 (4) (f) of the statutes is amended to read:

17 51.30 (4) (f) *Correction of information.* A subject individual, ~~or~~ the parent,
18 guardian, or person in the place of a parent of a minor, or the guardian of an
19 individual adjudicated incompetent may, after having gained access to treatment
20 records, challenge the accuracy, completeness, timeliness, or relevance of factual
21 information in his or her treatment records and request in writing that the facility
22 maintaining the record correct the challenged information. ~~Such~~ The request shall
23 be granted or denied within 30 days by the director of the treatment facility, the
24 director of the county department under s. 51.42 or 51.437, or the secretary
25 depending upon which person has custody of the record. Reasons for denial of the

1 requested changes shall be given by the responsible officer and the individual shall
2 be informed of any applicable grievance procedure or court review procedure. If the
3 request is denied, the individual, parent, guardian, or person in the place of a parent
4 shall be allowed to insert into the record a statement correcting or amending the
5 information at issue. The statement shall become a part of the record and shall be
6 released whenever the information at issue is released.

7 **SECTION 67.** 51.30 (5) (a) of the statutes is amended to read:

8 51.30 (5) (a) *Consent for release of information.* The parent, guardian, or person
9 in the place of a parent of a minor or the guardian of an adult ~~adjudged~~ adjudicated
10 incompetent ~~under ch. 880 in this state~~ may consent to the release of confidential
11 information in court or treatment records. A minor who is aged 14 or more may
12 consent to the release of confidential information in court or treatment records
13 without the consent of the minor's parent, guardian or person in the place of a parent.
14 Consent under this paragraph must conform to the requirements of sub. (2).

15 **SECTION 68.** 51.30 (5) (b) 1. of the statutes is amended to read:

16 51.30 (5) (b) 1. The guardian of an individual who is ~~adjudged~~ adjudicated
17 incompetent ~~under ch. 880 in this state~~ shall have access to the individual's court and
18 treatment records at all times. The parent, guardian or person in the place of a
19 parent of a developmentally disabled minor shall have access to the minor's court and
20 treatment records at all times except in the case of a minor aged 14 or older who files
21 a written objection to such access with the custodian of the records. The parent,
22 guardian or person in the place of a parent of other minors shall have the same rights
23 of access as provided to subject individuals under this section.

24 **SECTION 69.** 51.30 (5) (e) of the statutes is amended to read:

1 51.30 (5) (e) *Temporary guardian for adult alleged to be incompetent.* If an
2 adult is believed alleged to be incompetent, under the requirements of s. 54.10 (3),
3 to consent to the release of records under this section, but no guardian has been
4 appointed for ~~such~~ the individual, consent for the release of records may be given by
5 a temporary guardian who is appointed for the purpose of deciding upon the release
6 of records.

7 **SECTION 70.** 51.35 (7) of the statutes is amended to read:

8 51.35 (7) GUARDIANSHIP AND PROTECTIVE SERVICES. Prior to discharge from any
9 state treatment facility, the department shall review the possible need of a
10 developmentally disabled individual, aged infirm individual, or ~~person~~ individual
11 with other like incapacities for protective services or protective placement under ch.
12 55 after discharge, including the necessity for appointment of a guardian ~~or limited~~
13 guardian. The department shall petition for ~~limited or full~~ guardianship, or for
14 protective services or protective placement for the person if needed. When the
15 department makes a petition for guardianship under this subsection, it shall not be
16 appointed as guardian.

17 **SECTION 71.** 51.40 (title) of the statutes is amended to read:

18 **51.40 (title) ~~Residence of developmentally disabled or chronically~~**
19 **~~mentally ill~~ Determination of residence for certain adults; county of**
20 **responsibility.**

21 **SECTION 72.** 51.40 (1) (e) of the statutes is amended to read:

22 51.40 (1) (e) “County of responsibility” means the county responsible for
23 funding the provision of care, treatment, or services under this chapter or ch. 46 or
24 55 to an individual.

25 **SECTION 73.** 51.40 (1) (em) of the statutes is created to read:

1 51.40 (1) (em) “Facility” means a place, other than a hospital, that is licensed,
2 registered, certified, or approved by the department or a county under ch. 50 or 51.

3 **SECTION 74.** 51.40 (1) (f) of the statutes is amended to read:

4 51.40 (1) (f) “Guardian” means a guardian of the person appointed by a court
5 under ch. 54 or ch. 880, 2003 stats.

6 **SECTION 75.** 51.40 (1) (g) 1. of the statutes is amended to read:

7 51.40 (1) (g) 1. The status of an individual who has had a guardian appointed
8 under ch. 880, unless the court made a specific finding under s. 880.33 (3) that the
9 individual is competent to make an informed choice of a place to live.

10 **SECTION 76.** 51.40 (1) (h) of the statutes is repealed.

11 **SECTION 77.** 51.40 (1) (hm) of the statutes is created to read:

12 51.40 (1) (hm) “Other like incapacities” has the meaning given in s. 55.01 (5).

13 **SECTION 78.** 51.40 (1) (m) of the statutes is created to read:

14 51.40 (1) (m) “Voluntary” has the meaning given in s. 49.001 (8).

15 **SECTION 79.** 51.40 (2) (intro.) of the statutes is amended to read:

16 51.40 (2) DETERMINATION OF COUNTY OF RESIDENCE. (intro.) ~~For purposes of~~
17 ~~determining responsibility for funding the provision of services under chs. 46, 51 and~~
18 ~~55, the~~ The county of residence of individuals an individual aged 18 or older with
19 developmental disability or chronic serious and persistent mental illness in state
20 facilities or nursing homes, degenerative brain disorder, or other like incapacity who
21 is residing in a facility is the county of responsibility for the individual. The county
22 of residence shall be determined as follows:

23 **SECTION 80.** 51.40 (2) (a) 1. of the statutes is amended to read:

24 51.40 (2) (a) 1. ‘Commitment or ~~protection~~ protective placement or protective
25 services.’ If an individual is under a court order of commitment under this chapter

1 or protective placement or protective services under s. 55.06, the individual remains
2 a resident of the county in which he or she has residence at the time the initial
3 commitment or initial order for protective placement or protective services is made.
4 If the court makes no specific finding of a county of residence, the individual is a
5 resident of the county in which the court is located. After notice, including notice to
6 the corporation counsel of each affected county by certified mail, after opportunity
7 to be heard has been provided to all affected counties and parties, and if there is no
8 objection, the court may make a specific finding of a county of residence. If any
9 affected county or party objects to the court's proposed finding, the county or party
10 may request the department to make a determination under par. (g). Any transfer
11 of venue may be suspended until the department's determination is final.

12 **SECTION 81.** 51.40 (2) (a) 2. of the statutes is amended to read:

13 51.40 (2) (a) 2. 'Placement by a county.' Except for the provision of emergency
14 services under s. 51.15, 51.42 (1) (b), 51.437 (4) (c), 51.45 (11) and (12) or 55.06 (11),
15 if a county department or an agency of a county department arranges places or
16 makes arrangements for placement of the individual into a state facility ~~or nursing~~
17 ~~home~~, the individual is a resident of the county of that county department. Any
18 agency of the county department is deemed to be acting on behalf of the county
19 department in arranging placing or making arrangements for placement.
20 Placement of an individual by a county department or an agency of a county
21 department in a facility outside the jurisdiction of the county department or agency
22 does not transfer the individual's legal residence to the county in which the facility
23 is located. If a resident of a county is physically present in another county and is in
24 need of immediate care, the county in which the individual is present may provide
25 for his or her immediate needs under s. 51.15, 51.20, 51.42 (1) (b), 51.437 (4) (c), or

1 51.45 (11) or (12), or ch. 54 or 55, without becoming the individual's county of
2 residence.

3 **SECTION 82.** 51.40 (2) (b) (intro.) of the statutes is amended to read:

4 51.40 (2) (b) *Other admissions.* (intro.) If par. (a) does not apply, ~~one of the~~
5 ~~following shall apply~~ the county of residence shall be determined as follows:

6 **SECTION 83.** 51.40 (2) (b) 1. of the statutes is amended to read:

7 51.40 (2) (b) 1. 'Individuals in state facilities.' An individual who is in a state
8 facility is a resident of the county in which he or she was a resident at the time the
9 admission to the state facility was made. This subdivision may not be applied to
10 change residence from a county, other than the county in which the facility is located,
11 ~~which~~ that has accepted responsibility for or provided services to the individual ~~prior~~
12 ~~to August 1, 1987~~ before the effective date of this subdivision [revisor inserts date].

13 **SECTION 84.** 51.40 (2) (b) 2. (intro.) of the statutes is amended to read:

14 51.40 (2) (b) 2. 'Individuals in nursing homes.' (intro.) The following are
15 presumptions regarding the county of residence of an individual in a nursing home
16 that may be overcome by substantial evidence that clearly establishes other county
17 residence:

18 ag. An individual in a nursing home who was admitted under s. 50.04 (2r) to
19 the nursing home on or after August 1, 1987 ~~the effective date of this subd. 2. ag.~~
20 ~~[revisor inserts date],~~ is a resident of the county ~~which~~ that approved the admission
21 under s. 50.04 (2r).

22 bg. An individual residing in a nursing home on ~~August 1, 1987~~ the effective
23 date of this subd. 2. bg. [revisor inserts date], is presumed to be a resident of the
24 county in which the individual is physically present unless another county accepts
25 the individual as a resident. ~~The presumption of residence may be overcome by~~

1 ~~substantial evidence which clearly establishes residence in another county in one of~~
2 ~~the following ways:~~

3 **SECTION 85.** 51.40 (2) (b) 2. a. of the statutes is renumbered 51.40 (2) (b) 2. cg.
4 and amended to read:

5 51.40 (2) (b) 2. cg. ~~The~~ If the individual had an established residence in another
6 county prior to entering the nursing home; the individual or the individual's
7 guardian, if any, indicates an intent that the individual will return to that county
8 when the purpose of entering the nursing home has been accomplished or when
9 needed care and services can be obtained in ~~the other~~ that county; and the individual,
10 when capable of indicating intent, or a guardian for the individual, has made no
11 clearly documented expression to a court or county department of an intent to
12 establish residence elsewhere since leaving that county, the individual is a resident
13 of that county.

14 **SECTION 86.** 51.40 (2) (b) 2. b. of the statutes is renumbered 51.40 (2) (b) 2. dg.
15 and amended to read:

16 51.40 (2) (b) 2. dg. ~~The~~ If the individual is incapable of indicating intent as
17 determined by the county department, has no guardian, ordinarily resides in
18 another county, and is expected to return to that county within one year, the
19 individual is a resident of that county.

20 **SECTION 87.** 51.40 (2) (b) 2. c. of the statutes is renumbered 51.40 (2) (b) 2. eg.
21 and amended to read:

22 51.40 (2) (b) 2. eg. ~~Another~~ If another county has accepted responsibility for or
23 provided services to the individual prior to ~~August 1, 1987~~ the effective date of this
24 subd. 2. eg. [revisor inserts date], the individual is a resident of that county.

1 **SECTION 88.** 51.40 (2) (b) 2. d. of the statutes is renumbered 51.40 (2) (b) 2. fg.
2 and amended to read:

3 51.40 (2) (b) 2. fg. ~~The~~ If the individual is incapable of indicating intent; the
4 individual was living in another county outside of a nursing home or state facility on
5 ~~December 1, 1982~~ the effective date of this subd. 2. fg. [revisor inserts date], or
6 under circumstances ~~which~~ that established residence in that county after ~~December~~
7 ~~1, 1982~~ the effective date of this subd. 2. fg. [revisor inserts date]; and that county
8 was the last county in which the individual had residence while living outside of a
9 nursing home or state facility, the individual is a resident of that county.

10 **SECTION 89.** 51.40 (2) (b) 2. g. of the statutes is created to read:

11 51.40 (2) (b) 2. g. If subd. 2. ag. to fg. does not apply, an individual who is
12 incapable of indicating intent and is residing in a facility is a resident of the county
13 in which the individual resided before admittance to the facility.

14 **SECTION 90.** 51.40 (2) (f) of the statutes is repealed and recreated to read:

15 51.40 (2) (f) *Guardian's authority to declare county of residence.* A guardian
16 may declare any of the following, under any of the following conditions:

17 1. The ward is a resident of the guardian's county of residence, if pars. (a) and
18 (b) do not apply, if the guardian's ward is in a facility and is incapable of indicating
19 intent, and if the guardian is a resident of the county in which the facility is located
20 or states in writing that the ward is expected to return to the guardian's county of
21 residence when the purpose of entering the facility has been accomplished or when
22 needed care and services can be obtained in the guardian's county of residence.

23 2. The ward is a resident of the county in which the ward is physically present,
24 if pars. (a) and (b) do not apply and if all of the following apply:

25 a. The ward's presence in the county is voluntary.

1 b. There is no current order under ch. 55 in effect with respect to the ward, and
2 the ward is not under an involuntary commitment order to the department of
3 corrections or to a county other than the county in which the ward is physically
4 present.

5 c. The ward is living in a place of fixed habitation.

6 d. The guardian states in writing that it is the ward's intent to remain in the
7 county for the foreseeable future.

8 3. The ward is a resident of the county specified by the guardian, regardless if
9 a previous determination of county of residence has been made, notwithstanding
10 pars. (a) and (b) for good cause shown, if, in the ward's best interest, the guardian files
11 with the probate court having jurisdiction of the guardianship and protective
12 placement a written statement declaring the ward's domiciliary intent, subject to
13 court approval, and if notice and opportunity to be heard are provided to all affected
14 counties and parties. Notice under this subdivision shall be sent to the corporation
15 counsel of each affected county by certified mail.

16 **SECTION 91.** 51.40 (2) (g) 1. of the statutes is amended to read:

17 51.40 (2) (g) 1. An individual, an interested person on behalf of the individual,
18 or any county may request that the department make a determination of the county
19 of responsibility of the individual. Any motion for change of venue pending before
20 the court of jurisdiction may be stayed until the determination under this paragraph
21 is final. Within 10 days after receiving the request, the department shall provide
22 written notice to the individual,; to the individual's guardian, guardian ad litem, and
23 counsel, if any; to the individual's immediate family, if they can be located; and to all
24 potentially responsible counties that a determination of county of responsibility

1 shall be made and that written information and comments may be submitted within
2 30 days after the date on which the notice is sent.

3 **SECTION 92.** 51.40 (2) (g) 6. of the statutes is created to read:

4 51.40 (2) (g) 6. The county that is determined to be the county of responsibility
5 shall reimburse any other county for all care, treatment, and services provided by the
6 other county to the individual under ch. 46, 51, or 55. Full reimbursement by the
7 county that is determined to be the county of responsibility shall be made within 120
8 days after the date of the department's determination of the county of responsibility
9 or within 120 days after the date of the outcome of any appeal of the department's
10 determination that is brought under ch. 227, or by a date or under a schedule of 2 or
11 more payments that is agreed to by both counties.

12 **SECTION 93.** 51.45 (2) (e) of the statutes is amended to read:

13 51.45 (2) (e) "Incompetent person" means a person who has been adjudged
14 incompetent by the circuit court, as defined in s. 54.01 (4).

15 **SECTION 94.** 51.45 (10) (a) of the statutes is amended to read:

16 51.45 (10) (a) An adult alcoholic may apply for voluntary treatment directly to
17 an approved public treatment facility. If the proposed patient is an individual
18 adjudicated incompetent person in this state who has not been deprived by a court
19 of the right to contract ~~under subch. I of ch. 880~~, the ~~person~~ individual or ~~a legal~~ his
20 or her guardian or other legal representative may make the application. If the
21 proposed patient is an individual adjudicated incompetent person in this state who
22 has been deprived by a court of the right to contract ~~under subch. I of ch. 880~~, ~~a legal,~~
23 the individual's guardian or other legal representative may make the application.

24 **SECTION 95.** 51.45 (10) (c) of the statutes is amended to read:

1 51.45 (10) (c) If a patient receiving inpatient care leaves an approved public
2 treatment facility, the patient shall be encouraged to consent to appropriate
3 outpatient or intermediate treatment. If it appears to the superintendent in charge
4 of the treatment facility that the patient is an alcoholic or intoxicated person who
5 requires help, the county department shall arrange for assistance in obtaining
6 supportive services and residential facilities. If the patient is an individual who is
7 adjudicated incompetent person, the request for discharge from an inpatient facility
8 shall be made by a legal guardian or other legal representative or by the individual
9 who is adjudicated incompetent if he or she was the original applicant.

10 **SECTION 96.** 51.45 (13) (c) of the statutes is amended to read:

11 51.45 (13) (c) Effective and timely notice of the preliminary hearing, together
12 with a copy of the petition and supporting affidavits under par. (a), shall be given to
13 the person unless he or she has been taken into custody under par. (b), the spouse
14 or legal guardian if the person is adjudicated incompetent, the person's counsel, and
15 the petitioner. The notice shall include a written statement of the person's right to
16 an attorney, the right to trial by jury, the right to be examined by a physician, and
17 the standard under which he or she may be committed under this section. If the
18 person is taken into custody under par. (b), upon arrival at the approved public
19 treatment facility, the person shall be advised both orally and in writing of the right
20 to counsel, the right to consult with counsel before a request is made to undergo
21 voluntary treatment under sub. (10), the right not to converse with examining
22 physicians, psychologists or other personnel, the fact that anything said to
23 examining physicians, psychologists or other personnel may be used as evidence
24 against him or her at subsequent hearings under this section, the right to refuse
25 medication under s. 51.61 (6), the exact time and place of the preliminary hearing

1 under par. (d), the right to trial by jury, the right to be examined by a physician and
2 of the reasons for detention, and the standards under which he or she may be
3 committed prior to all interviews with physicians, psychologists, or other personnel.
4 Such notice of rights shall be provided to the person's immediate family if they can
5 be located and may be deferred until the person's incapacitated condition, if any, has
6 subsided to the point where the person is capable of understanding the notice. Under
7 no circumstances may interviews with physicians, psychologists, or other personnel
8 be conducted until such notice is given, except that the person may be questioned to
9 determine immediate medical needs. The person may be detained at the facility to
10 which he or she was admitted or, upon notice to the attorney and the court,
11 transferred by the county department to another appropriate public or private
12 treatment facility, until discharged under this subsection. A copy of the petition and
13 all supporting affidavits shall be given to the person at the time notice of rights is
14 given under this paragraph by the superintendent, who shall provide a reasonable
15 opportunity for the patient to consult counsel.

16 **SECTION 97.** 51.45 (13) (e) of the statutes is amended to read:

17 51.45 (13) (e) Upon a finding of probable cause under par. (d), the court shall
18 fix a date for a full hearing to be held within 14 days. An extension of not more than
19 14 days may be granted upon motion of the person sought to be committed upon a
20 showing of cause. Effective and timely notice of the full hearing, the right to counsel,
21 the right to jury trial, and the standards under which the person may be committed
22 shall be given to the person, the immediate family other than a petitioner under par.
23 (a) or sub. (12) (b) if they can be located, the spouse or legal guardian if the person
24 is adjudicated incompetent, the superintendent in charge of the appropriate
25 approved public treatment facility if the person has been temporarily committed

1 under par. (b) or sub. (12), the person's counsel, unless waived, and to the petitioner
2 under par. (a). Counsel, or the person if counsel is waived, shall have access to all
3 reports and records, psychiatric and otherwise, which have been made prior to the
4 full hearing on commitment, and shall be given the names of all persons who may
5 testify in favor of commitment and a summary of their proposed testimony at least
6 96 hours before the full hearing, exclusive of Saturdays, Sundays and legal holidays.

7 **SECTION 98.** 51.61 (1) (o) of the statutes is amended to read:

8 51.61 (1) (o) Except as otherwise provided, have a right not to be filmed or
9 taped, unless the patient signs an informed and voluntary consent that specifically
10 authorizes a named individual or group to film or tape the patient for a particular
11 purpose or project during a specified time period. The patient may specify in ~~such~~
12 the consent periods during which, or situations in which, the patient may not be
13 filmed or taped. If a patient is ~~legally~~ adjudicated incompetent, ~~such~~ the consent
14 shall be granted on behalf of the patient by the patient's guardian. A patient in
15 Goodland Hall at the Mendota Mental Health Institute, or a patient detained or
16 committed under ch. 980 and placed in a facility specified under s. 980.065, may be
17 filmed or taped for security purposes without the patient's consent, except that such
18 a patient may not be filmed in patient bedrooms or bathrooms for any purpose
19 without the patient's consent.

20 **SECTION 99.** 51.61 (1) (w) 3. of the statutes is amended to read:

21 51.61 (1) (w) 3. A patient, a patient's relative who may be liable for the cost of
22 the patient's care and treatment, or a patient's guardian may request information
23 about charges for care and treatment services at the treatment facility or community
24 mental health program. If a treatment facility or community mental health program
25 receives such a request, the treatment facility or community mental health program

1 shall promptly provide to the individual making the request written information
2 about the treatment facility's or community mental health program's charges for
3 care and treatment services. Unless the request is made by the patient, the guardian
4 of a patient ~~adjudged~~ adjudicated incompetent under ~~ch. 880~~ in this state, the parent
5 or guardian of a minor who has access to the minor's treatment records under s. 51.30
6 (5) (b) 1., or a person designated by the patient's informed written consent under s.
7 51.30 (4) (a) as a person to whom information may be disclosed, information released
8 under this subdivision is limited to general information about the treatment facility's
9 or community mental health program's charges for care and treatment services and
10 may not include information which may not be disclosed under s. 51.30.

11 **SECTION 100.** Chapter 54 of the statutes is created to read:

12 **CHAPTER 54**

13 **GUARDIANSHIPS AND CONSERVATORSHIPS**

14 **SUBCHAPTER I**

15 **DEFINITIONS**

16 **54.01 Definitions.** In subchs I to VI:

17 (1) "Activities of daily living" means activities relating to the performance of
18 self care, work, and leisure activities, including dressing, eating, grooming, mobility,
19 and object manipulation.

20 (3) "Conservator" means a person who is appointed by a court at an individual's
21 request under s. 54.76 (2) to manage the estate of the individual.

22 (4) "Court" means the circuit court or judge assigned to exercise probate
23 jurisdiction or the assignee of the judge under s. 757.68 (4m) or 851.73 (1) (g) who is
24 assigned relevant authority.

1 **(5)** “Decedent” means the deceased individual whose estate is subject to
2 administration.

3 **(6)** “Degenerative brain disorder” means the loss or dysfunction of an
4 individual’s brain cells to the extent that he or she is substantially impaired in his
5 or her ability to provide adequately for his or her own care or custody or to manage
6 adequately his or her property or financial affairs.

7 **(7)** “Depository account” has the meaning given in s. 815.18 (2) (e).

8 **(9)** “Durable power of attorney” has the meaning given in s. 243.07 (1) (a).

9 **(9g)** “Foreign court” means a court of a foreign state having competent
10 jurisdiction of a foreign ward.

11 **(9i)** “Foreign guardian” means a guardian appointed by a foreign court for a
12 foreign ward.

13 **(9k)** “Foreign guardianship” means a guardianship issued by a foreign court.

14 **(9m)** “Foreign state” means a state other than this state.

15 **(9p)** “Foreign ward” means an individual who has been found by a foreign court
16 to be incompetent or a spendthrift and who is subject to a guardianship order or
17 related order in a foreign state.

18 **(11)** “Guardian of the estate” means a guardian appointed to comply with the
19 duties specified in s. 54.19 and to exercise any of the powers specified in s. 54.20.

20 **(12)** “Guardian of the person” means a guardian appointed to comply with the
21 duties specified in s. 54.25 (1) and to exercise any of the powers specified in s. 54.25
22 (2).

23 **(13)** “Heir” means any person, including the surviving spouse, who is entitled
24 under the statutes of intestate succession to an interest in property of a decedent.
25 The state is an heir of the decedent and a person interested under s. 45.37 (10) and

1 (11) when the decedent was a member of the Wisconsin Veterans Home at King or
2 at the facilities operated by the department of veterans affairs under s. 45.385 at the
3 time of the decedent's death.

4 (14) "Impairment" means a developmental disability, serious and persistent
5 mental illness, degenerative brain disorder, or other like incapacities.

6 (15) "Incapacity" means the inability of an individual effectively to receive and
7 evaluate information or to make or communicate a decision with respect to the
8 exercise of a right or power.

9 (16) "Individual found incompetent" means an individual who has been
10 adjudicated by a court as meeting the requirements of s. 54.10 (3).

11 (17) "Interested person" means any of the following:

12 (a) For purposes of a petition for guardianship, any of the following:

13 1. The proposed ward, if he or she has attained 14 years of age.

14 2. The spouse or adult child of the proposed ward, or the parent of a proposed
15 ward who is a minor.

16 3. For a proposed ward who has no spouse, child, or parent, an heir, as defined
17 in s. 851.09, of the proposed ward that may be reasonably ascertained with due
18 diligence.

19 4. Any individual who is nominated as guardian, any individual who is
20 appointed to act as guardian or fiduciary for the proposed ward by a court of any
21 state, any trustee for a trust established by or for the proposed ward, any person
22 appointed as agent under a power of attorney for health care, as defined in s. 155.01
23 (4), or any person appointed as agent under a durable power of attorney under ch.
24 243.

1 5. If the proposed ward is a minor, the individual who has exercised principal
2 responsibility for the care and custody of the proposed ward during the period of 60
3 consecutive days immediately before the filing of the petition.

4 6. If the proposed ward is a minor and has no living parent, any individual
5 nominated to act as fiduciary for the minor in a will or other written instrument that
6 was executed by a parent of the minor.

7 7. If the proposed ward is receiving moneys paid, or if moneys are payable, by
8 the federal department of veterans affairs, a representative of the federal
9 department of veterans affairs, or, if the proposed ward is receiving moneys paid, or
10 if moneys are payable, by the state department of veterans affairs, a representative
11 of the state department of veterans affairs.

12 8. If the proposed ward is receiving long-term support services or similar public
13 benefits, the county department of human services or social services that is providing
14 the services or benefits.

15 9. The corporation counsel of the county in which the petition is filed and, if the
16 petition is filed in a county other than the county of the proposed ward's residence,
17 the corporation counsel of the county of the proposed ward's residence.

18 10. Any other person required by the court.

19 (b) For purposes of proceedings subsequent to an order for guardianship, any
20 of the following:

21 1. The guardian.

22 2. The spouse or adult child of the ward or the parent of a minor ward.

23 3. The county of venue, through the county's corporation counsel, if the county
24 has an interest.

1 4. Any person appointed as agent under a durable power of attorney under ch.
2 243, unless the agency is revoked or terminated by a court.

3 5. Any other individual that the court may require, including any fiduciary that
4 the court may designate.

5 **(18)** “Least restrictive” means that which places the least possible restriction
6 on personal liberty and the exercise of rights and that promotes the greatest possible
7 integration of an individual into his or her community that is consistent with
8 meeting his or her essential requirements for health, safety, habilitation, treatment,
9 and recovery and protecting him or her from abuse, exploitation, and neglect.

10 **(19)** “Meet the essential requirements for physical health or safety” means
11 perform those actions necessary to provide the health care, food, shelter, clothes,
12 personal hygiene, and other care without which serious physical injury or illness will
13 likely occur.

14 **(21)** “Mortgage” means any agreement or arrangement in which property is
15 used as security.

16 **(23)** “Personal representative” means any individual to whom letters to
17 administer a decedent’s estate have been granted by the court or by the probate
18 registrar under ch. 865, but does not include a special administrator.

19 **(24)** “Physician” has the meaning given in s. 448.01 (5).

20 **(25)** “Property” means any interest, legal or equitable, in real or personal
21 property, without distinction as to kind, including money, rights of a beneficiary
22 under a contractual arrangement, choses in action, and anything else that may be
23 the subject of ownership.

24 **(26)** “Proposed ward” means a minor, an individual alleged to be incompetent,
25 or an alleged spendthrift, for whom a petition for guardianship is filed.

1 **(27)** “Psychologist” means a licensed psychologist, as defined in s. 455.01 (4).

2 **(28)** “Psychotropic medication” means a prescription drug, as defined in s.
3 450.01 (20), that is used to treat or manage a psychiatric symptom or challenging
4 behavior.

5 **(29)** “Sale” includes an option or agreement to transfer whether the
6 consideration is cash or credit. It includes exchange, partition, and settlement of title
7 disputes. The intent of this subsection is to extend and not to limit the meaning of
8 “sale.”

9 **(30)** “Serious and persistent mental illness” means a mental illness that is
10 severe in degree and persistent in duration, that causes a substantially diminished
11 level of functioning in the primary aspects of daily living and an inability to cope with
12 the ordinary demands of life, that may lead to an inability to maintain stable
13 adjustment and independent functioning without long-term treatment and support
14 and that may be of lifelong duration. “Serious and persistent mental illness” includes
15 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
16 psychiatric diagnostic categories, but does not include degenerative brain disorder
17 or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

18 **(32)** “Standby conservator” means an individual designated by the court under
19 s. 54.76 (2) whose appointment as conservator becomes effective immediately upon
20 the death, resignation, or court’s removal of the initially appointed conservator, or
21 if the initially appointed conservator is temporarily or permanently unable,
22 unavailable, or unwilling to fulfill his or her duties.

23 **(33)** “Standby guardian” means an individual designated by the court under
24 s. 54.52 (2) whose appointment as guardian becomes effective immediately upon the
25 death, resignation, or court’s removal of the initially appointed guardian, or if the

1 initially appointed guardian is temporarily or permanently unable, unavailable, or
2 unwilling to fulfill his or her duties.

3 (34) “Successor conservator” means an individual appointed under s. 54.76 (9).

4 (35) “Successor guardian” means an individual appointed under s. 54.54.

5 (36) “Surviving spouse” means an individual who was married to the decedent
6 at the time of the decedent’s death. “Surviving spouse” does not include any of the
7 following:

8 (a) An individual who obtains or consents to a final decree or judgment of
9 divorce from the decedent or an annulment of their marriage, if the decree or
10 judgment is not recognized as valid in this state, unless the 2 subsequently
11 participated in a marriage ceremony purporting to marry each other or they
12 subsequently held themselves out as husband and wife.

13 (b) An individual who, following an invalid decree or judgment of divorce or
14 annulment obtained by the decedent, participates in a marriage ceremony with a 3rd
15 individual.

16 (c) An individual who was party to a valid proceeding concluded by an order
17 purporting to terminate all property rights based on the marriage with the decedent.

18 (38) “Will” includes a codicil and any document incorporated by reference in a
19 testamentary document under s. 853.32 (1) or (2). “Will” does not include a copy,
20 unless the copy has been proven as a will under s. 856.17, but “will” does include a
21 properly executed duplicate original.

22 SUBCHAPTER II

23 APPOINTMENT OF GUARDIAN

1 **54.10 Appointment of guardian. (1)** A court may appoint a guardian of the
2 person or a guardian of the estate, or both, for an individual if the court determines
3 that the individual is a minor.

4 **(2)** (a) A court may appoint a guardian of the estate for an individual if the court
5 finds by clear and convincing evidence that the individual is aged at least 18 years
6 and is a spendthrift.

7 (b) In appointing a guardian of the estate under this subsection or determining
8 what powers are appropriate for the guardian of the estate to exercise under s. 54.18
9 or 54.20, the court shall consider all of the following:

10 1. The report of the guardian ad litem, as required in s. 54.40 (4).

11 2. The medical or psychological report provided under s. 54.36 (1) and any
12 additional medical, psychological, or other evaluation ordered by the court under s.
13 54.40 (4) (e) or offered by a party and received by the court.

14 3. Whether other reliable resources are available to provide for the individual's
15 personal needs or property management, and whether appointment of a guardian of
16 the estate is the least restrictive means to provide for the individual's need for a
17 substitute decision maker.

18 4. The preferences, desires, and values of the individual with regard to personal
19 needs or property management.

20 5. The nature and extent of the individual's care and treatment needs and
21 property and financial affairs.

22 6. Whether the individual's situation places him or her at risk of abuse,
23 exploitation, neglect, or violation of rights.

24 7. The extent of the demands placed on the individual by his or her personal
25 needs and by the nature and extent of his or her property and financial affairs.

1 8. Any mental disability, alcoholism, or other drug dependence of the individual
2 and the prognosis of the mental disability, alcoholism, or other drug dependence.

3 9. Whether the effect on the individual’s evaluative capacity is likely to be
4 temporary or long term, and whether the effect may be ameliorated by appropriate
5 treatment.

6 10. Other relevant evidence.

7 (c) Before appointing a guardian of the estate under this subsection or
8 determining what powers are appropriate for the guardian of the estate to exercise
9 under s. 54.18 or 54.20, the court shall determine if additional medical,
10 psychological, social, vocational, or educational evaluation is necessary for the court
11 to make an informed decision respecting the individual.

12 (d) In appointing a guardian of the estate under this subsection, the court shall
13 authorize the guardian of the estate to exercise only those powers under ss. 54.18 and
14 54.20 that are necessary to provide for the individual’s personal needs and property
15 management and to exercise the powers in a manner that is appropriate to the
16 individual and that constitutes the least restrictive form of intervention.

17 **(3)** (a) A court may appoint a guardian of the person or a guardian of the estate,
18 or both, for an individual based on a finding that the individual is incompetent only
19 if the court finds by clear and convincing evidence that all of the following are true:

20 1. The individual is aged at least 17 years and 9 months.

21 2. For purposes of appointment of a guardian of the person, because of an
22 impairment, the individual is unable effectively to receive and evaluate information
23 or to make or communicate decisions to such an extent that the individual is unable
24 to meet the essential requirements for his or her physical health and safety.

1 3. For purposes of appointment of a guardian of the estate, because of an
2 impairment, the individual is unable effectively to receive and evaluate information
3 or to make or communicate decisions related to management of his or her property
4 or financial affairs, to the extent that any of the following applies:

5 a. The individual has property that will be dissipated in whole or in part.

6 b. The individual is unable to provide for his or her support.

7 c. The individual is unable to prevent financial exploitation.

8 4. The individual's need for assistance in decision making or communication
9 is unable to be met effectively and less restrictively through appropriate and
10 reasonably available training, education, support services, health care, assistive
11 devices, or other means that the individual will accept.

12 (b) Unless the proposed ward is unable to communicate decisions effectively in
13 any way, the determination under par. (a) may not be based on mere old age,
14 eccentricity, poor judgment, or physical disability.

15 (c) In appointing a guardian under this subsection, declaring incompetence to
16 exercise a right under s. 54.25 (2) (c), or determining what powers are appropriate
17 for the guardian to exercise under s. 54.18, 54.20, or 54.25 (2) (d), the court shall
18 consider all of the following:

19 1. The report of the guardian ad litem, as required in s. 54.40 (4).

20 2. The medical or psychological report provided under s. 54.36 (1) and any
21 additional medical, psychological, or other evaluation ordered by the court under s.
22 54.40 (4) (e) or offered by a party and received by the court.

23 3. Whether the proposed ward has engaged in any advance planning for
24 financial and health care decision making that would avoid guardianship, including

1 by executing a durable power of attorney under ch. 243, a power of attorney for health
2 care, as defined in s. 155.01 (10), a trust, or a jointly held account.

3 4. Whether other reliable resources are available to provide for the individual's
4 personal needs or property management, and whether appointment of a guardian is
5 the least restrictive means to provide for the individual's need for a substitute
6 decision maker.

7 5. The preferences, desires, and values of the individual with regard to personal
8 needs or property management.

9 6. The nature and extent of the individual's care and treatment needs and
10 property and financial affairs.

11 7. Whether the individual's situation places him or her at risk of abuse,
12 exploitation, neglect, or violation of rights.

13 8. Whether the individual can adequately understand and appreciate the
14 nature and consequences of his or her impairment.

15 9. The individual's management of the activities of daily living.

16 10. The individual's understanding and appreciation of the nature and
17 consequences of any inability he or she may have with regard to personal needs or
18 property management.

19 11. The extent of the demands placed on the individual by his or her personal
20 needs and by the nature and extent of his or her property and financial affairs.

21 12. Any physical illness of the individual and the prognosis of the individual.

22 13. Any mental disability, alcoholism, or other drug dependence of the
23 individual and the prognosis of the mental disability, alcoholism, or other drug
24 dependence.

1 14. Any medication with which the individual is being treated and the
2 medication's effect on the individual's behavior, cognition, and judgment.

3 15. Whether the effect on the individual's evaluative capacity is likely to be
4 temporary or long term, and whether the effect may be ameliorated by appropriate
5 treatment.

6 16. Other relevant evidence.

7 (d) Before appointing a guardian under this subsection, declaring
8 incompetence to exercise a right under s. 54.25 (2) (c), or determining what powers
9 are appropriate for the guardian to exercise under s. 54.18, 54.20, or 54.25 (2) (d), the
10 court shall determine if additional medical, psychological, social, vocational, or
11 educational evaluation is necessary for the court to make an informed decision
12 respecting the individual's competency to exercise legal rights and may obtain
13 assistance in the manner provided in s. 55.06 (8) whether or not protective placement
14 is made.

15 (e) In appointing a guardian under this subsection, the court shall authorize
16 the guardian to exercise only those powers under ss. 54.18, 54.20, and 54.25 (2) (d)
17 that are necessary to provide for the individual's personal needs and property
18 management and to exercise the powers in a manner that is appropriate to the
19 individual and that constitutes the least restrictive form of intervention.

20 (4) If the court appoints both a guardian of the person and a guardian of the
21 estate for an individual other than an individual found to be a spendthrift, the court
22 may appoint separate persons to be guardian of the person and of the estate, or may
23 appoint one person to act as both.

24 (5) The court may appoint coguardians of the person or coguardians of the
25 estate, subject to any conditions that the court imposes.

1 3. Any license, certificate, permit, or registration of the proposed guardian that
2 is required under chs. 440 to 480 or by the laws of another state for the practice of
3 a profession or occupation has been suspended or revoked.

4 4. The proposed guardian is listed under s. 146.40 (4g) (a) 2.

5 (b) If par. (a) 1., 2., 3., or 4. applies to the proposed guardian, he or she shall
6 include in the sworn and notarized statement a description of the circumstances
7 surrounding the applicable event under par. (a) 1., 2., 3., or 4.

8 **54.18 General duties and powers of guardian; limitations; immunity.**

9 (1) A ward retains all his or her rights that are not assigned to the guardian or
10 otherwise limited by statute. A guardian acting on behalf of a ward may exercise only
11 those powers that the guardian is authorized to exercise by statute or court order.
12 A guardian may be granted only those powers necessary to provide for the personal
13 needs or property management of the ward in a manner that is appropriate to the
14 ward and that constitutes the least restrictive form of intervention.

15 (2) A guardian shall do all of the following:

16 (a) Exercise the degree of care, diligence, and good faith when acting on behalf
17 of a ward that an ordinarily prudent person exercises in his or her own affairs.

18 (b) Advocate for the ward's best interests, including, if the ward is protectively
19 placed under ch. 55 and if applicable, advocating for the ward's applicable rights
20 under ss. 50.09 and 51.61.

21 (c) Exhibit the utmost degree of trustworthiness, loyalty, and fidelity in relation
22 to the ward.

23 (d) Notify the court of any change of address of the guardian or ward.

24 (3) No guardian may do any of the following:

1 (b) Lend funds of the ward to another individual or to an entity, unless the court
2 first approves the terms, rate of interest, and any requirement for security.

3 **54.19 Duties of guardian of the estate.** Subject to s. 54.18 (1) and except
4 as specifically limited in the order of appointment, the guardian of the estate shall,
5 following any applicable procedures of s. 54.22, do all of the following in order to
6 provide a ward with the greatest amount of independence and self-determination
7 with respect to property management in light of the ward’s functional level,
8 understanding, and appreciation of his or her functional limitations and the ward’s
9 personal wishes and preferences with regard to managing the activities of daily
10 living:

11 (2) Retain, expend, distribute, sell, or invest the ward’s property, rents, income,
12 benefits, and proceeds and account for all of them, subject to chs. 786 and 881.

13 (3) Determine, if the ward has executed a will, the will’s location, determine
14 the appropriate persons to be notified in the event of the ward’s death, and, if the
15 death occurs, notify those persons.

16 (4) Use the ward’s income and property to maintain and support the ward and
17 any dependents of the ward.

18 (5) Prepare and file an annual account as specified in s. 54.62.

19 (6) At the termination of the guardianship, deliver the ward’s assets to the
20 persons entitled to them.

21 (8) File, with the register of deeds of any county in which the ward possesses
22 real property of which the guardian has actual knowledge, a sworn and notarized
23 statement that specifies the legal description of the property, the date that the ward
24 is determined to be an incompetent, and the name, address, and telephone number
25 of the ward’s guardian and any surety on the guardian’s bond.

1 **(9)** For a ward who receives governmental benefits for which a representative
2 payee is appropriate, if no representative payee is appointed, apply to be appointed
3 the ward's representative payee, or ensure that a representative payee is appointed.

4 **(10)** Perform any other duty required by the court order.

5 **54.20 Powers of guardian of the estate. (1)** (a) The ward's understanding
6 of the harm that he or she is likely to suffer as the result of his or her inability to
7 manage property and financial affairs.

8 (b) The ward's personal preferences and desires with regard to managing his
9 or her activities of daily living.

10 (c) The least restrictive form of intervention for the ward.

11 **(2) POWERS REQUIRING COURT APPROVAL.** The guardian of the estate may do any
12 of the following with respect to the ward's income and assets only with the court's
13 prior written approval following any petition and upon any notice and hearing that
14 the court requires:

15 (a) Make gifts, under the terms, including the frequency, amount, and donees
16 specified by the court in approval of a petition under s. 54.21.

17 (c) Establish a trust as specified under 42 USC 1396p (d) (4) and transfer assets
18 into the trust.

19 (d) Purchase an annuity or insurance contract and exercise rights to elect
20 options or change beneficiaries under insurance and annuity policies and to
21 surrender the policies for their cash value.

22 (e) Ascertain, establish, and exercise any rights available to the ward under a
23 retirement plan or account.

24 (f) Exercise any elective rights that accrue to the ward as the result of the death
25 of the ward's spouse or parent.

1 (g) Release or disclaim, under s. 854.13, any interest of the ward that is received
2 by will, intestate succession, nontestamentary transfer at death, or other transfer.

3 (i) Provide support for an individual whom the ward is not legally obligated to
4 support.

5 (j) Convey or release a contingent or expectation interest in property, including
6 a marital property right and any right of survivorship that is incidental to a joint
7 tenancy or survivorship marital property.

8 **(3) POWERS THAT DO NOT REQUIRE COURT APPROVAL.** The guardian of the estate
9 may do any of the following on behalf of the ward without first receiving the court's
10 approval:

11 (a) Provide support from the ward's income and assets for an individual whom
12 the ward is legally obligated to support.

13 (b) Enter into a contract, other than a contract under sub. (2) or that is
14 otherwise prohibited under this chapter.

15 (c) Exercise options of the ward to purchase securities or other property.

16 (d) Authorize access to or release of the ward's confidential financial records.

17 (e) Apply for public and private benefits.

18 (k) Take any other action, except an action specified under sub. (2), that is
19 reasonable or appropriate to the duties of the guardian of the estate.

20 **54.21 Petition to transfer ward's assets to another.** (1) In this section:

21 (a) "Disabled" has the meaning given in s. 49.468 (1) (a) 1.

22 (b) "Other individual" means any of the following:

23 1. The ward's spouse, if any.

24 2. The ward's close friend, if any, and if the close friend meets the requirements
25 of s. 50.94 (3) (e) 1. and 2.

1 3. The guardian ad litem of the ward's minor child, if any.

2 4. The ward's disabled child, if any.

3 5. Any of the ward's siblings who has an ownership interest in property that
4 is co-owned with the ward.

5 6. Any of the ward's children who provides care for the ward as specified in 42
6 USC 1396p (c) (2) (A) iv.

7 (c) "Will, trust, or other instrument" includes a revocable or irrevocable trust,
8 a durable power of attorney, or a marital property agreement.

9 **(2)** A guardian or other individual who seeks an order authorizing and
10 directing the guardian of the estate to transfer any of a ward's income or assets to
11 or for the benefit of any person shall submit to the court a petition that specifies all
12 of the following:

13 (a) Whether a proceeding by anyone seeking this authority with respect to the
14 ward's income and assets was previously commenced and, if so, a description of the
15 nature of the proceeding and the disposition made of it.

16 (b) The amount and nature of the ward's financial obligations, including
17 moneys currently and prospectively required to provide for the ward's maintenance,
18 support, and well-being and to provide for others dependent upon the ward for
19 support, regardless of whether the ward is legally obligated to provide the support.
20 If the petitioner has access to a copy of a court order or written agreement that
21 specifies support obligations of the ward, the petitioner shall attach the copy to the
22 petition.

23 (c) The income and assets of the ward that is the subject of the petition, the
24 proposed disposition of the property, and the reasons for the disposition.

25 (d) The wishes, if ascertainable, of the ward.

1 (e) As specified in sub. (3), whether the ward has previously executed a will or
2 similar instrument.

3 (f) A description of any significant gifts or patterns of gifts that the ward has
4 made.

5 (g) The current and likely future effect of the proposed transfer of assets on the
6 ward's eligibility for public benefits, including medical assistance or a benefit under
7 s. 46.27.

8 (h) Whether the guardian of the person and the guardian of the estate, if not
9 the petitioner, agree with or object to the transfer.

10 (i) The names, post-office addresses, and relationships to the ward of all of the
11 following:

12 1. Any presumptive adult heirs of the ward who can be ascertained with
13 reasonable diligence.

14 2. If the ward has previously executed a will, trust, or other instrument, the
15 named or described beneficiaries, if known, under the most recent will, trust, or other
16 instrument executed by the ward.

17 **(3)** (a) If a ward has previously executed a will, trust, or other instrument for
18 nontestamentary transfer and the petitioner is able, with reasonable diligence, to
19 obtain a copy, the petitioner shall provide the copy to the court, together with a
20 statement that specifies all of the following:

21 1. The manner in which the copy was secured.

22 2. The manner in which the terms of the will, trust, or other instrument for
23 nontestamentary transfer became known to the petitioner for nontestamentary
24 transfer.

1 3. The basis for the petitioner's belief that the copy is of the ward's most recently
2 executed will, trust, or other instrument.

3 (b) If the petitioner is unable to obtain a copy of the most recently executed will
4 or other dispositive estate planning document or is unable to determine if the ward
5 has previously executed a will or other dispositive estate planning document, the
6 petitioner shall provide a statement to the court that specifies the efforts that were
7 made by the petitioner to obtain a copy or ascertain the information.

8 (c) If a copy of the most recently executed will or other dispositive estate
9 planning document is not otherwise available, the court may order the person who
10 has the original will or other dispositive estate planning document to provide a
11 photocopy to the court for in camera examination. The court may provide the
12 photocopy to the parties to the proceeding unless the court finds that doing so is
13 contrary to the ward's best interests.

14 (d) The petitioner and the court shall keep confidential the information in a will
15 or other dispositive estate planning document, or a copy of the will or other
16 dispositive estate planning document, under this subsection, and may not, unless
17 otherwise authorized, disclose that information.

18 **(4)** The petitioner shall serve notice upon all of the following, together with a
19 copy of the petition, stating that the petitioner will move the court, at a time and
20 place named in the notice, for the order described in the petition:

21 (a) If not the same as the petitioner, the guardian of the person and the
22 guardian of the estate.

23 (b) Unless the court dispenses with notice under this subsection, the persons
24 specified in sub. (2) (i), if known to the petitioner.

25 (c) The county corporation counsel, if the county has an interest in the matter.

1 **(5)** The court shall consider all of the following in reviewing the petition:

2 (a) The wishes of the ward, if known.

3 (b) Whether the duration of the ward’s impairment is likely to be sufficiently
4 brief so as to justify dismissal of the proceedings in anticipation of the ward’s
5 recovered ability to decide whether, and to whom, to transfer his or her assets.

6 (c) Whether the proposed transfer will benefit the ward, the ward’s income and
7 assets, or members of the ward’s immediate family.

8 (d) Whether the donees or beneficiaries under the proposed disposition are
9 reasonably expected objects of the ward’s generosity and whether the proposed
10 disposition is consistent with any ascertained wishes of the ward or known estate
11 plan or pattern of lifetime gifts that he or she has made.

12 (e) Whether the proposed disposition will produce tax savings that will
13 significantly benefit the ward, his or her dependents, or other persons for whom the
14 ward would be concerned.

15 (f) The factors specified in sub. (2) (a) to (i) and any statements or other evidence
16 under sub. (3).

17 (g) Any other factors that the court determines are relevant.

18 **(6)** The court may grant the petition under sub. (2) and enter an order
19 authorizing and directing the guardian of the estate to take action requested in the
20 petition, if the court finds and records all of the following:

21 (a) That the ward has incapacity to perform the act for which approval is sought
22 and the incapacity is not likely to change positively within a reasonable period of
23 time.

24 (b) That a competent individual in the position of the ward would likely perform
25 the act under the same circumstances.

1 (c) That, before the ward had incapacity to perform the act for which approval
2 is sought, he or she did not manifest intent that is inconsistent with the act.

3 (7) Nothing in this section requires a guardian to file a petition under this
4 section and a guardian is not liable or accountable to any person for having failed to
5 file a petition under this section.

6 54.25 (1) DUTIES. A guardian of the person shall do all of the following:

7 (b) 1. Regular inspection, in person, of the ward's condition, surroundings, and
8 treatment.

9 2. Examination of the ward's patient health care records and treatment records
10 and authorization for redisclosure as appropriate.

11 3. Attendance and participation in staff meetings of any facility in which the
12 ward resides or is a patient, if the meeting includes a discussion of the ward's
13 treatment and care.

14 4. Inquiry into the risks and benefits of, and alternatives to, treatment for the
15 ward, particularly if drastic or restrictive treatment is proposed.

16 5. Specific consultation with providers of health care and social services in
17 making all necessary treatment decisions.

18 (2) POWERS. (a) *Rights and powers of a guardian of the person.* A guardian of
19 the person has only those rights and powers that the guardian is specifically
20 authorized to exercise by statute, rule, or court order. Any other right or power is
21 retained by the ward, unless the ward has been declared incompetent to exercise the
22 right under par. (c) or the power has been transferred to the guardian under par. (d).

23 (b) *Rights retained by individuals determined incompetent.* An individual
24 determined incompetent retains the power to exercise all of the following rights,
25 without consent of the guardian:

1 1. To have access to and communicate privately with the court and with
2 governmental representatives, including the right to have input into plans for
3 support services, the right to initiate grievances, including under state and federal
4 law regarding resident or patient rights, and the right to participate in
5 administrative hearings and court proceedings.

6 2. To have access to, communicate privately with, and retain legal counsel, with
7 fees paid from the income and assets of the ward, subject to court approval.

8 3. To have access to and communicate privately with representatives of the
9 protection and advocacy agency under s. 51.62 and the board on aging and long-term
10 care.

11 4. To protest a residential placement made under s. 55.05 (5), and to be
12 discharged from a residential placement unless the individual is protectively placed
13 under s. 55.06 or the elements of s. 55.06 (11) are present.

14 5. To petition for court review of guardianship, protective services, protective
15 placement, or commitment orders.

16 6. To give or withhold a consent reserved to the individual under ch. 51.

17 7. To exercise any other rights specifically reserved to the individual by statute
18 or the constitutions of the state or the United States, including the rights to free
19 speech, freedom of association, and the free exercise of religious expression.

20 (c) *Declaration of incompetence to exercise certain rights.* 1. The court may, as
21 part of a proceeding under s. 54.44 in which an individual is found incompetent and
22 a guardian is appointed, declare that the individual has incapacity to exercise one
23 or more of the following rights:

24 a. The right to consent to marriage.

25 b. The right to execute a will.

- 1 c. The right to serve on a jury.
- 2 d. The right to apply for an operator's license, a license issued under ch. 29, or
3 a credential, as defined in s. 440.01 (2) (a), if the court finds that the individual is
4 incapable of understanding the nature and risks of the licensed or credentialed
5 activity, to the extent that engaging in the activity would pose a substantial risk of
6 physical harm to the individual or others. A failure to find that an individual is
7 incapable of applying for a license or credential is not a finding that the individual
8 qualifies for the license or credential under applicable laws and rules.
- 9 e. The right to consent to sterilization, if the court finds that the individual is
10 incapable of understanding the nature, risk, and benefits of sterilization, after the
11 nature, risk, and benefits have been presented in a form that the individual is most
12 likely to understand.
- 13 f. The right to consent to organ, tissue, or bone marrow donation.
- 14 2. Any finding under subd. 1. that an individual lacks evaluative capacity to
15 exercise a right must be based on clear and convincing evidence. In the absence of
16 such a finding, the right is retained by the individual.
- 17 3. If an individual is declared not competent to exercise a right under subd. 1.
18 or 4., a guardian may not exercise the right or provide consent for exercise of the right
19 on behalf of the individual. If the court finds with respect to a right listed under subd.
20 1. a., d., e., or f. that the individual is competent to exercise the right under some but
21 not all circumstances, the court may order that the individual retains the right to
22 exercise the right only with consent of the guardian of the person.
- 23 4. Regardless of whether a guardian is appointed, a court may declare that an
24 individual is not competent to exercise the right to register to vote or to vote in an
25 election if it finds by clear and convincing evidence that the individual is incapable

1 of understanding the objective of the elective process. If the petition for a declaration
2 of incompetence to vote is not part of a petition for guardianship, the same
3 procedures shall apply as would apply for a petition for guardianship.

4 The determination of the court shall be communicated in writing by the clerk
5 of court to the election official or agency charged under s. 6.48, 6.92, 6.925, or 6.93
6 with the responsibility for determining challenges to registration and voting that
7 may be directed against that elector. The determination may be reviewed as
8 provided in s. 54.64 (2) (a) and (c) and any subsequent determination of the court
9 shall be likewise communicated by the clerk of court.

10 (d) *Guardian authority to exercise certain powers.* 1. A court may authorize a
11 guardian of the person to exercise all or part of any of the powers specified in subd.
12 2. only if it finds, by clear and convincing evidence, that the individual lacks
13 evaluative capacity to exercise the power. The court shall authorize the guardian of
14 the person to exercise only those powers that are necessary to provide for the
15 individual's personal needs, safety, and rights and to exercise the powers in a manner
16 that is appropriate to the individual and that constitutes the least restrictive form
17 of intervention. The court may limit the authority of the guardian of the person with
18 respect to any power to allow the individual to retain power to make decisions about
19 which the individual is able effectively to receive and evaluate information and
20 communicate decisions. When a court appoints a guardian for a minor, the guardian
21 shall be granted care, custody, and control of the person of the minor.

22 2. All of the following are powers subject to subd. 1.:

23 a. Except as provided under subd. 2. b., c., and d., and except for consent to
24 psychiatric treatment and medication under ch. 51, and subject to any limitation
25 under s. 54.46 (3) (b), the power to give informed consent, if in the ward's best

1 interests, to voluntary or involuntary medical examination and treatment and to the
2 voluntary receipt by the ward of medication, including any appropriate psychotropic
3 medication that is in the ward's best interest, if the guardian has first made a
4 good-faith attempt to discuss with the ward the ward's voluntary receipt of the
5 psychotropic medication and the ward does not protest. For purposes of this subd.
6 2. a., "protest" means make more than one discernible negative response, other than
7 mere silence, to the offer of, recommendation for, or other proffering of voluntary
8 receipt of psychotropic medication. "Protest" does not mean a discernible negative
9 response to a proposed method of administration of the psychotropic medication. A
10 guardian may consent to the involuntary administration of psychotropic medication
11 only under a court order under s. 55.14. In determining whether medication or
12 medical treatment, other than psychotropic medication, is in the ward's best interest,
13 the guardian shall consider the invasiveness of the medication or treatment and the
14 likely benefits and side effects of the medication or treatment.

15 b. Unless it can be shown by clear and convincing evidence that the ward would
16 never have consented to research participation, the power to authorize the ward's
17 participation in an accredited or certified research project if the research might help
18 the ward; or if the research might not help the ward but might help others, and the
19 research involves no more than minimal risk of harm to the ward.

20 c. The power to authorize the ward's participation in research that might not
21 help the ward but might help others even if the research involves greater than
22 minimal risk of harm to the ward if the guardian can establish by clear and
23 convincing evidence that the ward would have elected to participate in such
24 research; and the proposed research was reviewed and approved by the research and
25 human rights committee of the institution conducting the research. The committee

1 shall have determined that the research complies with the principles of the
2 statement on the use of human subjects for research adopted by the American
3 Association on Mental Deficiency, and with the federal regulations for research
4 involving human subjects for federally supported projects.

5 d. Unless it can be shown by clear and convincing evidence that the ward would
6 never have consented to any experimental treatment, the power to consent to
7 experimental treatment if the court finds that the ward’s mental or physical status
8 presents a life-threatening condition; the proposed experimental treatment may be
9 a life saving remedy; all other reasonable traditional alternatives have been
10 exhausted; 2 examining physicians have recommended the treatment; and, in the
11 court’s judgment, the proposed experimental treatment is in the ward’s best
12 interests.

13 e. The power to give informed consent to receipt by the ward of social and
14 supported living services.

15 f. The power to give informed consent to release of confidential records other
16 than court, treatment, and patient health care records and to redisclosure as
17 appropriate.

18 g. The power to make decisions related to mobility and travel.

19 i. The power to choose providers of medical, social, and supported living
20 services.

21 j. The power to make decisions regarding educational and vocational placement
22 and support services or employment.

23 k. The power to make decisions regarding initiating a petition for the
24 termination of marriage.

25 L. The power to receive all notices on behalf of the ward.

1 m. The power to act in all proceedings as an advocate of the ward, except the
2 power to enter into a contract that binds the ward or the ward's property or to
3 represent the ward in any legal proceedings pertaining to the property, unless the
4 guardian of the person is also the guardian of the estate.

5 n. The power to apply for protective placement under s. 55.06 or for
6 commitment under s. 51.20 or 51.45 (13) for the ward.

7 o. The power to have custody of the ward, if an adult, and the power to have
8 care, custody, and control of the ward, if a minor.

9 p. Any other power the court may specifically identify.

10 3. In exercising powers and duties delegated to the guardian of the person
11 under this paragraph, the guardian of the person shall, consistent with meeting the
12 individual's essential requirements for health and safety and protecting the
13 individual from abuse, exploitation, and neglect, do all of the following:

14 a. Place the least possible restriction on the individual's personal liberty and
15 exercise of constitutional and statutory rights, and promote the greatest possible
16 integration of the individual into his or her community.

17 b. Make diligent efforts to identify and honor the individual's preferences with
18 respect to choice of place of living, personal liberty and mobility, choice of associates,
19 communication with others, personal privacy, and choices related to sexual
20 expression and procreation. In making a decision to act contrary to the individual's
21 expressed wishes, the guardian shall take into account the individual's
22 understanding of the nature and consequences of the decision, the level of risk
23 involved, the value of the opportunity for the individual to develop decision-making
24 skills, and the need of the individual for wider experience.

1 (m) Whether the petitioner is requesting a full or limited guardianship and, if
2 limited, the specific authority sought by the petitioner for the guardian or the specific
3 rights of the individual that the petitioner seeks to have removed or transferred.

4 (n) Whether the proposed ward, if married, has children who are not children
5 of the current marriage.

6 (p) Whether the petitioner is aware of any guardianship or conservatorship or
7 related pending or ordered proceeding involving the proposed ward in another state
8 or county and, if so, the details of the guardianship, conservatorship, or related
9 processings.

10 **(3)** A petition for the receipt and acceptance by this state of a foreign
11 guardianship of a foreign ward who resides in or intends to move to this state may
12 include other petitions related to the foreign guardianship, such as a petition to
13 modify the terms of the foreign guardianship, and shall include all of the following:

14 (a) A certified copy of the foreign guardianship order that includes all of the
15 following:

16 1. All attachments that describe the duties and powers of the foreign guardian.
17 2. All amendments or modifications to the foreign guardianship order that were
18 entered after issuance of the original foreign guardianship order, including any order
19 to transfer the foreign guardianship.

20 (b) The address of the foreign court that issued the foreign guardianship order.

21 (c) A listing of any other guardianship petitions for the foreign ward that are
22 pending or that have been filed in any jurisdiction at any time within 24 months
23 before the filing of the petition under this subsection and the names and addresses
24 of the courts in which the petitions have been filed.

1 (d) The petitioner’s name, residence, current address, and any relationship of
2 the petitioner to the foreign ward other than as foreign guardian.

3 (e) The name, age, principal residence, and current address of the foreign ward.

4 (f) The name and address of any spouse of the foreign ward and any adult
5 children, parents, or adult siblings of the foreign ward. If the foreign ward has no
6 spouse, adult child, parent, or adult sibling, the name and address of at least one
7 adult who is next closest in degree of kinship, as specified in s. 990.001 (16), to the
8 ward, if available.

9 (g) The name and address of any person other than the foreign guardian who
10 is responsible for the care or custody of the foreign ward.

11 (h) The name and address of any legal counsel of the foreign ward, including
12 any guardian ad litem appointed by the foreign court.

13 (i) The reason for the transfer of the foreign guardianship.

14 (j) A general statement of the foreign ward’s property, its location, its estimated
15 value, and the source and amount of any other anticipated income or receipts.

16 **54.36 (2)** A petitioner or guardian ad litem may petition the court for an order
17 requiring the proposed ward to submit to an examination by a licensed physician or
18 psychologist pursuant to s. 804.10 (1).

19 **(3)** A physician or psychologist who examines a proposed ward under a court
20 order requiring the examination may, without the informed consent of the proposed
21 ward, obtain access to the patient health care records and treatment records of the
22 proposed ward.

23 **54.38 Notice. (1) FORM AND DELIVERY OF NOTICE.** A notice shall be in writing.
24 A copy of the petition, motion, or other required document shall be attached to the
25 notice. Unless otherwise provided, notice may be delivered in person, by certified

1 mail with return receipt requested, or by facsimile transmission. Notice is
2 considered to be given by proof of personal delivery or by proof that the notice was
3 mailed to the last-known address of the recipient or was sent by facsimile
4 transmission to the last-known facsimile transmission number of the recipient.
5 Failure of the petitioner to provide notice to all interested persons shall deprive the
6 court of jurisdiction unless receipt of notice is waived by the interested person or
7 under sub. (2) (b) 4.

8 **(1m)** NOTICE OF PETITION FOR RECEIPT AND ACCEPTANCE OF A FOREIGN
9 GUARDIANSHIP. (a) Notice of a petition for receipt and acceptance of a foreign
10 guardianship, unless otherwise provided, shall be delivered in person, by certified
11 mail with return receipt requested, or by facsimile transmission. Notice is
12 considered to be given by proof of personal delivery or by proof that the notice was
13 mailed to the last-known address of the recipient or was sent by facsimile
14 transmission to the last-known facsimile transmission number of the recipient.
15 Notice shall be served by the petitioner on all of the following:

16 1. The foreign ward. The notice under this subdivision shall be delivered
17 personally, shall be in plain language and large type, and shall include all of the
18 following:

19 a. A statement that the foreign ward has the right to a hearing on the petition
20 under s. 54.44 and that any request for a hearing must be made within 30 days after
21 the date that the petition is delivered in person.

22 b. A description of the procedures by which the foreign ward may exercise his
23 or her right to a hearing.

24 c. A description of the consequences to the foreign ward of a transfer of the
25 foreign guardianship from the foreign jurisdiction to this state.

1 2. The foreign court from which the foreign guardianship is sought to be
2 transferred. Notice under this subdivision shall include a request that the foreign
3 court provide all of the following:

4 a. Certification that the foreign court has no knowledge that the foreign
5 guardian has engaged in any acts specified in s. 54.68 (2) (a) to (i), failed to perform
6 any duties of a guardian required by the foreign jurisdiction or the foreign court, or
7 performed any acts prohibited to a guardian by the foreign jurisdiction or the foreign
8 court.

9 b. Copies of all documents filed with the foreign court that are relevant to the
10 foreign guardianship, including the initial petition for the foreign guardianship and
11 other filed documents relevant to the appointment of the guardian; any reports and
12 recommendations of any guardian ad litem or other individual appointed by the
13 foreign court to evaluate the appropriateness of the foreign guardianship; any
14 reports of health care or mental health care practitioners that describe the capacity
15 of the foreign ward to care for himself or herself or to manage his or her affairs; any
16 periodic status reports on the condition of the foreign ward and his or her assets; and
17 any order to transfer the foreign guardianship.

18 3. All interested persons other than the foreign ward, including any foreign
19 legal counsel appointed or retained for the foreign ward and any foreign guardian ad
20 litem appointed for the foreign ward. Notice under this subdivision shall include a
21 statement that informs persons receiving notice of the right to object to the receipt
22 and acceptance of the foreign guardianship and that any request for a hearing must
23 be made within 30 days after the date that the petition is delivered in person, mailed,
24 or sent by facsimile transmission.

1 (b) Any of the following shall deprive the court of jurisdiction to hear the
2 petition for receipt and acceptance of the foreign guardianship:

3 1. Failure by the petitioner to serve notice as specified in par. (a) 1., 2., or 3.

4 2. Failure by the foreign court to provide the certifications and copies within
5 30 days after receipt of the notice specified in par. (a) 2. or to give indication of
6 compliance within a reasonable period of time.

7 **(2)** (b) Personally or by mail at least 10 days before the time set for hearing,
8 to all of the following:

9 1. The proposed ward's counsel, if any.

10 2. The proposed ward's guardian ad litem.

11 3. Any presumptive adult heirs, as specified in s. 851.09, of the proposed ward.

12 4. Any other interested persons, unless specifically waived by the court.

13 5. The agent under any durable power of attorney or power of attorney for
14 health care of the ward.

15 6. Any person who has legal or physical custody of the proposed ward.

16 7. Any public or private agency, charity, or foundation from which the proposed
17 ward is receiving aid or assistance.

18 8. The proposed guardian for the proposed ward.

19 9. Any other person that the court requires.

20 54.40 **(4)** (c) Interview the proposed guardian, the proposed standby guardian,
21 if any, and any other person seeking appointment as guardian and report to the court
22 concerning the suitability of each individual interviewed to serve as guardian and
23 concerning the report under s. 54.15 (8).

24 (d) 1. Review any power of attorney for health care under ch. 155, any durable
25 power of attorney under ch. 243 executed by the proposed ward, and any other

1 advance planning for financial and health care decision making in which the
2 proposed ward had engaged.

3 2. Interview any agent appointed by the proposed ward under any document
4 specified in subd. 1.

5 3. Report to the court concerning whether or not the proposed ward's advance
6 planning is adequate to preclude the need for guardianship.

7 (g) If the proposed ward or ward requests representation by counsel, inform the
8 court and the petitioner or the petitioner's counsel, if any.

9 (h) Attend all court proceedings related to the guardianship.

10 **54.42 Rights of proposed ward or ward. (1) RIGHT TO COUNSEL.** (a) 1. The
11 proposed ward or ward requests counsel.

12 2. The guardian ad litem or another person states to the court that the proposed
13 ward or ward is opposed to the guardianship petition.

14 3. The court determines that the interests of justice require counsel for the
15 proposed ward or ward.

16 (b) Any attorney obtained under par. (a) or appointed under par. (c) shall be an
17 advocate for the expressed wishes of the proposed ward or ward.

18 **(2) RIGHT TO JURY TRIAL.** The proposed ward or ward has the right to a trial by
19 a jury if demanded by the proposed ward or ward, his or her attorney, or the guardian
20 ad litem, except that the right is waived unless demanded at least 48 hours before
21 the time set for the hearing. The number of jurors for such a trial is determined under
22 s. 756.06 (2) (b). The proposed ward or ward, his or her attorney, or the guardian ad
23 litem each has the right to present and cross-examine witnesses, including any
24 physician or licensed psychologist who reports to the court concerning the proposed
25 ward.

1 **(3) RIGHT TO INDEPENDENT EXAMINATION.**

2 **(5) RIGHT TO BE PRESENT AT HEARING.** The proposed ward or ward has the right
3 to be present at any hearing regarding the guardianship.

4 **(6) RIGHT TO HEARING IN ACCESSIBLE LOCATION.** The proposed ward or ward has
5 the right to have any hearing regarding the guardianship conducted in a location and
6 manner that is accessible to the proposed ward or ward.

7 **54.44 Hearing. (1) TIME OF HEARING; PROVISION OF REPORTS.** (a) *Time of hearing*
8 *for petition.* A petition for guardianship, other than a petition under par. (b) or (c)
9 or s. 54.50 (1), shall be heard within 90 days after it is filed. The guardian ad litem
10 and attorney for the proposed ward shall be provided with a copy of the report of the
11 examining physician or psychologist under s. 54.36 (1) at least 96 hours before the
12 time of the hearing.

13 (c) *Time of hearing for petition for receipt and acceptance of a foreign*
14 *guardianship.* 1. If a motion for a hearing on a petition for receipt and acceptance
15 of a foreign guardianship is made by the foreign ward, by a person who has received
16 notice under s. 54.38 (1m) (a) 3., or on the court's own motion, a hearing on the
17 petition shall be heard within 90 days after the petition is filed.

18 2. If a petition for receipt and acceptance of a foreign guardianship includes a
19 request to modify the provisions of the foreign guardianship, the petition shall be
20 heard within 90 days after it is filed.

21 3. If a person receiving notice of the petition for receipt and acceptance of the
22 foreign guardianship challenges the validity of the foreign guardianship or the
23 authority of the foreign court to appoint the foreign guardian, the court may stay the
24 proceeding under this subsection to afford the opportunity to the interested person
25 to have the foreign court hear the challenge and determine its merits.

1 **(2) STANDARD OF PROOF.** Any determination by the court as to whether the
2 proposed ward a minor, is incompetent, or a spendthrift shall be by clear and
3 convincing evidence.

4 **(3) PRESENCE OF PROPOSED GUARDIAN OR PETITIONER.** (a) The proposed guardian
5 and any proposed standby guardian shall be physically present at the hearing unless
6 the court excuses the attendance of either or, for good cause shown, permits
7 attendance by telephone.

8 (b) The petitioner, for a petition for receipt and acceptance of a foreign
9 guardianship, shall be physically present at the hearing specified under sub. (1) (c)
10 unless the court excuses the petitioner’s attendance or, for good cause shown, permits
11 attendance by telephone.

12 **(4) PRESENCE OF PROPOSED WARD.** (a) *Adult proposed ward.* The petitioner shall
13 ensure that the proposed ward attends the hearing unless the attendance is waived
14 by the guardian ad litem. In determining whether to waive attendance by the
15 proposed ward, the guardian ad litem shall consider the ability of the proposed ward
16 to understand and meaningfully participate, the effect of the proposed ward’s
17 attendance on his or her physical or psychological health in relation to the
18 importance of the proceeding, and the proposed ward’s expressed desires. If the
19 proposed ward is unable to attend the hearing because of residency in a nursing
20 home or other facility, physical inaccessibility, or a lack of transportation and if the
21 proposed ward, guardian ad litem, advocate counsel, or other interested person so
22 requests, the court shall hold the hearing in a place where the proposed ward may
23 attend.

24 (b) *Minor proposed ward.* A minor is not required to attend the hearing.

1 (c) *Foreign ward.* The petitioner for a petition for receipt and acceptance of a
2 foreign guardianship shall ensure that the foreign ward attends the hearing unless
3 the attendance is waived by the guardian ad litem. In determining whether to waive
4 attendance by the foreign ward, the guardian ad litem shall consider the ability of
5 the foreign ward to understand and meaningfully participate, the effect of the foreign
6 ward's attendance on his or her physical or psychological health in relation to the
7 importance of the proceeding, and the foreign ward's expressed desires. If the foreign
8 ward is unable to attend the hearing because of residency in a nursing home or other
9 facility, physical inaccessibility, or a lack of transportation and if the foreign ward,
10 guardian ad litem, advocate counsel, or other interested person so requests, the court
11 shall hold the hearing in a place where the foreign ward may attend.

12 **(6) PROPOSED GUARDIAN UNSUITABLE.** If the court finds that the proposed
13 guardian is unsuitable, the court shall request that a petition proposing a suitable
14 guardian be filed, shall set a date for a hearing to be held within 30 days, and shall
15 require the guardian ad litem to investigate the suitability of a new proposed
16 guardian.

17 **54.46 Disposition of petition.** After the hearing under s. 54.44, the court
18 shall dispose of the case in one of the following ways:

19 **(1) DISMISSAL OF THE PETITION FOR GUARDIANSHIP.** (a) If the court finds any of
20 the following, the court shall dismiss the petition:

21 1. Contrary to the allegations of the petition, the proposed ward is not any of
22 the following:

23 a. Incompetent.

24 b. A spendthrift.

25 c. A minor.

1 2. Advance planning by the ward, as specified in s. 54.10 (3) (c) 3., renders
2 guardianship unnecessary.

3 3. The elements of the petition are unproven.

4 (b) The court may also consider an application by the proposed ward for the
5 appointment of a conservator under s. 54.76.

6 **(1m) DISMISSAL OF THE PETITION FOR RECEIPT AND ACCEPTANCE OF A FOREIGN**
7 **GUARDIANSHIP.** If the court finds any of the following, the court shall dismiss the
8 petition:

9 (a) The foreign guardian is not presently in good standing with the foreign
10 court.

11 (b) The foreign guardian is moving or has moved the foreign ward or the
12 property of the foreign ward from the foreign jurisdiction in order to avoid or
13 circumvent the provisions of the foreign guardianship order.

14 (c) The transfer of the foreign guardianship from the foreign jurisdiction is not
15 in the best interests of the foreign ward.

16 **(1r) RECEIPT AND ACCEPTANCE OF A FOREIGN GUARDIANSHIP.** (a) The court shall
17 grant a petition for receipt and acceptance of a foreign guardianship if the court finds
18 all of the following:

19 1. That the foreign guardian is presently in good standing with the foreign
20 court.

21 2. That the foreign guardian is not moving or has not moved the foreign ward
22 or the property of the foreign ward from the foreign jurisdiction in order to avoid or
23 circumvent the provisions of the foreign guardianship order.

24 3. That the transfer of the foreign guardianship from the foreign jurisdiction
25 is in the best interests of the foreign ward.

1 (b) In granting a petition under par. (a), the court shall give full faith and credit
2 to the provisions of the foreign guardianship order concerning the determination of
3 the foreign ward’s incapacity. However, the court may modify the provisions of the
4 foreign guardianship order with respect to all of the following:

- 5 1. Surety bond requirements.
- 6 2. The appointment of a guardian ad litem.
- 7 3. Periodic reporting requirements.
- 8 4. Any other provisions necessary to conform the foreign guardianship order
9 to the requirements of this chapter and other requirements of this state.

10 (c) The court may require the foreign guardian to file an inventory of the foreign
11 ward’s property at the time of the transfer from the foreign jurisdiction.

12 (d) If granting the petition for receipt and acceptance of the foreign
13 guardianship, the court shall coordinate with the foreign court the orderly transfer
14 of the foreign guardianship and, in doing so, the court may do all of the following:

15 1. Delay the effective date of the receipt and acceptance of the foreign
16 guardianship.

17 2. Make the receipt and acceptance of the foreign guardianship contingent
18 upon the release or termination of the foreign guardianship and discharge of the
19 foreign guardian under the foreign jurisdiction.

20 3. Recognize concurrent jurisdiction over the guardianship for a reasonable
21 period of time to permit the foreign court to release or terminate the foreign
22 guardianship and discharge the foreign guardian.

23 4. Make other arrangements that the court determines are necessary to
24 effectuate the receipt and acceptance of the foreign guardianship.

1 **(2) APPOINTMENT OF GUARDIAN; ORDER.** If the proposed ward is found to be
2 incompetent, a minor, or a spendthrift, the court may enter a determination and
3 order appointing a guardian that specifies any powers of the guardian that require
4 court approval, as provided in ss. 54.20 (2) and 54.25 (2), and may provide for any of
5 the following:

6 (a) *Coguardians.* If the court appoints coguardians of the person or
7 coguardians of the estate under s. 54.10 (5), and unless otherwise ordered by the
8 court, each decision made by a coguardian with respect to the ward must be
9 concurred in by any other coguardian, or the decision is void.

10 (c) *Durable power of attorney.* If the ward has executed a durable power of
11 attorney before a finding of incompetency and appointment of a guardian is made for
12 the ward under this chapter, the durable power of attorney remains in effect, except
13 that the court may, only for good cause shown, revoke the durable power of attorney
14 or limit the authority of the agent under the terms of the durable power of attorney.
15 Unless the court makes this revocation or limitation, the ward’s guardian may not
16 make decisions for the ward that may be made by the agent, unless the guardian is
17 the agent.

18 **(3) (c) Fees if guardian is not appointed.** If a guardian is not appointed under
19 sub. (2), the petitioner is liable for any fees due the guardian ad litem and the
20 proposed ward’s legal counsel.

21 **54.50 Temporary guardianships. (1) STANDARD.** If it is demonstrated to the
22 court that a proposed ward’s particular situation, including the needs of the proposed
23 ward’s dependents, requires the immediate appointment of a temporary guardian of
24 the person or estate, the court may appoint a temporary guardian under this section.

1 **(3) PROCEDURES FOR APPOINTMENT.** All of the following procedures apply to the
2 appointment of a temporary guardian:

3 (a) Any person may petition for the appointment of a temporary guardian for
4 an individual. The petition shall contain the information required under s. 54.34 (1),
5 shall specify reasons for the appointment of a temporary guardian and the powers
6 requested for the temporary guardian, including the power specified in s. 51.30 (5)
7 (e), and shall include a petition for appointment of a guardian of the person or estate
8 or state why such a guardianship is not sought.

9 (b) The court shall appoint a guardian ad litem, who shall attempt to meet with
10 the proposed ward before the hearing or as soon as is practicable after the hearing,
11 but not later than 7 calendar days after the hearing. The guardian ad litem shall
12 report to the court on the advisability of the temporary guardianship at the hearing
13 or not later than 10 calendar days after the hearing.

14 (c) The court shall hold a hearing on the temporary guardianship. The hearing
15 may be held no earlier than 48 hours after the filing of the petition unless good cause
16 is shown. At the hearing, the petitioner shall provide a report or testimony from a
17 physician or psychologist that indicates that there is a reasonable likelihood that the
18 proposed ward is incompetent. The guardian ad litem shall attend the hearing in
19 person or by telephone or, instead, shall provide to the court a written report
20 concerning the proposed ward for review at the hearing.

21 (d) If the court appoints a temporary guardian and if the ward, his or her
22 counsel, the guardian ad litem, or an interested party requests, the court shall order
23 a rehearing on the issue of appointment of the temporary guardian within 10
24 calendar days after the request. If a rehearing is requested, the temporary guardian

1 may take no action to expend the ward's assets, pending a rehearing, without
2 approval by the court.

3 SUBCHAPTER V

4 POST-APPOINTMENT MATTERS

5 **54.60 (2) CONTENTS OF INVENTORY.** The inventory shall provide all of the
6 following information with respect to each asset:

7 (a) How the asset is held or titled.

8 (b) The name and relationship to the ward of any co-owner.

9 (c) The marital property classification of the property and, for any property that
10 is marital property, the spouse who has management and control rights with respect
11 to the property.

12 **(3) TIME FOR FILING.** The guardian of the estate shall file the initial inventory
13 within 60 days after appointment, unless the court extends or reduces the time.

14 **(4) NOTICE OF INVENTORY.** The court shall specify the persons to whom the
15 guardian of the estate shall provide copies of the inventory.

16 **(5) FEE.** The guardian of the estate shall pay from the ward's income and assets
17 the fee specified in s. 814.66 (1) (b) 2. at the time the inventory or other documents
18 concerning the value of the income and assets are filed.

19 **(6) APPRAISAL.** The court may order that the guardian of the estate appraise
20 all or any part of the ward's assets.

21 **54.62 Accounts.**

22 **(3) SMALL ESTATES.** (a) If a ward's income and assets do not exceed the amount
23 specified in s. 867.03 (1g) (intro.), the guardian need not file an account under sub.
24 (1) unless otherwise ordered to do so by the court. For the purposes of this paragraph,
25 the value of the ward's income and assets does not include the ward's income, any

1 burial trust possessed by the ward, or any term or other life insurance policy that is
2 irrevocably assigned to pay for the disposition of the ward's remains at death.

3 (b) If the ward's income and assets, as calculated under par. (a), increase above
4 the amount specified in s. 867.03 (1g) (intro.), the guardian shall so notify the court,
5 which shall determine if an annual account under sub. (1) or a final account under
6 s. 54.66 is required.

7 **(4) ANNUAL ACCOUNTS OF MARRIED WARDS.** (a) For a married ward, the court may
8 waive filing of an annual account under sub. (1) or permit the filing of a modified
9 annual account, which shall be signed by the ward's guardian and spouse and shall
10 consist of all of the following:

11 1. Total assets of the ward, as determined under ch. 766, on January 1 of the
12 year in question.

13 2. Income in the name of the ward, without regard to ch. 766, and the ward's
14 joint income.

15 3. Expenses incurred on behalf of the ward, including the ward's proportionate
16 share of household expenses if the ward and the ward's spouse reside in the same
17 household, without regard to ch. 766.

18 4. Total marital property of the ward, as determined under ch. 766, on
19 December 31 of the year in question.

20 (b) The court shall provide notice of the waiver under par. (a) to any adult child
21 of the ward.

22 **(7) (a)** The ward.

23 (b) Any guardian ad litem appointed by the court.

24 (c) Any personal representative or special administrator appointed by the
25 court.

1 **54.63 Expansion of order of guardianship; procedure.** (1) If the
2 guardian or another interested person submits to the court a written statement with
3 relevant accompanying support requesting the removal of rights from the ward and
4 transfer to the guardian of powers in addition to those specified in the order of
5 appointment of the guardian, based on an expansion of the ward's incapacity, the
6 court shall do all of the following:

7 (a) Appoint a guardian ad litem for the ward.

8 (b) Order that notice, including notice concerning potential court action if
9 circumstances are extraordinary, be given to all of the following:

10 1. The county department of social services or human services if the ward is
11 protectively placed or receives long-term support services as a public benefit.

12 2. The ward.

13 3. The guardian.

14 4. The agent under the ward's power of attorney for health care under ch. 155,
15 if any, and the agent under the ward's durable power of attorney under ch. 243, if any.

16 5. Any other persons determined by the court.

17 **(2)** (a) If, after 10 days after notice is provided under sub. (1) (b), or earlier if
18 the court determines that the circumstances are extraordinary, no person submits
19 to the court an objection to the request under sub. (1), the court may amend the order
20 entered under s. 54.46 (2) and enter a determination and the amended order that
21 specifies any change in the powers of the guardian.

22 (b) If, within 10 days after notice is provided under sub. (1) (b), a person submits
23 to the court an objection to the request under sub. (1), the court shall hold a hearing,
24 unless the objector declines a hearing, under the procedure specified in s. 54.64 (2).

25 **54.64 (2) REVIEW AND MODIFICATION.**

1 (a) 1. Appoint a guardian ad litem.

2 2. Fix a time and place for hearing.

3 3. Designate the persons who are entitled to notice of the hearing and designate
4 the manner in which the notice shall be given.

5 (b) The ward has the right to counsel for purposes of the hearing under par. (a).
6 Notwithstanding any finding of incompetence for the ward, the ward may retain and
7 contract for the payment of reasonable fees to an attorney, the selection of whom is
8 subject to court approval, in connection with proceedings involving review of the
9 terms and conditions of the guardianship, including the question of incompetence.
10 The court shall appoint counsel if the ward is unable to obtain counsel. If the ward
11 is indigent, the county of jurisdiction for the guardianship shall provide counsel at
12 the county's expense.

13 (3) (b) The ward changes residence from this state to another state and a
14 guardian is appointed in the new state of residence.

15 (e) The ward dies.

16 (4) (b) The ward changes residence from this state to another state and a
17 guardian is appointed in the new state of residence.

18 (5) (b) Continue the guardianship, but waive requirements for a bond for the
19 guardian and waive or require an accounting by the guardian.

20 **54.66 Final accounts.**

21 (3) DISCHARGE. After approving the final account and after the guardian has
22 filed proper receipts, the court shall discharge the guardian and release the
23 guardian's bond.

24 **54.68 Review of conduct of guardian. (1) CONTINUING JURISDICTION OF**
25 COURT. The court that appointed the guardian or that granted a petition for

1 acceptance and receipt of a foreign guardianship has continuing jurisdiction over the
2 guardian. Within a reasonable period of time after granting a petition for receipt and
3 acceptance of a foreign guardianship under s. 54.46 (1r), the court shall review the
4 provisions of the guardianship and, as part of its review, shall inform the guardian
5 and ward of services that may be available to the ward.

6 **(2) CAUSE FOR COURT ACTION AGAINST A GUARDIAN.** Any of the following, if
7 committed by a guardian with respect to a ward or the ward's income or assets,
8 constitutes cause for a remedy of the court under sub. (4):

9 (a) Failing to file timely an inventory or account, as required under this
10 chapter, that is accurate and complete.

11 (b) Committing fraud, waste, or mismanagement.

12 (c) Abusing or neglecting the ward or knowingly permitting others to do so.

13 (d) Engaging in self-dealing.

14 (e) Failing to provide adequately for the personal needs of the ward from the
15 ward's available assets and income, including any available public benefits.

16 (f) Failing to exercise due diligence and reasonable care in assuring that the
17 ward's personal needs are being met in the least restrictive environment consistent
18 with the ward's needs and incapacities.

19 (g) Failing to act in the best interests of the ward.

20 (h) Failing to disclose conviction for a crime that would have prevented
21 appointment of the person as guardian.

22 (i) Failing to disclose that the guardian is listed under s. 146.40 (4g) (a) 2.

23 (j) Other than as provided in pars. (a) to (i), failing to perform any duties of a
24 guardian or performing acts prohibited to a guardian as specified in ss. 54.18, 54.19,
25 54.20, 54.22, 54.25, and 54.62.

1 **(3) PROCEDURE.** Upon the filing of a petition for review of the conduct of a
2 guardian, the court shall hold a hearing in not less than 10, nor more than 60, days
3 and shall order that the petitioner provide notice of the hearing to the ward, the
4 guardian, and any other persons as determined by the court. The court may
5 authorize use by the petitioner of any of the methods of discovery specified in ch. 804
6 in support of the petition to review conduct of the guardian.

7 **(4) REMEDIES OF THE COURT.** If petitioned by any party or on the court's own
8 motion and after finding cause as specified in sub. (2), a court may do any of the
9 following:

10 (a) Order the guardian to file an inventory or other report or account required
11 of the guardian.

12 (b) Require the guardian to reimburse the ward or, if deceased, the ward's
13 estate for losses incurred as the result of the guardian's breach of a duty to the ward.

14 (c) Impose a forfeiture of up to \$10,000 on the guardian, or deny compensation
15 for the guardian or both.

16 (d) Remove the guardian.

17 (e) Enter any other order that may be necessary or appropriate to compel the
18 guardian to act in the best interests of the ward or to otherwise carry out the
19 guardian's duties.

20 **(5) REMOVAL OF PAID GUARDIAN.** The court may remove a paid guardian if
21 changed circumstances indicate that a previously unavailable volunteer guardian is
22 available to serve and that the change would be in the best interests of the ward.

23 **(6) FEES AND COSTS IN PROCEEDINGS.** In any proceeding under sub. (2) or (5), all
24 of the following apply:

1 (a) The court may require the guardian to pay personally any costs of the
2 proceeding, including costs of service and attorney fees.

3 (b) Notwithstanding a finding of incompetence, a ward who is petitioning the
4 court under sub. (2) may retain legal counsel, the selection of whom is subject to court
5 approval, and contract for the payment of fees, regardless of whether or not the
6 guardian consents or whether or not the court finds cause under sub. (2).

7 **54.72 Guardian compensation and reimbursement.** A guardian of the
8 person or a guardian of the estate is entitled to compensation and to reimbursement
9 for expenses as follows:

10 (1) COMPENSATION. (a) Subject to the court's approval, as determined under par.
11 (b), a guardian shall receive reasonable compensation for the guardian's services.

12 (b) The court shall use all of the following factors in deciding whether
13 compensation for a guardian is just and reasonable:

14 1. The reasonableness of the services rendered.

15 2. The fair market value of the services rendered.

16 3. Any conflict of interest of the guardian.

17 4. The availability of another to provide the services.

18 5. The value and nature of the ward's assets and income, including the sources
19 of the ward's income.

20 6. Whether the ward's basic needs are being met.

21 7. The hourly or other rate proposed by the guardian for the services.

22 (c) The amount of the compensation may be determined on an hourly basis, as
23 a monthly stipend, or on any other basis that the court determines is reasonable
24 under the circumstances. The court may establish the amount or basis for computing
25 the guardian's compensation at the time of the guardian's initial appointment.

1 court's removal of the initially appointed conservator or during a period, as
2 determined by the initially appointed conservator or the court, when the initially
3 appointed conservator is temporarily unable to fulfill his or her duties, including
4 during an extended vacation or illness. The powers and duties of the standby
5 conservator shall be the same as those of the initially appointed conservator. The
6 standby conservator shall receive a copy of the court order establishing or modifying
7 the initial conservatorship and the order designating the standby conservator. Upon
8 assuming office, the standby conservator shall so notify the court. Upon notification,
9 the court shall designate this conservator as permanent or shall specify the time
10 period for a limited standby conservatorship.

11 (6) The court that appointed the conservator shall have continuing jurisdiction
12 over the conservator. Any of the following, if committed by a conservator with respect
13 to a conservatee or the conservatee's income or assets, constitutes cause for removal
14 of the conservator under sub. (7) (a) 5:

15 (a) Failing to file timely an inventory or account, as required under this
16 chapter, that is accurate and complete.

17 (b) Committing fraud, waste, or mismanagement.

18 (c) Abusing or neglecting the conservatee or knowingly permitting others to do
19 so.

20 (d) Engaging in self-dealing.

21 (e) Failing to provide adequately for the personal needs of the conservatee from
22 the available income and assets and any available public benefits.

23 (f) Failing to act in the best interests of the conservatee.

24 (g) Failing to disclose conviction for a crime that would have prevented
25 appointment of the person as conservator.

1 (h) Failing to disclose that the conservator is listed under s. 146.40 (4g) (a) 2.

2 **(7)** (a) The powers of a conservator may not be terminated without a hearing
3 and may not be terminated unless any of the following occurs:

4 1. The court removes the conservator on the court's own motion or under sub.
5 (4).

6 2. The court appoints a guardian for the individual whose income and assets
7 are conserved.

8 3. The individual whose income and assets are conserved dies.

9 4. The conservator or individual whose income and assets are conserved
10 changes residence to another state.

11 5. The court finds cause, as specified in sub. (6), for removal of the conservator.

12 (b) If anyone objects to termination of the conservatorship and alleges that the
13 individual whose income and assets are conserved is appropriate for appointment of
14 a guardian, the court may stay the hearing under par. (a) for 14 days to permit any
15 interested person to file a petition for guardianship. If no petition is filed, the court
16 may terminate the conservatorship and may appoint a guardian ad litem for the
17 individual.

18 **(8)** If a court terminates a conservatorship or a conservator resigns, is removed,
19 or dies, the conservator or the conservator's personal representative or special
20 administrator shall promptly render a final account of the former conservatee's
21 income and assets to the court and to the former conservatee, any guardian of the
22 former conservatee, or any deceased conservatee's personal representative or special
23 administrator, as appropriate. If the conservator dies and the conservator and the
24 deceased conservatee's personal representative or special administrator are the
25 same person, the deceased conservatee's personal representative or special

1 administrator shall give notice of the termination and rendering of the final account
2 to all interested persons of the conservatee's estate.

3 (9) (a) If a conservator resigns, is removed, or dies, the court, on its own motion
4 or upon petition of any interested person, may appoint a competent and suitable
5 person as successor conservator. The court may, upon request of any interested
6 person or on its own motion, direct that a petition for appointment of a successor
7 conservator be heard in the same manner and subject to the same requirements as
8 provided under this section for an original appointment of a conservator.

9 (b) If the appointment under par. (a) is made without hearing, the successor
10 conservator shall provide notice to the individual for whom a conservator has been
11 appointed and all interested persons of the appointment, the right to counsel, and
12 the right to petition for reconsideration of the successor conservator. The notice shall
13 be served personally or by mail not later than 10 days after the appointment.

14 SUBCHAPTER VII

15 UNIFORM GUARDIANSHIP ACTS

16 **54.850 Definitions.** In this subchapter:

17 (1) "Administration" means any proceeding relating to a decedent's estate
18 whether testate or intestate.

19 (2) "Beneficiary" means any person nominated in a will to receive an interest
20 in property other than in a fiduciary capacity.

21 (3) "Distributee" means any person to whom property of a decedent is
22 distributed other than in payment of a claim, or who is entitled to property of a
23 decedent under the decedent's will or under the statutes of intestate succession.

24 (4) "Person interested" has the meaning given in s. 851.21.

25 **SECTION 101.** 55.01 (1v) of the statutes is created to read:

1 55.01 (1v) “Degenerative brain disorder” means the loss or dysfunction of brain
2 cells to the extent that the individual is substantially impaired in his or her ability
3 to provide adequately for his or her own care or custody or to manage adequately his
4 or her property or financial affairs.

5 **SECTION 102.** 55.01 (6t) of the statutes is created to read:

6 55.01 (6t) “Psychotropic medication” means a prescription drug, as defined in
7 s. 450.01 (20), that is used to treat or manage a psychiatric symptom or challenging
8 behavior.

9 **SECTION 103.** 55.01 (6v) of the statutes is created to read:

10 55.01 (6v) “Serious and persistent mental illness” means a mental illness that
11 is severe in degree and persistent in duration, that causes a substantially diminished
12 level of functioning in the primary aspects of daily living and an inability to cope with
13 the ordinary demands of life, that may lead to an inability to maintain stable
14 adjustment and independent functioning without long-term treatment and support,
15 and that may be of lifelong duration. “Serious and persistent mental illness” includes
16 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
17 psychiatric diagnostic categories, but does not include degenerative brain disorder
18 or a primary diagnosis of a developmental disability, as defined in s. 51.01 (5) (a), or
19 of alcohol or drug dependence.

20 **SECTION 104.** 55.02 of the statutes is amended to read:

21 **55.02 Protective service system; establishment.** The department shall
22 develop a statewide system of protective service for mentally retarded and other
23 developmentally disabled persons, for aged infirm persons, for chronically mentally
24 ill persons, and for persons with other like incapacities incurred at any age in
25 accordance with rules promulgated by the department. The protective service

1 system shall be designed to encourage independent living and to avoid protective
2 placement whenever possible. The system shall use the planning and advice of
3 agencies, including the county department under s. 46.215, 46.22, 46.23, 51.42, or
4 51.437. The chairperson of each county board of supervisors shall designate a county
5 department under s. 46.215, 46.22, 51.42, or 51.437 that is providing services in his
6 or her county or a joint mechanism of these county departments to have the
7 responsibility for local planning for the protective service system. The chairperson
8 of the Milwaukee County board of supervisors shall designate the county
9 department under s. 46.215 to serve as the county protective services agency for
10 purposes of s. 55.043. The department and these county departments shall cooperate
11 in developing a coordinated system of services. The department shall provide direct
12 services and enter into contracts with any responsible public or private agency for
13 provision of protective services. In each county, the county department designated
14 under this section shall determine the reporting requirements applicable to the
15 county under s. 880.38 (3) 54.25 (1) (a).

16 **SECTION 105.** 55.03 of the statutes is amended to read:

17 **55.03 Status of guardian.** No ~~agency acting as a~~ guardian appointed under
18 ch. 54. or ch. 880 shall, 2003 stats., may be a provider of protective services or
19 placement for its ward under this chapter. Nothing in this chapter ~~shall~~ may be
20 construed to prohibit the transfer of guardianship and legal custody under s. 48.427
21 or 48.43.

22 **SECTION 106.** 55.05 (2) (d) of the statutes is amended to read:

23 55.05 (2) (d) The court may order protective services for an individual for whom
24 a determination of incompetency is made under s. 880.33 54.10 (3) if the individual
25 entitled to the protective services will otherwise incur a substantial risk of physical

1 harm or deterioration or will present a substantial risk of physical harm to others.
2 The court may order the involuntary administration of psychotropic medication as
3 a protective service ~~under this paragraph only if a determination of incompetency is~~
4 ~~made for the individual under s. 880.33 (4m).~~ The court may authorize a guardian
5 to consent to forcible administration of psychotropic medication for an individual
6 only if the court has made a finding under s. 880.33 (4r) (b) that the individual has
7 substantially failed to comply with the administration of psychotropic medication
8 under the individual's treatment plan only under the requirements of s. 55.14.

9 **SECTION 107.** 55.05 (5) (b) 1. of the statutes is amended to read:

10 55.05 (5) (b) 1. Guardians of persons who have been found adjudicated
11 incompetent ~~under s. 880.33~~ may consent to admission to a foster home, group home
12 or community-based residential facility, as defined under s. 50.01 (1g), without a
13 protective placement under s. 55.06 if the home or facility is licensed for fewer than
14 16 beds. Prior to providing that consent, and annually thereafter, the guardian shall
15 review the ward's right to the least restrictive residential environment and consent
16 only to admission to a home or facility that implements those rights.

17 **SECTION 108.** 55.05 (5) (b) 2. of the statutes is amended to read:

18 55.05 (5) (b) 2. Guardians of persons who have been found adjudicated
19 incompetent ~~under s. 880.33~~ may consent to admission to a nursing home if the
20 person is admitted directly from a hospital inpatient unit for recuperative care for
21 a period not to exceed 3 months, unless the hospital admission was for psychiatric
22 care. Prior to providing that consent, the guardian shall review the ward's right to
23 the least restrictive residential environment and consent only to admission to a
24 nursing home that implements those rights. Following the 3-month period, a
25 placement proceeding under s. 55.06 is required. Admission under this paragraph

1 is not permitted for an individual for whom the primary purpose of admission is for
2 treatment or services related to the individual's mental illness or developmental
3 disability.

4 **SECTION 109.** 55.06 (1) (intro.) of the statutes is amended to read:

5 55.06 (1) (intro.) A protective placement under this section is a placement of
6 a ward for the primary purpose of providing care and custody. To be eligible for
7 placement, an individual shall have attained the age of 18, but an individual who is
8 alleged to be developmentally disabled may receive placement upon attaining the
9 age of 14. No protective placement under this section may be ordered unless there
10 is ~~a determination~~ an adjudication of incompetency in accordance with ~~ch. 880~~ this
11 state, except in the case of a minor who is alleged to be developmentally disabled, and
12 there is a finding of a need for protective placement in accordance with sub. (2) except
13 as provided in subs. (11) and (12). A procedure for adult protective placement may
14 be initiated 6 months prior to an individual's birthday at which he or she first
15 becomes eligible for placement.

16 **SECTION 110.** 55.06 (1) (a) of the statutes is amended to read:

17 55.06 (1) (a) ~~The board designated under s. 55.02~~ department, the county
18 department or an agency ~~designated by it~~ with which the county department
19 contracts under s. 55.05 (2), a guardian, or an interested person may file a petition
20 for appointment of a guardian and for protective services or protective placement for
21 the individual. The department shall provide for a schedule of reimbursement for
22 the cost of ~~such~~ the proceedings based upon the ability to pay of the proposed ward
23 or ~~person~~ individual to be protected.

24 **SECTION 111.** 55.06 (2) (b) of the statutes is amended to read:

1 55.06 (2) (b) Except in the case of a minor who is alleged to be developmentally
2 disabled, has either been determined to be adjudicated incompetent by a circuit
3 court, or has had submitted on the minor's behalf a petition for a guardianship;

4 **SECTION 112.** 55.06 (3) (c) of the statutes is amended to read:

5 55.06 (3) (c) The A petition under sub. (1) shall be filed in the county of
6 residence of the person individual to be protected, as determined under s. 51.40 or
7 by the individual's guardian or where the individual is physically present due to
8 circumstances including those specified under s. 51.22 (4). If an individual has not
9 received services under ch. 46, 51, or 55 or if an individual has received services
10 under ch. 46, 51, or 55 that have been terminated and has established residence in
11 a county other than that in which the individual resided when the services were
12 received, the court may determine the individual's county of residence. The county
13 of residence under this paragraph is the county of responsibility.

14 **SECTION 113.** 55.06 (3) (d) of the statutes is created to read:

15 55.06 (3) (d) The court in which a petition is first filed under par. (c) shall
16 determine venue. The court shall direct that proper notice be given to any potentially
17 responsible or affected county. Proper notice is given to a potentially responsible or
18 affected county if written notice of the proceeding is sent by certified mail to the
19 county's clerk and corporation counsel. After all potentially responsible or affected
20 counties and parties have been given an opportunity to be heard, the court shall
21 determine that venue lies in the county in which the petition is filed under par. (c)
22 or in another county, as appropriate. If the court determines that venue lies in
23 another county, the court shall order the entire record certified to the proper court.
24 A court in which a subsequent petition is filed shall, upon being satisfied of an earlier
25 filing in another court, summarily dismiss the subsequent petition. If any

1 potentially responsible or affected county or party objects to the court's finding of
2 venue, the court may refer the issue to the department for a determination of the
3 county of residence under s. 51.40 (2) (g) and may suspend ruling on the motion for
4 change of venue until the determination under s. 51.40 (2) (g) is final.

5 **SECTION 114.** 55.06 (4) of the statutes is amended to read:

6 55.06 (4) A petition for guardianship if required under sub. (2) (b) must be
7 heard prior to placement under this section. If incompetency has been determined
8 ~~under s. 880.33~~ adjudicated in this state more than one year preceding the filing of
9 an application for protective placement, the court shall review the finding of
10 incompetency.

11 **SECTION 115.** 55.06 (5) of the statutes is amended to read:

12 55.06 (5) Notice of a petition for placement shall be served upon the person
13 sought to be placed, by personal service, at least 10 days prior to the time set for a
14 hearing. Upon service of the notice, the person sought to be protected shall be
15 informed of the complete contents of the notice. The person serving the notice shall
16 return a certificate to the circuit judge verifying that the petition has been delivered
17 and notice given. The notice shall include the names of all petitioners. Notice shall
18 also be served personally or by mail upon the person's guardian ad litem, legal
19 counsel, guardian, if any, presumptive adult heirs, and upon other persons who have
20 physical custody of the person to be protected whose names and addresses are known
21 to the petitioner or can with reasonable diligence be ascertained, to any
22 governmental or private body or group from whom the person to be protected is
23 known to be receiving aid, and to such other persons or entities as the court may
24 require. Notice shall also be served personally or by mail upon the department at
25 least 10 days prior to the time set for hearing if the person sought to be protected may

1 be placed in a center for the developmentally disabled. Notice shall also be served
2 personally or by mail, at least 10 days before the time set for hearing, upon the county
3 department that is participating in the program under s. 46.278 of the county of
4 residence of the person sought to be protected, if the person has a developmental
5 disability and may be placed in an intermediate facility or a nursing facility, except
6 that, for a person sought to be protected to whom s. 46.279 (4m) applies, this notice
7 shall instead be served on the department. The individual adjudicated incompetent
8 or proposed incompetent for a determination of incompetency is presumed able to
9 attend the hearing unless, after a personal interview, the guardian ad litem certifies
10 to the court that the person is unable to attend.

11 **SECTION 116.** 55.06 (6) of the statutes is amended to read:

12 55.06 (6) ~~Section 880.33 (2) applies~~ Sections 54.42, 54.44, and 54.46 apply to
13 all hearings under this chapter except for transfers of placement under sub. (9) (b),
14 and (c) and (e). A person to be protected shall have a guardian ad litem who is an
15 attorney appointed in accordance with s. 757.48 (1) present at all hearings under this
16 chapter if the person does not have full legal counsel. The court may, however, excuse
17 a personal appearance by a guardian ad litem based on information contained in a
18 written report by the guardian ad litem to the court. If the person is an adult who
19 is indigent, the county of legal settlement shall be liable for guardian ad litem fees.
20 If the person is a child, the person's parents or the county of legal settlement shall
21 be liable for guardian ad litem fees as provided in s. 48.235 (8). The subject
22 individual, attorney or guardian ad litem shall have the right to present and
23 cross-examine witnesses, including any person making an evaluation or review
24 under sub. (8) (c).

25 **SECTION 117.** 55.06 (8) (c) of the statutes is amended to read:

1 55.06 (8) (c) A medical, psychological, social, vocational and educational
2 evaluation and review, where necessary, and any recommendations for or against
3 maintenance of partial legal rights as provided in s. ~~880.33~~ 54.25 (2). Such
4 evaluation and review shall include recommendations for placement consistent with
5 the least restrictive environment required.

6 **SECTION 118.** 55.06 (10) (c) of the statutes is amended to read:

7 55.06 (10) (c) Except in the case of a minor who is developmentally disabled and
8 who has a parent or person in the place of a parent, termination of guardianship
9 automatically revokes any protective placement made or protective services
10 provided under this chapter unless the placement or services are continued on a
11 voluntary basis. Notice to this effect shall be given to the ward by the provider of
12 services at the time of termination. If protective placement is made or protective
13 services are provided under this chapter to a minor who is developmentally disabled,
14 the attainment of the age of majority by ~~such~~ the individual automatically revokes
15 any such protective placement made or protective services provided unless the
16 placement or services are continued on a voluntary basis, or there is ~~a finding an~~
17 adjudication of incompetency and appointment of a guardian pursuant to ~~ch. 880 in~~
18 this state.

19 **SECTION 119.** 55.06 (14) of the statutes is amended to read:

20 55.06 (14) Prior to discharge of an individual from a protective placement, the
21 ~~appropriate board which~~ county department that is responsible for protective
22 placement shall review the need for ~~provision of~~ continuing protective services ~~or for,~~
23 continuation of full or limited guardianship, ~~or provision for such guardianship,~~ if
24 the individual has no guardian, guardianship. ~~Recommendation shall be made to the~~
25 ~~court if~~ If the county department's recommendation includes a course of action for

1 which court approval would be required, the county department shall make the
2 recommendation to the court. Prior to discharge of the individual from any state
3 mental health institute or center for the developmentally disabled, the department
4 shall make ~~such~~ the review under s. 51.35.

5 **SECTION 120.** 55.06 (17) (b) of the statutes is amended to read:

6 55.06 (17) (b) If the subject is ~~an adult who has been adjudged incompetent~~
7 ~~under ch. 880 or is a minor,~~ consent for release of information from and access to the
8 court records may be given only as provided in s. 51.30 (5). If the subject is an adult
9 who has been adjudicated incompetent in this state, consent for release of
10 information from and access to court records may be given only as provided in s.
11 54.75.

12 **SECTION 121.** 55.14 of the statutes is created to read:

13 **55.14 Involuntary administration of psychotropic medication.** (1) In
14 this section:

15 (a) “Involuntary administration of psychotropic medication” means any of the
16 following:

17 1. Placing psychotropic medication in an individual’s food or drink with
18 knowledge that the individual protests receipt of the psychotropic medication.

19 2. Forcibly restraining an individual to enable administration of psychotropic
20 medication.

21 3. Requiring an individual to take psychotropic medication as a condition of
22 receiving privileges or benefits.

23 (c) “Protest” means make more than one discernible negative response, other
24 than mere silence, to the offer of, recommendation for, or other proffering of
25 voluntary receipt of psychotropic medication. “Protest” does not mean a discernible

1 negative response to a proposed method of administration of the psychotropic
2 medication.

3 (d) “Psychotropic medication” means a prescription drug, as defined in s. 450.01
4 (20), that is used to treat or manage a psychiatric symptom or challenging behavior.

5 (2) Involuntary administration of psychotropic medication, with consent of a
6 guardian, may be ordered as a protective service only under the requirements of this
7 section.

8 (3) In addition to the other requirements of this chapter pertaining to petitions
9 for protective services, a petition under this section shall allege that all of the
10 following are true:

11 (a) A physician has prescribed psychotropic medication for the individual.

12 (b) The individual is not competent to refuse psychotropic medication.

13 (c) One of the following is true:

14 1. The individual has refused to take the psychotropic medication voluntarily.

15 If this is alleged, the petition shall identify, if known, the reasons the individual
16 refuses to take psychotropic medication voluntarily and shall provide evidence
17 showing that a reasonable number of documented attempts to administer
18 psychotropic medication voluntarily using appropriate interventions that could
19 reasonably be expected to increase the individual’s willingness to take psychotropic
20 medication voluntarily have been made and have been unsuccessful.

21 2. Attempting to administer psychotropic medications to the individual
22 voluntarily is not feasible or is not in the best interests of the individual. If this is
23 alleged, the petition must identify specific reasons supporting that allegation.

1 (d) The individual's condition for which psychotropic medication has been
2 prescribed is likely to be improved by administration of psychotropic medication and
3 the individual is likely to respond positively to psychotropic medication.

4 (e) Unless psychotropic medication is administered involuntarily, the
5 individual will incur a substantial probability of physical harm, impairment, injury,
6 or debilitation or will present a substantial probability of physical harm to others.
7 The substantial probability of physical harm, impairment, injury, or debilitation
8 shall be evidenced by one of the following:

9 1. The individual's history of at least 2 episodes, one of which has occurred
10 within the previous 24 months, that indicate a pattern of overt activity, attempts,
11 threats to act, or omissions that resulted from the individual's failure to participate
12 in treatment, including psychotropic medication, and that resulted in a finding of
13 probable cause for commitment under s. 51.20 (7), a settlement agreement approved
14 by a court under s. 51.20 (8) (b), or commitment ordered under s. 51.20 (13).

15 2. Evidence that the individual meets one of the dangerousness criteria set
16 forth in s. 51.20 (1) (a) 2. a. to e.

17 (4) A petition under this section must include a written statement signed by
18 a physician who has personal knowledge of the individual that provides general
19 clinical information regarding the appropriate use of psychotropic medication for the
20 individual's condition and specific data that indicates that the individual's current
21 condition necessitates the use of psychotropic medication.

22 (5) The guardian ad litem appointed under s. 55.06 (6) for an individual who
23 is the subject of a petition under this section shall report to the court whether the
24 allegations in the petition required under sub. (3) are true, and whether involuntary
25 administration of psychotropic medication is in the best interests of the individual.

1 **(6)** If requested by an individual who is the subject of a petition under this
2 section or anyone on his or her behalf, the individual has the right at his or her own
3 expense, or if indigent at the expense of the county in which the petition is filed, to
4 secure an independent medical or psychological examination relevant to the issue of
5 whether the allegations in the petition required under sub. (3) are true and whether
6 involuntary administration of psychotropic medication is in the best interest of the
7 individual, and to present a report of this independent evaluation or the evaluator’s
8 personal testimony as evidence at the hearing.

9 **(7)** Upon the filing of a petition under this section, the court shall appoint
10 counsel. A petition under this section shall be heard under s. 55.06 within 30 days
11 after it is filed.

12 **(8)** The court may issue an order authorizing an individual’s guardian to
13 consent to involuntary administration of psychotropic medication to the individual
14 and may order involuntary administration of psychotropic medication to the
15 individual as a protective service, with the guardian’s consent if the court or jury
16 finds by clear and convincing evidence that the allegations in the petition required
17 under sub. (3) are true, all other requirements for involuntary administration of
18 psychotropic medication under this section have been met, psychotropic medication
19 is necessary for treating the condition described in the statement under sub. (4), and
20 all other requirements of this chapter for ordering protective services have been met.
21 An order under this section shall do all of the following:

22 **(a)** Direct the development of a treatment plan for the individual specifying the
23 protective services, including psychotropic medication as ordered by the treating
24 physician, that the individual should receive. If the individual resides in a nursing
25 home or hospital, the nursing home or hospital shall develop the treatment plan. If

1 the individual resides elsewhere, the county department or an agency with which it
2 contracts shall develop the treatment plan. The treatment plan shall include a plan
3 for the involuntary administration of psychotropic medication to the individual. The
4 treatment plan is subject to the approval of the guardian and to review and approval
5 by the court. If the court approves the plan, the court shall order the county
6 department or an agency with which it contracts to ensure that protective services,
7 including psychotropic medication, are administered in accordance with the
8 treatment plan.

9 (b) Order the individual to comply with the treatment plan under par. (a). The
10 order shall provide that if the individual fails to comply with provisions of the
11 treatment plan that require the individual to take psychotropic medications, the
12 medications may be administered involuntarily with consent of the guardian. The
13 order shall specify the methods of involuntary administration of psychotropic
14 medication to which the guardian may consent. An order authorizing the forcible
15 restraint of an individual shall specify that a person licensed under s. 441.06, 441.10,
16 or 448.05 (2) or (5) shall be present at all times that psychotropic medication is
17 administered in this manner and shall require the person or facility using forcible
18 restraint to maintain records stating the date of each administration, the medication
19 administered, and the method of forcible restraint utilized.

20 (9) If an individual who is subject to an order under this section is not in
21 compliance with the order because he or she refuses to take psychotropic medication
22 as ordered under the treatment plan, and it is necessary for the individual to be
23 transported to an appropriate facility for forcible restraint for administration of
24 psychotropic medication, the corporation counsel shall file with the court a
25 statement of the facts which constitute basis for the noncompliance of the individual.

1 The statement shall be sworn to be true and shall be based upon the information and
2 belief of the person filing the statement. The statement shall be signed by the
3 individual's guardian and by the director or designee of the county department or an
4 agency with which it contracts to develop and administer the treatment plan. Upon
5 receipt of the statement of noncompliance, if the court finds by clear and convincing
6 evidence that the individual has substantially failed to comply with the
7 administration of psychotropic medication as ordered under the treatment plan, the
8 court may issue an order authorizing the sheriff or any other law enforcement agency
9 in the county in which the individual is found or in which it is believed that the
10 individual may be present to take the individual into custody and transport him or
11 her to an appropriate facility for administration of psychotropic medication using
12 forcible restraint, with consent of the guardian.

13 (10) Nothing in this section prohibits the involuntary administration of
14 psychotropic medication as an emergency protective service under this chapter.

15 (11) The county department or an agency with which it contracts shall provide
16 to the department a copy of any order issued under this section that applies to any
17 protectively placed individual in the county.

18 (12) The department shall annually submit to the legislature under s. 13.172
19 (2) a report regarding orders under this section.

20 (13) An order under this section is subject to annual review under s. 55.19.

21 **SECTION 122.** 55.19 of the statutes is created to read:

22 **55.19 Annual review of order authorizing involuntary administration**
23 **of psychotropic medication.** In addition to or in conjunction with the annual
24 review required under s. 55.06 (10), all of the following shall be performed with
25 respect to any individual who is subject to an order under s. 55.14 or an order initially

1 issued under s. 880.33 (4r), 2003 stats., authorizing involuntary administration of
2 psychotropic medication:

3 (1) COUNTY DEPARTMENT PERFORMANCE OF REVIEW. (a) The county department
4 of the individual's county of residence shall, except as provided in sub. (1m), review,
5 in compliance with the requirements of this section, the status of each individual who
6 is the subject of the order. The review shall include a visit to the individual and a
7 written evaluation of the physical, mental, and social condition of the individual that
8 is relevant to the issue of the continued need for the order. The review shall be made
9 a part of the permanent record of the individual. The county department shall inform
10 the guardian of the individual of the review at the time the review is made and shall
11 invite the individual and the guardian to submit comments or information
12 concerning the individual's need for involuntary administration of psychotropic
13 medication or other protective services before completing a report of the review. Not
14 later than the first day of the 11th month after the initial order is made for an
15 individual, except as provided in par. (b), and at least annually thereafter, the county
16 department shall do all of the following:

- 17 1. File a report of the review with the court that issued the order.
- 18 2. File with the court under subd. 1. a petition for annual review by the court
19 of the order.
- 20 3. Provide the report under subd. 1. to the individual and the guardian of the
21 individual.

22 (b) If, in an annual review of an individual's status under par. (a), the individual
23 or the individual's guardian or guardian ad litem requests termination of the order
24 and a full due process hearing is provided, or if a full due process hearing is provided
25 under a petition for modification or termination of the order, the county department

1 is not required to initiate a subsequent review under par. (a) until the first day of the
2 11th month after the date that the court issues a final order after the full due process
3 hearing.

4 (bm) If the individual is subject to a protective placement order, the review
5 under par. (a) shall be conducted simultaneously with any review of the individual's
6 protective placement.

7 (c) The review under par. (a) may not be conducted by a person who is an
8 employee of a facility in which the individual resides or from which the individual
9 receives services. The report of the review shall include information on all of the
10 following:

11 1. Whether the individual continues to meet the standards for protective
12 services.

13 2. Whether the individual is not competent to refuse psychotropic medication,
14 as defined in s. 55.14 (1) (b).

15 3. Whether the individual continues to refuse to take psychotropic medication
16 voluntarily or attempting to administer psychotropic medication to the individual
17 voluntarily is not feasible or is not in the best interests of the individual, as specified
18 in s. 55.14 (3) (c).

19 4. Whether the individual's condition for which psychotropic medication has
20 been prescribed has been improved by psychotropic medication and the individual
21 has responded positively to psychotropic medication.

22 5. If the petitioner alleged under s. 55.14 (3) (e) 2. that the individual meet one
23 of the dangerousness criteria set forth in s. 51.20 (1) (a) 2. a. to e., whether the
24 individual continues to meet the criterion.

1 6. The comments of the individual and the individual's guardian during the
2 performance of the review, as summarized by the county department, and the
3 response of the county department to the comments.

4 7. The comments, if any, of a staff member at the facility at which the individual
5 is placed or receives services or at which psychotropic medication is administered to
6 the individual that are relevant to the review of the continued need for the order.

7 **(1m) COUNTY AGREEMENT.** The county of residence of an individual who is
8 subject to an order under s. 55.14 and is protectively placed in a different county may
9 enter into an agreement with that county under which the county of the individual's
10 placement performs all or part of the duties of the county of residence under this
11 section.

12 **(2) GUARDIAN AD LITEM APPOINTMENT AND REPORT.** After a county department has
13 filed a report with a court under sub. (1) (a) 1., the court shall appoint a guardian ad
14 litem in accordance with s. 757.48 (1). The guardian ad litem shall do all of the
15 following:

16 (a) Review the report filed under sub. (1) (a) 1. and any other relevant reports
17 on the individual's condition and continued need for the order under s. 55.14.

18 (b) Meet with the individual and contact the individual's guardian and orally
19 explain to the individual and guardian all of the following:

20 1. The procedure for review of an order for involuntary administration of
21 psychotropic medication.

22 2. The right of the individual to appointment of legal counsel under sub. (3) (c).

23 3. That the court may under sub. (3) (b) 1. order performance of an evaluation.

24 4. The contents of the report under sub. (1) (a) 1.

1 5. That a termination of the order for involuntary administration of
2 psychotropic medication may be ordered by the court.

3 6. The right to a full due process hearing under sub. (3) (d).

4 (c) Provide the information required under par. (b) to the individual in writing.

5 (d) Review the individual's condition and rights with the individual's guardian.

6 (e) Ascertain whether the individual wishes to exercise any of his or her rights
7 under sub. (3) (b), (c), or (d).

8 (f) Within 30 days after appointment, file with the court a written report based
9 on information obtained under this subsection and any other evaluations or records
10 of the individual. The report shall discuss whether the individual appears to
11 continue to meet the standards for an order under s. 55.14. The report shall also state
12 whether any of the following apply:

13 1. An evaluation under sub. (3) (b) is requested by the guardian ad litem, the
14 individual, or the individual's guardian.

15 2. The individual or the individual's guardian requests termination of the order
16 under s. 55.14.

17 3. The individual or the individual's guardian requests or the guardian ad litem
18 recommends that legal counsel be appointed for the individual.

19 4. The individual or his or her guardian or guardian ad litem requests a full due
20 process hearing under this section for the individual.

21 (g) Certify to the court that he or she has complied with the requirements of
22 pars. (b), (c), and (d).

23 **(3) COURT REVIEW OF REPORTS; HEARING; ORDER.** (a) The court that issued the
24 order under s. 55.14 shall review the report of the guardian ad litem under sub. (2)
25 (f) and the report filed under sub. (1) (a) 1.

1 (b) The court shall order performance, by a person who is not an employee of
2 the county department, of an evaluation of the physical, mental, and social condition
3 of the individual that is relevant to the issue of the continued need for the order under
4 s. 55.14 that is independent of the review performed under sub. (1) (a) if any of the
5 following apply:

6 1. The report required under sub. (1) (a) 1. is not timely filed, or the court
7 determines that the report fails to meet the requirements of sub. (1) (c).

8 2. Following review of the guardian ad litem's report under sub. (2) (f), the court
9 determines that an independent evaluation for the individual is necessary.

10 3. The individual or the individual's guardian or guardian ad litem so requests.

11 (bm) If an evaluation is ordered under par. (b), it shall be performed at the
12 expense of the individual or, if the individual is indigent, at the expense of the county
13 of residence under sub. (1) (a).

14 (br) The court may order that the county department obtain any other
15 necessary information with respect to the individual.

16 (c) The court shall order legal counsel for an individual and, if the individual
17 appears to be indigent, refer him or her to the authority for indigency determinations
18 under s. 977.07 (1) if any of the following apply:

19 1. Following review of the guardian ad litem's report under sub. (2) (f), the court
20 determines that legal counsel for the individual is necessary.

21 2. The individual or the individual's guardian or guardian ad litem so requests.

22 (d) The court shall order either a summary hearing or a full due process
23 hearing. A summary hearing may be held in court or may be held by other means
24 including by telephone or video conference. The court shall hold a full due process
25 hearing if any of the following apply:

1 1. The individual or the individual’s guardian or guardian ad litem so requests.

2 2. The report under sub. (2) (f) indicates that the individual no longer meets the
3 standards for an order under s. 55.14 (8).

4 3. The report under sub. (2) (f) indicates that the individual objects to the order.

5 (e) Following the hearing under par. (d), the court shall do one of the following:

6 1. If the court finds that the individual continues to meet the standards for an
7 order under s. 55.14 (8), the court shall order the continuation of the order. The court
8 shall include in the decision the information relied upon as a basis for continuation
9 of the order and shall make findings based on the requirements for allegations of a
10 petition under s. 55.14 (3) in support of the need for continuation of the order.

11 2. If the court finds that the individual continues to meet the standards for an
12 order under s. 55.14 (8) but that modification of the order or the treatment plan would
13 be in the best interests of the individual, the court shall modify the order, order
14 modifications to the individual’s treatment plan, or both. Any modifications to the
15 treatment plan are subject to the approval of the guardian. The court shall include
16 in the decision the information relied upon as a basis for continuation of the order
17 and shall make findings based on the requirements for allegations of a petition under
18 s. 55.14 (3) in support of the need for authorizing the guardian to consent to
19 involuntary administration of psychotropic medication.

20 3. If the court finds that the individual no longer meets the standards for an
21 order under s. 55.14 (8), the court shall terminate the order. If the order is
22 terminated, the court shall review the needs of the individual with respect to other
23 protective services. If the court determines that the individual meets the standards
24 for other protective services under this chapter that are not currently being provided
25 to the individual, the court may order those protective services for the individual.

1 (f) The court shall provide a copy of the order made under par. (e) to all of the
2 following:

3 1. The individual.

4 2. The individual's guardian, guardian ad litem, and legal counsel, if any.

5 3. The facility in which the individual resided, if any, when the petition for
6 annual review was filed.

7 4. The county department under sub. (1) (a) and, if relevant, sub. (1m).

8 **SECTION 123.** 55.195 (7) of the statutes is created to read:

9 55.195 (7) Provide a summary written report to the court.

10 **SECTION 124.** 55.195 (9) of the statutes is created to read:

11 55.195 (9) Attend the hearing.

12 **SECTION 125.** 58.05 (2) of the statutes is amended to read:

13 58.05 (2) Any person who is mentally ill or ~~retarded~~ developmentally disabled
14 may, upon the written request of his or her guardian, be committed to any such
15 hospital or institution in the manner persons who are ~~adjudged mentally~~ adjudicated
16 incompetent are committed to the state hospitals; but the county in which ~~such~~ the
17 person resides shall be liable for his or her support, maintenance, and treatment only
18 when he or she has been committed upon the request of the county board, and ~~such~~
19 the hospital or institution ~~shall not be~~ is not required to keep, care for, or treat any
20 person who is mentally ill or ~~retarded~~ developmentally disabled longer than his or
21 her guardian ~~or~~, friends, or the county from which he or she shall have been
22 committed shall defray the expenses of his or her care and treatment. Any person
23 may voluntarily place himself or herself in such hospital, asylum, or institution for
24 care and treatment.

25 **SECTION 126.** 66.0915 (1) of the statutes is amended to read:

1 66.0915 (1) PRIVATE VIADUCTS IN CITIES, VILLAGES AND TOWNS. The privilege of
2 erecting a viaduct above a public street, road, or alley, for the purpose of connecting
3 buildings on each side, may be granted by the city council, village board, or town
4 board upon the written petition of the owners of all the frontage of the lots and lands
5 abutting the portion sought to be connected, and the owners of more than one-half
6 of the frontage of the lots and lands abutting upon that portion of the remainder that
7 lies within 2,650 feet from the ends of the portion proposed to be connected. If a lot
8 or land is owned by the state, or by a county, city, village, or town, or by a minor or
9 individual adjudicated incompetent person, or the title to the lot or land is held in
10 trust, the petition may be signed by the governor, the chairperson of the county
11 board, the mayor of the city, the president of the board of trustees of the village, the
12 chairperson of the town board, the guardian of the minor or individual adjudicated
13 incompetent person, or the trustee, respectively, and the signature of a private
14 corporation may be made by its president, secretary, or other principal officer or
15 managing agent. Written notice stating when and where the petition will be acted
16 upon, and describing the location of the proposed viaduct, shall be given by the city
17 council, village board, or town board by publication of a class 3 notice, under ch. 985.

18 **SECTION 127.** 66.0915 (2) of the statutes is amended to read:

19 66.0915 (2) REMOVAL OF PRIVATE VIADUCTS. A viaduct in a city, village, or town
20 may be discontinued by the city council, village board, or town board, upon written
21 petition of the owners of more than one-half of the frontage of the lots and lands
22 abutting on the street or road approaching on each end of the viaduct, which lies
23 within 2,650 feet from the ends of the viaduct. If a lot or land is owned by the state,
24 or by a county, city, village, or town, or by a minor or individual adjudicated
25 incompetent person, or the title to the lot or land is held in trust, the petition may

1 be signed by the governor, the chairperson of the county board, the mayor of the city,
2 the president of the board of trustees of the village, the chairperson of the town board,
3 the guardian of the minor or individual adjudicated incompetent person, or the
4 trustee, respectively, and the signature of a private corporation may be made by its
5 president, secretary, or other principal officer or managing agent. Written notice
6 stating when and where the petition will be acted upon, and stating what viaduct is
7 proposed to be discontinued, shall be given by the city council, village board, or town
8 board by publication of a class 1 notice, under ch. 985, not less than one year before
9 the day fixed for the hearing and a class 3 notice, under ch. 985, within the 30 days
10 before the date of the hearing.

11 **SECTION 128.** 71.07 (3m) (a) 1. e. of the statutes is amended to read:

12 71.07 **(3m)** (a) 1. e. For purposes of filing a claim under this subsection, when
13 a guardian has been appointed ~~under ch. 880~~ in this state for a ward who owns the
14 farmland, the claimant shall be the guardian on behalf of the ward.

15 **SECTION 129.** 71.28 (2m) (a) 1. e. of the statutes is amended to read:

16 71.28 **(2m)** (a) 1. e. For purposes of filing a claim under this subsection, when
17 a guardian has been appointed ~~under ch. 880~~ in this state for a ward who owns the
18 farmland, the claimant shall be the guardian on behalf of the ward.

19 **SECTION 130.** 71.47 (2m) (a) 1. e. of the statutes is amended to read:

20 71.47 **(2m)** (a) 1. e. For purposes of filing a claim under this subsection, when
21 a guardian has been appointed ~~under ch. 880~~ in this state for a ward who owns the
22 farmland, the claimant shall be the guardian on behalf of the ward.

23 **SECTION 131.** 71.58 (1) (f) of the statutes is amended to read:

1 71.58 (1) (f) For purposes of filing a claim under this subchapter, when a
2 guardian has been appointed ~~under ch. 880 in this state~~ for a ward who owns the
3 farmland, the claimant shall be the guardian on behalf of the ward.

4 **SECTION 132.** 75.03 (title) of the statutes is amended to read:

5 **75.03 (title) Redeeming lands of minors, ~~incompetents~~ or individuals**
6 **adjudicated incompetent.**

7 **SECTION 133.** 75.521 (8) of the statutes is amended to read:

8 75.521 (8) DUTY OF THE COURT TO ENTER JUDGMENT IN DEFAULT CASES. In the event
9 of the failure to redeem or answer by any person having the right to redeem or answer
10 as hereinabove provided, such person and all persons claiming under and through
11 that person, from and after the date of the filing of the list of tax liens in the office
12 of the clerk of the circuit court of the county, shall be forever barred and foreclosed
13 of all right, title and interest and equity of redemption in and to the parcel described
14 in such list of the tax liens, and upon filing of an affidavit of such default or failure
15 of redemption by the county treasurer of such county, the court in which such list of
16 tax liens is filed, shall render final judgment ordering and adjudging that the county
17 is vested with an estate in fee simple absolute in such lands, subject, however, to all
18 unpaid taxes and charges which are subsequent to the latest dated valid tax lien
19 appearing on the list specified in sub. (3) (b) and to recorded restrictions as provided
20 by s. 75.14 (4) and all persons, both natural and artificial, including the state of
21 Wisconsin, infants, ~~incompetents~~ individuals adjudicated incompetent, absentees,
22 and nonresidents who may have had any right, title, interest, claim, lien or equity
23 of redemption in such lands, are forever barred and foreclosed of such right, title,
24 interest, claim, lien or equity of redemption. Such judgment shall be deemed to be
25 based on the latest dated valid tax lien appearing on the list of tax liens. No personal

1 judgment shall be entered against any person having or claiming to have any right,
2 title or interest in or lien upon said lands. Such judgment shall have the effect of the
3 issuance of a tax deed or deeds and of judgment to bar former owners and quiet title
4 thereon.

5 **SECTION 134.** 75.521 (12) (b) of the statutes is amended to read:

6 75.521 (12) (b) This section shall apply to and be valid and effective with
7 respect to all defendants even though one or more be infants, ~~incompetents~~
8 individuals adjudicated incompetent, absentees or nonresidents of the state of
9 Wisconsin, provided that a guardian ad litem shall be appointed to serve for all
10 persons known or unknown who have or may have an interest in the lands described
11 in any list and who are or may be minors or ~~incompetents~~ individuals adjudicated
12 incompetent at the date of filing such list. Such guardian ad litem may be appointed
13 by the court without notice, and the fee for the services of the guardian ad litem as
14 fixed by the court shall be paid by the county.

15 **SECTION 135.** 75.521 (13) (b) of the statutes is amended to read:

16 75.521 (13) (b) In the event that the court shall determine that the issue raised
17 by the answer of the defendant is without merit, a final judgment to such effect shall
18 be entered ordering and adjudging that the county is vested with an estate in fee
19 simple absolute in such lands subject, however, to all unpaid taxes and charges which
20 are subsequent to the latest dated tax lien appearing on the list specified in sub. (3)
21 (b) and to recorded restrictions as provided by s. 75.14, and all persons, both natural
22 and artificial, including the state of Wisconsin, infants, ~~incompetents~~ individuals
23 adjudicated incompetent, absentees and nonresidents who may have had any right,
24 title, interest, claim, lien or equity of redemption in such lands, are forever barred
25 and foreclosed of such right, title, interest, claim, lien or equity of redemption. Such

1 judgment shall be deemed to be based on the latest dated tax lien appearing on the
2 list of tax liens. Such judgment shall have the effect of the issuance of a tax deed or
3 deeds and of judgment to bar former owners and quiet title thereon.

4 **SECTION 136.** 88.04 (2) of the statutes is amended to read:

5 88.04 (2) If any minor or individual adjudicated incompetent ~~person~~ owns land
6 in a drainage district or proposed drainage district or proposed annex to a drainage
7 district, the ~~general~~ guardian or next of kin of such the minor or ~~incompetent~~
8 individual may sign petitions under this chapter for and on behalf of the minor or
9 incompetent.

10 **SECTION 137.** 88.10 of the statutes is amended to read:

11 **88.10 Guardian ad litem; failure to appoint.** Failure to appoint a guardian
12 ad litem in a proceeding under this chapter is not jurisdictional, but when the failure
13 is discovered a guardian ad litem shall be appointed and an order served upon the
14 guardian ad litem to show cause why the minor or ~~incompetent~~ individual
15 adjudicated incompetent should not be bound by all prior proceedings pertaining to
16 the drainage district. On such a hearing the court shall enter such order or judgment
17 as the facts warrant.

18 **SECTION 138.** 92.03 (4) (intro.) of the statutes is amended to read:

19 92.03 (4) (intro.) "Landowner" means any person over 18 years of age and any
20 partnership, limited liability company, firm, or corporation that holds title to land
21 lying within a county, whether or not this land is subject to easement, mortgage, lien,
22 lease, or restrictive covenant, except that this term does not include any person who
23 is under guardianship, a person who is adjudicated incompetent, or a person who is
24 mentally ill. A person, partnership, limited liability company, firm, or corporation

1 is deemed to hold title to land if the person, partnership, limited liability company,
2 firm, or corporation has any of the following:

3 **SECTION 139.** 93.11 (6) (a) 1. of the statutes is amended to read:

4 93.11 (6) (a) 1. That the licensee is adjudicated incompetent.

5 **SECTION 140.** 114.135 (2) of the statutes is amended to read:

6 114.135 (2) NOTICE; CLAIM FOR DAMAGES. In case of any airport landing field or
7 landing and take-off strip owned by any city, village, town, or county or any union
8 of them, the commission or other body in charge of the operation and control of the
9 airport, landing field, or landing and take-off strip may prepare and record without
10 charge with the register of deeds plans and specifications showing the protection
11 privileges sought as described in sub. (1). The commission or other body in charge
12 shall send by registered mail with return receipt to each owner at his or her
13 last-known address a notice stating that the plans and specifications have been
14 recorded with the register of deeds' office, stating the county, time of recording, the
15 record number, and a brief description of the parcel of land or interest therein
16 affected. If the address of the owner cannot be ascertained or the registered letter
17 is returned unclaimed, notice shall be sent by registered mail to the person in
18 possession of the premises. If no person is in possession, then the notice shall be
19 posted in a conspicuous place on the land involved and published as a class 3 notice,
20 under ch. 985, in the area affected. The right of the owner to claim for damages for
21 the protection regulations imposed in the plans and specifications, or the removal of
22 obstructions shall be forever barred, unless the owner files a claim for damages with
23 the commission or other body in charge within 6 months from the receipt of the notice
24 from the commission, or other body in charge, or the posting and last publication.
25 The claim shall be verified and shall state the amount of damages claimed. The

1 commission or other body in charge may pay the damages, if it has available funds,
2 and the payment shall operate as a conveyance. If no claims for payment are filed
3 or if payment is made, the commission or other body in charge shall file an affidavit
4 for each parcel involved setting forth the rights acquired which shall be recorded by
5 the register of deeds without charge and when so recorded has the same effect as any
6 recorded instrument. If any owner is a minor or is adjudicated incompetent, the
7 notice may be sent by registered mail to the owner's guardian, if he or she has one,
8 and if there is none the circuit court of the county in which the land, or a larger part,
9 is located shall upon application of the commission or other body in charge appoint
10 a guardian to receive the notice, and to protect the rights of the owner. Any funds
11 payable to the owner shall be cared for in the manner provided in ch. 880 54. If the
12 commission or other body in charge determines that the damages claimed are
13 excessive, it shall so report to the governing body that established the airport,
14 landing field or landing and take-off strip in question and with its consent may
15 acquire in the name of the governmental body the protection privilege desired in the
16 manner set forth in sub. (1) or it may deposit with the county clerk an award and
17 notify the owner of the land involved in the method specified in this subsection. The
18 landowner may accept the award without prejudice to his or her right to claim and
19 contest for a greater sum. The landowner may, within a period of 6 months after
20 notice of the award, proceed as provided in ch. 32 to have the damages appraised.

21 **SECTION 141.** 115.76 (12) (b) 2. of the statutes is amended to read:

22 115.76 (12) (b) 2. The state, a county, or a child welfare agency, if a child was
23 made a ward of the state, county, or child welfare agency under ch. 54 or ch. 880, 2003
24 stats., or if a child has been placed in the legal custody or guardianship of the state,
25 county, or child welfare agency under ch. 48 or ch. 767.

1 **SECTION 142.** 115.797 (1) (c) of the statutes is amended to read:

2 115.797 (1) (c) “Party” means a competent adult pupil or the parent of a child
3 or ~~incompetent~~ adult pupil adjudicated incompetent who is the subject of a dispute,
4 and the local educational agency.

5 **SECTION 143.** 115.807 (intro.) of the statutes is amended to read:

6 **115.807 Transfer of parental rights at age of majority.** (intro.) When a
7 child with a disability, other than a child with a disability who has been ~~determined~~
8 ~~to be~~ adjudicated incompetent under ch. 880 in this state, reaches the age of 18, all
9 of the following apply:

10 **SECTION 144.** 146.34 (1) (d) of the statutes is amended to read:

11 146.34 (1) (d) “Guardian” means the person named by the court under ch. 48
12 or 54 or ch. 880, 2003 stats., having the duty and authority of guardianship.

13 **SECTION 145.** 146.81 (5) of the statutes is amended to read:

14 146.81 (5) “Person authorized by the patient” means the parent, guardian, or
15 legal custodian of a minor patient, as defined in s. 48.02 (8) and (11), the person
16 vested with supervision of the child under s. 938.183 or 938.34 (4d), (4h), (4m), or
17 (4n), the guardian of a patient ~~adjudged~~ adjudicated incompetent, ~~as defined in s.~~
18 ~~880.01 (3) and (4)~~ in this state, the personal representative or spouse of a deceased
19 patient, any person authorized in writing by the patient or a health care agent
20 designated by the patient as a principal under ch. 155 if the patient has been found
21 to be incapacitated under s. 155.05 (2), except as limited by the power of attorney for
22 health care instrument. If no spouse survives a deceased patient, “person authorized
23 by the patient” also means an adult member of the deceased patient’s immediate
24 family, as defined in s. 632.895 (1) (d). A court may appoint a temporary guardian
25 for a patient believed incompetent to consent to the release of records under this

1 section as the person authorized by the patient to decide upon the release of records,
2 if no guardian has been appointed for the patient.

3 **SECTION 146.** 146.82 (2) (a) 9. a. of the statutes is amended to read:

4 146.82 (2) (a) 9. a. In this subdivision, “abuse” has the meaning given in s. 51.62
5 (1) (ag); “neglect” has the meaning given in s. 51.62 (1) (br); and “parent” has the
6 meaning given in s. 48.02 (13), except that “parent” does not include the parent of a
7 minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),
8 or for whom a guardian is appointed under s. 54.10 or s. 880.33, 2003 stats.

9 **SECTION 147.** 146.82 (2) (a) 9. c. of the statutes is amended to read:

10 146.82 (2) (a) 9. c. If the patient, regardless of age, has a guardian appointed
11 under s. 54.10 or s. 880.33, 2003 stats., or if the patient is a minor with developmental
12 disability, as defined in s. 51.01 (5) (a), who has a parent or has a guardian appointed
13 under s. 48.831 and does not have a guardian appointed under s. 54.10 or s. 880.33,
14 2003 stats., information concerning the patient that is obtainable by staff members
15 of the agency or nonprofit corporation with which the agency has contracted is
16 limited, except as provided in subd. 9. e., to the nature of an alleged rights violation,
17 if any; the name, birth date and county of residence of the patient; information
18 regarding whether the patient was voluntarily admitted, involuntarily committed
19 or protectively placed and the date and place of admission, placement or
20 commitment; and the name, address and telephone number of the guardian of the
21 patient and the date and place of the guardian’s appointment or, if the patient is a
22 minor with developmental disability who has a parent or has a guardian appointed
23 under s. 48.831 and does not have a guardian appointed under s. 54.10 or s. 880.33,
24 2003 stats., the name, address and telephone number of the parent or guardian
25 appointed under s. 48.831 of the patient.

1 **SECTION 148.** 146.83 (4) (b) of the statutes is amended to read:

2 146.83 (4) (b) Conceal or withhold a patient health care record with intent to
3 prevent or obstruct an investigation or prosecution or with intent to prevent its
4 release to the patient, to his or her guardian ~~appointed under ch. 880~~, to his or her
5 health care provider with a statement of informed consent, or under the conditions
6 specified in s. 146.82 (2), or to a person with a statement of informed consent.

7 **SECTION 149.** 154.07 (2) of the statutes is amended to read:

8 154.07 (2) EFFECT OF DECLARATION. The desires of a qualified patient who is
9 competent supersede the effect of the declaration at all times. If a qualified patient
10 is adjudicated incompetent at the time of the decision to withhold or withdraw
11 life-sustaining procedures or feeding tubes, a declaration executed under this
12 subchapter is presumed to be valid. The declaration of a qualified patient who is
13 diagnosed as pregnant by the attending physician has no effect during the course of
14 the qualified patient's pregnancy. For the purposes of this subchapter, a physician
15 or inpatient health care facility may presume in the absence of actual notice to the
16 contrary that a person who executed a declaration was of sound mind at the time.

17 **SECTION 150.** 154.13 (2) (c) of the statutes is amended to read:

18 154.13 (2) (c) The court and all parties involved in proceedings in this state for
19 ~~guardianship of adjudication of incompetency and appointment of a guardian for the~~
20 declarant ~~under ch. 880~~, for emergency detention under s. 51.15, for involuntary
21 commitment under s. 51.20, or for protective placement or protective services under
22 ch. 55.

23 **SECTION 151.** 155.05 (1) of the statutes is amended to read:

24 155.05 (1) An individual who is of sound mind and has attained age 18 may
25 voluntarily execute a power of attorney for health care. An individual for whom an

1 adjudication of incompetence and appointment of a guardian of the person is in effect
2 ~~under ch. 880 in this state~~ is presumed not to be of sound mind for purposes of this
3 subsection executing a power of attorney for health care.

4 **SECTION 152.** 155.40 (2m) of the statutes is created to read:

5 155.40 (2m) If a principal, after executing a power of attorney for health care,
6 is adjudicated incompetent in this state, the power of attorney for health care
7 remains in effect, except that a court may under s. 54.46 (2) (b), for good cause shown,
8 revoke the power of attorney for health care and invalidate the power of attorney for
9 health care instrument, or limit the authority of the agent under the terms of the
10 power of attorney for health care instrument.

11 **SECTION 153.** 155.60 (1) of the statutes is amended to read:

12 155.60 (1) Nothing in this chapter prohibits an individual from petitioning a
13 court ~~under ch. 880 in this state~~ for a determination of incompetency and for
14 appointment of a guardian for an individual who is a principal under this chapter.

15 **SECTION 154.** 155.60 (2) of the statutes is amended to read:

16 155.60 (2) If ~~a court under s. 880.33 determines that~~ an individual who is a
17 principal is adjudicated incompetent ~~or makes a finding of limited incompetency~~
18 ~~under s. 880.33 (3) and appoints a guardian for the individual in this state and a~~
19 guardian is appointed for him or her, the power of attorney for health care executed
20 under this chapter by the principal is ~~revoked and the power of attorney for health~~
21 ~~care instrument is invalid, unless~~ remains in effect, except that the court finds that
22 may under s. 54.46 (2) (b), for good cause shown, revoke the power of attorney for
23 health care and invalidate the power of attorney for health care instrument should
24 ~~remain in effect. If,~~ or limit the authority of the agent under the terms of the power
25 of the power of attorney for health care instrument. Unless the court makes this

1 ~~finding revocation or limitation~~, the guardian for the individual may not make health
2 care decisions for the ward that may be made by the health care agent, unless the
3 guardian is the health care agent.

4 **SECTION 155.** 155.65 (2) (c) of the statutes is amended to read:

5 155.65 (2) (c) The court and all parties involved in proceedings in this state for
6 guardianship of adjudication of incompetency and appointment of a guardian for the
7 principal under ch. 880, for emergency detention under s. 51.15, for involuntary
8 commitment under s. 51.20, or for protective placement or protective services under
9 ch. 55.

10 **SECTION 156.** 179.65 of the statutes is amended to read:

11 **179.65 Power of estate of deceased or incompetent partner**
12 **adjudicated incompetent.** If a partner who is an individual dies or is adjudged
13 adjudicated incompetent to manage his or her person or property, the partner's
14 personal representative, guardian, conservator, or other legal representative may
15 exercise all of the partner's rights for the purpose of settling his or her estate or
16 administering his or her property, including any power the partner had to give an
17 assignee the right to become a limited partner. If a partner is a corporation, limited
18 liability company, trust, or other entity and is dissolved or terminated, the powers
19 of that partner may be exercised by its legal representative or successor.

20 **SECTION 157.** 180.0103 (11) of the statutes is amended to read:

21 180.0103 (11) "Individual" includes the estate of an individual adjudicated
22 incompetent or a deceased natural person.

23 **SECTION 158.** 181.0103 (14) of the statutes is amended to read:

1 181.0103 (14) "Individual" means a natural person. Except in ss. 181.0802 and
2 181.0840, "individual" includes the estate of an individual adjudicated incompetent
3 or a deceased natural person.

4 **SECTION 159.** 186.10 (2) of the statutes is amended to read:

5 186.10 (2) SHARES IN TRUST. Shares may be issued in trust, subject to any
6 conditions prescribed in the bylaws. Share accounts and deposit accounts may be
7 held by a member in trust for a beneficiary, held by a nonmember in trust for a
8 beneficiary who is a member or held by a nonmember custodian for a member
9 pursuant to ~~ss. 880.61 to 880.72~~ under ss. 54.854 to 54.898.

10 **SECTION 160.** 214.37 (4) (k) 1. of the statutes is amended to read:

11 214.37 (4) (k) 1. An affidavit stating that the person has standing under s.
12 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or assignment
13 of a decedent's estate or that the person is an heir of the decedent, or was guardian,
14 as defined in s. 54.01 (10) or s. 880.01 (3), 2003 stats., of the decedent at the time of
15 the decedent's death, and may obtain transfer of property of a decedent under s.
16 867.03.

17 **SECTION 161.** 215.14 (9) (title) of the statutes is amended to read:

18 215.14 (9) (title) ~~SAVINGS ACCOUNTS OF DECEASED OR INCOMPETENT PERSONS.~~

19 **SECTION 162.** 215.26 (8) (e) 1. of the statutes is amended to read:

20 215.26 (8) (e) 1. Submits an affidavit stating that the person has standing
21 under s. 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or
22 assignment of a decedent's estate or that the person is an heir of the decedent, or was
23 guardian, as defined in s. 54.01 (10) or s. 880.01 (3), 2003 stats., of the decedent at
24 the time of the decedent's death, and may obtain transfer of property of a decedent
25 under s. 867.03; and

1 **SECTION 163.** 223.03 (6) (intro.) of the statutes is amended to read:

2 223.03 **(6)** (intro.) To act as trustee, personal representative, registrar of stocks
3 and bonds, custodian, agent, guardian of estates, ~~guardian of any person~~ the estate
4 or guardian of the person of any individual subject to guardianship, assignee,
5 receiver, and in any other fiduciary capacity authorized by the division, subject to all
6 of the following conditions:

7 **SECTION 164.** 223.10 of the statutes is amended to read:

8 **223.10 Organizations as fiduciaries.** Except as provided in s. ~~880.35~~ 54.15
9 (7), no court or probate registrar in this state may appoint or issue letters to any
10 corporation, limited liability company, association, partnership or business trust as
11 trustee, personal representative, guardian, conservator, assignee, receiver, or in any
12 other fiduciary capacity unless such corporation, limited liability company,
13 association, partnership or business trust is subject to regulation and examination
14 under s. 223.105, or is a national bank, state or federal savings and loan association,
15 state or federal savings bank or federal credit union with authority to exercise such
16 powers, or is a foreign corporation operating under s. 223.12.

17 **SECTION 165.** 243.07 (3) (a) of the statutes is amended to read:

18 243.07 **(3)** (a) If, following execution of a durable power of attorney, ~~a court of~~
19 ~~the principal's domicile appoints a conservator, guardian of the estate, or other~~ the
20 individual who is the principal is adjudicated incompetent and a guardian is
21 appointed for him or her, a conservator is appointed for him or her under s. 54.76, or
22 another fiduciary is charged by a court with the management of all or some of the
23 principal's property or all of his or her property except specified exclusions, the agent
24 is accountable to the fiduciary as well as to the principal. Unless the court finds that
25 the durable power of attorney should remain in effect, the fiduciary has the same

1 ~~power to revoke or amend the power of attorney that the principal would have had~~
2 ~~if the principal were not disabled or incapacitated, the durable power of attorney~~
3 ~~executed under this chapter by the principal remains in effect, except that the court~~
4 ~~may under s. 54.46 (2) (c) or s. 54.76 (3g) or, for a fiduciary, after a hearing upon a~~
5 ~~petition, as applicable, for good cause shown, revoke the durable power of attorney~~
6 ~~and invalidate the basic power of attorney for finances and property or limit the~~
7 ~~authority of the agent under the terms of the basic power of attorney for finances and~~
8 ~~property. Unless the court makes this revocation or limitation, the guardian,~~
9 ~~conservator, or other fiduciary, as applicable, may not make decisions for the~~
10 ~~principal that may be made by the agent, unless the guardian, conservator, or~~
11 ~~fiduciary is the agent.~~

12 **SECTION 166.** 243.07 (3) (b) of the statutes is amended to read:

13 243.07 (3) (b) A principal may nominate, by a durable power of attorney, the
14 conservator, guardian of his or her estate, or guardian of his or her person for
15 consideration by the court if ~~protective~~ guardianship or conservatorship proceedings
16 for the principal's person or estate are thereafter commenced after execution of the
17 durable power of attorney. The court shall make its appointment in accordance with
18 the principal's most recent nomination in a durable power of attorney except for good
19 cause or disqualification.

20 **SECTION 167.** 243.10 (7) (c) of the statutes is created to read:

21 243.10 (7) (c) If a principal, after executing a durable power of attorney, is
22 adjudicated incompetent in this state, has a conservator appointed for him or her, or
23 a court charges another fiduciary with the management of all or some of his or her
24 property, a court may under s. 54.46 (2) (c) or 54.76 (3g) or, for a fiduciary, after a
25 hearing upon a petition, as applicable, for good cause shown, revoke the durable

1 power of attorney or limit the authority of the agent under the terms of the durable
2 power of attorney.

3 **SECTION 168.** 252.15 (2) (a) 4. a. of the statutes is amended to read:

4 252.15 (2) (a) 4. a. The individual has been adjudicated incompetent ~~under ch.~~
5 ~~880~~ in this state, is under 14 years of age or is unable to give consent because he or
6 she is unable to communicate due to a medical condition.

7 **SECTION 169.** 252.15 (2) (a) 4. b. of the statutes is amended to read:

8 252.15 (2) (a) 4. b. The health care provider obtains consent for the testing from
9 the individual's guardian, if the individual is adjudicated incompetent ~~under ch. 880~~
10 in this state; from the individual's parent or guardian, if the individual is under 14
11 years of age; or from the individual's closest living relative or another with whom the
12 individual has a meaningful social and emotional relationship if the individual is not
13 a minor nor adjudicated incompetent.

14 **SECTION 170.** 252.15 (2) (bm) (intro.) of the statutes is amended to read:

15 252.15 (2) (bm) (intro.) The health care provider that subjects a person to a test
16 for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to
17 HIV under par. (a) 3. shall provide the test subject and the test subject's guardian,
18 if the test subject is an individual found incompetent ~~under ch. 880~~ in this state, with
19 all of the following information:

20 **SECTION 171.** 252.15 (5) (a) 15. of the statutes is amended to read:

21 252.15 (5) (a) 15. To anyone who provides consent for the testing under sub. (2)
22 (a) 4. b., except that disclosure may be made under this subdivision only during a
23 period in which the test subject is adjudicated incompetent ~~under ch. 880~~ in this
24 state, is under 14 years of age, or is unable to communicate due to a medical
25 condition.

1 **SECTION 172.** 253.10 (3) (c) 7. of the statutes is amended to read:

2 253.10 **(3)** (c) 7. If the woman considering an abortion is a minor, unless s.
3 48.375 (4) (a) 2. applies, the requirements to provide information to the woman under
4 subds. 1. to 6. apply ~~to~~ also to require provision of the information to the individual
5 whose consent is also required under s. 48.375 (4) (a) 1. If the woman considering
6 an abortion ~~has been adjudicated~~ is an individual adjudicated incompetent under ch.
7 ~~880 in this state~~, the requirements to provide information to the woman under subds.
8 1. to 6. apply to also require provision of the information to the person appointed as
9 the woman’s guardian.

10 **SECTION 173.** 343.06 (1) (L) of the statutes is created to read:

11 343.06 **(1)** (L) To any person who has been declared incompetent under s. 54.25
12 (2) (c) 1. d. to apply for an operator’s license.

13 **SECTION 174.** 343.31 (title) of the statutes is amended to read:

14 **343.31** (title) **Revocation or suspension of licenses after certain**
15 **convictions or declarations.**

16 **SECTION 175.** 343.31 (2x) of the statutes is created to read:

17 343.31 **(2x)** The department shall suspend a person’s operating privilege upon
18 receiving a record of a declaration under s. 54.25 (2) (c) 1. d. that the person is
19 incompetent to apply for an operator’s license. The department may reinstate the
20 person’s operator’s license upon receiving a record of a declaration that the person
21 is no longer incompetent to apply for an operator’s license under s. 54.25 (2) (c) 1. d.,
22 if the person is otherwise qualified under this chapter to obtain an operator’s license.

23 **SECTION 176.** 343.31 (3) (a) of the statutes is amended to read:

1 343.31 **(3)** (a) Except as otherwise provided in this subsection or sub. (2m) or,
2 (2s), or (2x), all revocations or suspensions under this section shall be for a period of
3 one year.

4 **SECTION 177.** 403.308 (1) of the statutes is amended to read:

5 403.308 **(1)** In an action with respect to an instrument, the authenticity of, and
6 authority to make, each signature on the instrument is admitted unless specifically
7 denied in the pleadings. If the validity of a signature is denied in the pleadings, the
8 burden of establishing validity is on the person claiming validity, but the signature
9 is presumed to be authentic and authorized unless the action is to enforce the liability
10 of the purported signer and the signer is dead or adjudicated incompetent at the time
11 of trial of the issue of validity of the signature. If an action to enforce the instrument
12 is brought against a person as the undisclosed principal of a person who signed the
13 instrument as a party to the instrument, the plaintiff has the burden of establishing
14 that the defendant is liable on the instrument as a represented person under s.
15 403.402 (1).

16 **SECTION 178.** 440.121 of the statutes is created to read:

17 **440.121 Credential denial, nonrenewal, and revocation based on**
18 **incompetency.** Notwithstanding any other provision of chs. 440 to 480 relating to
19 issuance or renewal of a credential, the department shall deny an application for an
20 initial credential or credential renewal or revoke a credential issued to an individual
21 for whom the department receives a record of a declaration under s. 54.25 (2) (c) 1.
22 d. stating that the individual is incompetent to apply for a credential under chs. 440
23 to 480.

24 **SECTION 179.** 565.30 (2) of the statutes is amended to read:

1 565.30 (2) PAYMENT OF PRIZES TO MINORS. If the prize for a winning lottery ticket
2 or lottery share given to a minor is less than \$1,000, the administrator may make
3 payment of the prize by delivering to an adult member of the minor's family, or to the
4 minor's guardian, a check or draft payable to the minor. If the prize is \$1,000 or more,
5 the administrator shall make payment to the minor by paying or delivering the
6 money to a broker or financial institution under s. ~~880.65~~ 54.870 (1) (b).

7 **SECTION 180.** 609.65 (1) (intro.) of the statutes is amended to read:

8 609.65 (1) (intro.) If an enrollee of a limited service health organization,
9 preferred provider plan, or defined network plan is examined, evaluated, or treated
10 for a nervous or mental disorder pursuant to a court order under s. 880.33 (4m) or
11 (4r), 2003, stats., an emergency detention under s. 51.15, a commitment or a court
12 order under s. 51.20 or 880.33 (4m) or (4r), an order for protective placement or
13 protective services under ch. 55, an order under s. 55.14 or 55.19 (3) (e), or an order
14 under ch. 980, then, notwithstanding the limitations regarding participating
15 providers, primary providers, and referrals under ss. 609.01 (2) to (4) and 609.05 (3),
16 the limited service health organization, preferred provider plan, or defined network
17 plan shall do all of the following:

18 **SECTION 181.** 628.10 (1) of the statutes is amended to read:

19 628.10 (1) GENERAL. An intermediary's license issued under s. 628.04 remains
20 in force until it is revoked or limited under sub. (2), until it is suspended under sub.
21 (2) or s. 227.51 (3), until it is surrendered or until the licensee dies or is in this state
22 adjudicated incompetent as defined in s. 880.01 (4).

23 **SECTION 182.** 705.04 (2) of the statutes is amended to read:

24 705.04 (2) If the account is a P.O.D. account, on the death of the original payee
25 or the survivor of 2 or more original payees, any sums remaining on deposit belong

1 to the P.O.D. beneficiaries if surviving, or to the survivor of them if one or more die
2 before the original payee. Payment may be made to a minor P.O.D. beneficiary,
3 however, only in accordance with a procedure approved in ch. 880 54. If 2 or more
4 P.O.D. beneficiaries survive, they shall be entitled to payment of the sums on deposit
5 in accordance with such written instructions as may have been filed with the
6 financial institution, and if none, to payment in equal shares. There is no right of
7 survivorship in the event of the death of one of 2 or more P.O.D. beneficiaries after
8 their entitlement to payment has matured unless the terms of the account expressly
9 provide for survivorship or for the account's continuance as a joint account.

10 **SECTION 183.** 706.03 (4) of the statutes is amended to read:

11 706.03 (4) A conveyance by a minor or an individual adjudicated incompetent
12 in this state is effective only if executed by an authorized guardian on behalf of ~~such~~
13 ~~the~~ minor or individual adjudicated incompetent. ~~In the case of a limited~~
14 ~~incompetency, such~~ This restriction does not apply if ~~an individual has been~~
15 ~~determined competent to make contracts under s. 880.33 (3)~~ the individual's
16 adjudication of incompetency permits him or her to contract.

17 **SECTION 184.** 706.09 (1) (f) of the statutes is amended to read:

18 706.09 (1) (f) *Lack of authority of officers, agents or fiduciaries.* Any defect or
19 insufficiency in authorization of any purported officer, partner, manager, agent, or
20 fiduciary to act in the name or on behalf of any corporation, partnership, limited
21 liability company, principal, trust, estate, minor, individual adjudicated
22 incompetent, or other holder of an interest in real estate purported to be conveyed
23 in a representative capacity, after the conveyance has appeared of record for 5 years.

24 **SECTION 185.** 753.30 (1) of the statutes is amended to read:

1 753.30 (1) The clerk of circuit court shall keep the books and records under s.
2 59.40 (2) (a) to (i) and ch. 799 and perform the duties under s. 59.40 (2) (j) to (q) for
3 all matters in the circuit court except those under chs. 48, 54, and 851 to 880 879.
4 In counties having only one circuit judge, the circuit judge, with the approval of the
5 chief judge of the judicial administrative district, may appoint the clerk of court
6 register in probate. The appointments are revocable at the pleasure of the circuit
7 judge. Appointments and revocations shall be in writing and shall be filed in the
8 office of the register in probate. If appointed for this purpose, the clerk has the
9 powers and duties of registers in probate. In prosecutions of ordinance violations in
10 the circuit court in counties having a population of 500,000 or more, an assistant
11 chief deputy clerk appointed under sub. (3) (a), or one of his or her deputies, shall
12 enter upon the records of the court a statement of the offense charged, which shall
13 stand as the complaint, unless the court directs formal complaint be made. The
14 defendant's plea shall be guilty or not guilty, and shall be entered as not guilty on
15 failure to plead, which plea of not guilty shall put all matters in such case at issue,
16 any other provisions of law notwithstanding.

17 **SECTION 186.** 757.48 (1) (a) of the statutes is amended to read:

18 757.48 (1) (a) Except as provided in s. 879.23 (4), in all matters in which a
19 guardian ad litem is appointed by the court, the guardian ad litem shall be an
20 attorney admitted to practice in this state. In order to be appointed as a guardian
21 ad litem under s. 767.045, an attorney shall have completed 3 hours of approved
22 continuing legal education that relates to the functions and duties of a guardian ad
23 litem under ch. 767 and that includes training on the dynamics of domestic violence
24 and the effects of domestic violence on victims of domestic violence and on children.

1 In order to be appointed as a guardian ad litem under s. 54.40 (1), an attorney shall
2 have complied with SRC chapter 36.

3 **SECTION 187.** 757.48 (3) of the statutes is amended to read:

4 757.48 (3) No guardian ad litem may be permitted to receive any ~~money or~~
5 ~~property assets or income~~ of his or her ward, nor may any bond be required of a
6 guardian ad litem, but all ~~money or property of his or her~~ assets or income of the ward
7 may be paid or delivered to ~~a general guardian of his or her property~~ the ward's
8 guardian of the estate, subject to the exceptions of s. 880.04 54.12.

9 **SECTION 188.** 757.69 (1) (h) of the statutes is amended to read:

10 757.69 (1) (h) Hear petitions for commitment and conduct probable cause
11 hearings under ss. 51.20, 51.45 and 55.06 (11), conduct reviews of guardianships
12 under ch. 54 and reviews of protective placements and protective services under ~~chs.~~
13 ~~ch. 55 and 880~~, advise a person alleged to be mentally ill of his or her rights under
14 the United States and Wisconsin constitutions, and, if the person claims or appears
15 to be unable to afford counsel, refer the person to the authority for indigency
16 determinations specified under s. 977.07 (1) or, if the person is a child, refer that child
17 to the state public defender, who shall appoint counsel for the child without a
18 determination of indigency, as provided in s. 48.23 (4).

19 **SECTION 189.** 758.19 (6) (a) of the statutes is amended to read:

20 758.19 (6) (a) In this subsection, "guardian ad litem costs" means the costs of
21 guardian ad litem compensation that a county incurs under ch. 48, 54, 55, 767, 880
22 or 938 or ch. 880, 2003 stats., that the county has final legal responsibility to pay, or
23 that the county is unable to recover from another person and that does not exceed
24 the per hour rate established for time spent in court by private attorneys under s.
25 977.08 (4m) (b).

1 **SECTION 190.** 758.19 (6) (d) 1. of the statutes is amended to read:

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

5 **SECTION 191.** 758.19 (6) (d) 2. of the statutes is amended to read:

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

10 **SECTION 192.** 765.11 (1) of the statutes is amended to read:

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

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

6 **SECTION 193.** 766.51 (7) of the statutes is amended to read:

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

9 **SECTION 194.** 767.29 (3) (a) of the statutes is amended to read:

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

19 **SECTION 195.** 786.01 of the statutes is amended to read:

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

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

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

4 **SECTION 196.** 786.02 of the statutes is amended to read:

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

11 **SECTION 197.** 786.03 of the statutes is amended to read:

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

22 **SECTION 198.** 786.04 of the statutes is amended to read:

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

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

10 **SECTION 199.** 786.05 of the statutes is amended to read:

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

17 **SECTION 200.** 786.06 (intro.) of the statutes is amended to read:

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

22 **SECTION 201.** 786.06 (1) of the statutes is amended to read:

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

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

3 **SECTION 202.** 786.06 (2) of the statutes is amended to read:

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

8 **SECTION 203.** 786.07 of the statutes is amended to read:

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

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

4 **SECTION 204.** 786.08 (1) (a) of the statutes is amended to read:

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

14 **SECTION 205.** 786.08 (1) (b) of the statutes is amended to read:

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

21 **SECTION 206.** 786.08 (2) of the statutes is amended to read:

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

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

3 **SECTION 207.** 786.10 of the statutes is amended to read:

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

14 **SECTION 208.** 786.13 of the statutes is amended to read:

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

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

3 **SECTION 209.** 786.14 of the statutes is amended to read:

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

9 **SECTION 210.** 786.15 of the statutes is amended to read:

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

17 **SECTION 211.** 786.16 of the statutes is amended to read:

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

24 **SECTION 212.** 786.17 (1) of the statutes is amended to read:

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

12 **SECTION 213.** 786.18 (1) of the statutes is amended to read:

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

19 **SECTION 214.** 786.19 of the statutes is amended to read:

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

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

8 **SECTION 215.** 786.20 of the statutes is amended to read:

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

14 **SECTION 216.** 786.21 of the statutes is amended to read:

15 **786.21 Estate of individual adjudicated incompetent, management.**
16 The real estate of an individual adjudicated incompetent ~~person shall~~ may not be
17 leased for more than 5 years, or mortgaged or disposed of otherwise than is
18 authorized and directed by this chapter.

19 **SECTION 217.** 786.25 (1) of the statutes is amended to read:

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

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

3 **SECTION 218.** 786.25 (2) of the statutes is amended to read:

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

14 **SECTION 219.** 786.25 (3) of the statutes is amended to read:

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

24 **SECTION 220.** 801.11 (2) (intro.) of the statutes is amended to read:

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

7 **SECTION 221.** 801.11 (2) (b) of the statutes is amended to read:

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

14 **SECTION 222.** 802.10 (1) of the statutes is amended to read:

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

21 **SECTION 223.** 803.01 (3) (title) of the statutes is amended to read:

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

24 **SECTION 224.** 803.01 (3) (a) of the statutes is amended to read:

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

18 **SECTION 225.** 803.01 (3) (b) 2. of the statutes is amended to read:

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

1 whom the minor or ~~mentally~~ individual adjudicated incompetent resides or who has
2 the minor or ~~mentally~~ individual adjudicated incompetent in custody.

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

4 803.01 (3) (b) 3. When the defendant is a minor 14 years of age or over, upon
5 the defendant's application made within 20 days after the service of the summons or
6 other original process; if the defendant is under that age or neglects to so apply or
7 is ~~mentally~~ adjudicated incompetent or alleged to be incompetent, then upon the
8 court's own motion or upon the application of any other party or any relative or friend
9 or the defendant's guardian upon such notice of the application as the court directs
10 or approves.

11 **SECTION 227.** 803.01 (3) (b) 4. of the statutes is amended to read:

12 803.01 (3) (b) 4. If the appointment, for a plaintiff or a defendant, is after the
13 commencement of the action, it shall be upon motion entitled in the action. If the
14 appointment is for a plaintiff and is made before the action is begun, the petition for
15 appointment shall be entitled in the name of the action proposed to be brought by the
16 minor or individual adjudicated incompetent or alleged to be incompetent, and the
17 appointment may be made before the summons is served. Upon the filing of a
18 petition for appointment before summons, the clerk may impose the fee required for
19 the commencement of an action, but in that event no additional commencement fee
20 may be imposed when the summons is filed.

21 **SECTION 228.** 803.01 (3) (b) 5. of the statutes is amended to read:

22 803.01 (3) (b) 5. The motion or petition under subd. 4. shall state facts showing
23 the need and authority for the appointment. The hearing on the motion or petition
24 under subd. 4., if made by a minor or ~~mentally~~ an individual adjudicated incompetent
25 or alleged to be incompetent ~~person~~ for such ~~person's~~ the minor's or individual's

1 guardian ad litem, may be held without notice and the appointment made by order.
2 If the motion or petition is made for a minor or ~~mentally~~ an individual adjudicated
3 incompetent or alleged to be incompetent who is an adverse party, the hearing shall
4 be on notice.

5 **SECTION 229.** 803.01 (3) (b) 6. of the statutes is amended to read:

6 803.01 (3) (b) 6. If a compromise or a settlement of an action or proceeding to
7 which an unrepresented minor or ~~mentally~~ individual adjudicated incompetent or
8 alleged to be incompetent ~~person~~ is a party is proposed, a guardian ad litem shall be
9 appointed, upon petition in a special proceeding, to protect the interest of the minor
10 or ~~incompetent~~ individual even though commencement of an action is not proposed.
11 Any compromise or settlement shall be subject to s. 807.10.

12 **SECTION 230.** 803.01 (3) (c) (title) of the statutes is amended to read:

13 803.01 (3) (c) (title) *Procedure where minor or incompetent not represented for*
14 *unrepresented person.*

15 **SECTION 231.** 803.01 (3) (c) 2. (intro.) of the statutes is amended to read:

16 803.01 (3) (c) 2. (intro.) If the court finds after the entry of judgment or final
17 order that a person, who at the time of entry of judgment or final order was a minor
18 or ~~mentally~~ an individual adjudicated or alleged to be incompetent, was not
19 represented in the action or proceeding by an attorney of record or otherwise
20 represented as provided in par. (a) the judgment or order shall be vacated on motion
21 of:

22 **SECTION 232.** 803.01 (3) (c) 2. a. of the statutes is amended to read:

23 803.01 (3) (c) 2. a. The minor or ~~mentally~~ individual adjudicated or alleged to
24 be incompetent, for whom no appointment was made, at any time prior to the
25 expiration of one year after the disability is removed; or

1 **SECTION 233.** 803.01 (3) (c) 2. b. of the statutes is amended to read:

2 803.01 (3) (c) 2. b. The personal representative of such the minor or mentally
3 individual adjudicated or alleged to be incompetent at any time prior to the
4 expiration of one year after the death of the minor or ~~mentally incompetent~~
5 individual.

6 **SECTION 234.** 803.10 (2) of the statutes is amended to read:

7 803.10 (2) INCOMPETENCY. If a party ~~becomes~~ is adjudicated incompetent, the
8 court upon motion served as provided in sub. (1) may allow the action to be continued
9 by or against the ~~incompetent~~ party's representative.

10 **SECTION 235.** 804.02 (1) (b) of the statutes is amended to read:

11 804.02 (1) (b) *Notice and service.* The petitioner shall thereafter serve a notice
12 upon each person named in the petition as an expected adverse party, together with
13 a copy of the petition, stating that the petitioner will move the court, at a time and
14 place named therein, for the order described in the petition. At least 20 days before
15 the date of hearing the notice shall be served either within or without the state in the
16 manner provided in s. 801.11 for service of summons; but if such service cannot with
17 due diligence be made upon any expected adverse party named in the petition, the
18 court may make such order as is just for service by publication or otherwise, and shall
19 appoint, for persons not served in the manner provided in s. 801.11, an attorney who
20 shall represent them, and, in case they are not otherwise represented, shall
21 cross-examine the deponent. If any expected adverse party is a minor or is an
22 individual adjudicated or alleged to be incompetent, s. 803.01 (3) applies.

23 **SECTION 236.** 806.04 (4) (intro.) of the statutes is amended to read:

24 806.04 (4) REPRESENTATIVES, ETC. (intro.) Any person interested as or through
25 a personal representative, trustee, guardian, or other fiduciary, creditor, devisee,

1 legatee, heir, next of kin, or cestui que trust in the administration of a trust, or of the
2 estate of a decedent, infant, ~~mental~~ individual adjudicated incompetent, or
3 insolvent, may have a declaration of rights or legal relations in respect to the
4 administration of the trust or estate for any of the following purposes:

5 **SECTION 237.** 807.10 (title) of the statutes is amended to read:

6 **807.10 (title) Settlements in behalf of minors or individuals**
7 **adjudicated incompetent; judgments.**

8 **SECTION 238.** 807.10 (1) of the statutes is amended to read:

9 807.10 (1) A compromise or settlement of an action or proceeding to which a
10 minor or ~~mentally~~ individual adjudicated incompetent ~~person~~ is a party may be made
11 by the ~~general~~ guardian, if the guardian is represented by an attorney, or the
12 guardian ad litem with the approval of the court in which such action or proceeding
13 is pending.

14 **SECTION 239.** 807.10 (2) of the statutes is amended to read:

15 807.10 (2) A cause of action in favor of or against a minor or ~~mentally~~ individual
16 adjudicated incompetent ~~person~~ may, without the commencement of an action
17 thereon, be settled by the ~~general~~ guardian, if the guardian is represented by an
18 attorney, with the approval of the court appointing the ~~general~~ guardian, or by the
19 guardian ad litem with the approval of any court of record. An order approving a
20 settlement or compromise under this subsection and directing the consummation
21 thereof shall have the same force and effect as a judgment of the court.

22 **SECTION 240.** 807.10 (3) of the statutes is amended to read:

23 807.10 (3) If the amount awarded to a minor or individual adjudicated
24 incompetent by judgment or by an order of the court approving a compromise
25 settlement of a claim or cause of action of the minor or individual does not exceed

1 \$10,000 the amount specified under s. 867.03 (1g) (intro.), exclusive of interest and
2 costs and disbursements, and if there is no general guardian of the ward, the court
3 may upon application by the guardian ad litem after judgment, or in the order
4 approving settlement, fix and allow the expenses of the action, including attorney
5 fees and fees of guardian ad litem, authorize the payment of the total recovery to the
6 clerk of the court, authorize and direct the guardian ad litem upon the payment to
7 satisfy and discharge the judgment, or to execute releases to the parties entitled
8 thereto, and enter into a stipulation dismissing the action upon its merits. The order
9 shall also direct the clerk upon the payment to pay the costs and, disbursements, and
10 expenses of the action and to dispose of the balance in ~~one of the manners~~ a manner
11 provided in s. ~~880.04 (2)~~ 54.12 (1), as selected by the court. The fee for the clerk's
12 services for handling, depositing, and disbursing funds under this subsection is
13 prescribed in s. 814.61 (12) (a).

14 **SECTION 241.** 807.13 (2) (intro.) of the statutes is amended to read:

15 807.13 (2) EVIDENTIARY HEARINGS. (intro.) In civil actions and proceedings,
16 including those under chs. 48, 51, 54, and 55 and ~~880~~, the court may admit oral
17 testimony communicated to the court on the record by telephone or live audiovisual
18 means, subject to cross-examination, when:

19 **SECTION 242.** 808.075 (4) (f) (intro.) of the statutes is amended to read:

20 808.075 (4) (f) (intro.) In a case under ch. ~~880~~ 54:

21 **SECTION 243.** 808.075 (4) (f) 1. of the statutes is amended to read:

22 808.075 (4) (f) 1. Review a bond under s. ~~880.125, 880.13 or 880.60 (9)~~ 54.46 (4)
23 or 54.852 (9).

24 **SECTION 244.** 808.075 (4) (f) 2. of the statutes is amended to read:

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

2 3.

3 **SECTION 245.** 808.075 (4) (f) 3. of the statutes is amended to read:

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

5 **SECTION 246.** 808.075 (4) (f) 4. of the statutes is amended to read:

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

7 **SECTION 247.** 808.075 (4) (f) 5. of the statutes is amended to read:

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

10 **SECTION 248.** 808.075 (4) (f) 6. of the statutes is amended to read:

11 808.075 (4) (f) 6. Approval of management of property under s. ~~880.19~~ 54.19
12 or 54.20.

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

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

16 **SECTION 250.** 808.075 (4) (f) 8. of the statutes is amended to read:

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

19 **SECTION 251.** 808.075 (4) (f) 9. of the statutes is amended to read:

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

21 **SECTION 252.** 808.075 (4) (f) 11. of the statutes is amended to read:

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

23 **SECTION 253.** 808.075 (4) (f) 12. of the statutes is amended to read:

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

1 **SECTION 254.** 808.075 (4) (f) 13. of the statutes is amended to read:

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

4 **SECTION 255.** 813.12 (5) (d) of the statutes is amended to read:

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

9 **SECTION 256.** 813.123 (3) (b) 1. of the statutes is amended to read:

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

12 **SECTION 257.** 814.61 (12) (a) 1. of the statutes is amended to read:

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

18 **SECTION 258.** 814.66 (1) (b) 2. of the statutes is amended to read:

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

25 **SECTION 259.** 814.66 (1) (m) of the statutes is amended to read:

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

4 **SECTION 260.** 814.66 (1) (n) of the statutes is created to read:

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

9 **SECTION 261.** 842.25 of the statutes is amended to read:

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

13 **SECTION 262.** 851.72 (2) of the statutes is amended to read:

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

20 **SECTION 263.** 851.72 (3) of the statutes is amended to read:

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

1 **SECTION 264.** 851.73 (1) (a) of the statutes is amended to read:

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

7 **SECTION 265.** 854.08 (5) (title) of the statutes is amended to read:

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

10 **SECTION 266.** 854.13 (2) (f) of the statutes is amended to read:

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

15 **SECTION 267.** 854.17 of the statutes is amended to read:

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

19 **SECTION 268.** 857.15 of the statutes is amended to read:

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

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

8 **SECTION 269.** 860.13 of the statutes is amended to read:

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

17 **SECTION 270.** 862.03 (title) of the statutes is amended to read:

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

20 **SECTION 271.** 862.03 (1) of the statutes is amended to read:

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

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

3 **SECTION 272.** 862.03 (4) of the statutes is amended to read:

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

9 **SECTION 273.** 863.43 of the statutes is amended to read:

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

17 **SECTION 274.** 863.45 of the statutes is amended to read:

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

24 **SECTION 275.** 865.02 (1) (b) 1. of the statutes is amended to read:

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

7 **SECTION 276.** 865.03 (1) of the statutes is amended to read:

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

17 **SECTION 277.** 867.03 (1c) of the statutes is amended to read:

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

20 **SECTION 278.** 878.07 (4) of the statutes is amended to read:

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

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

4 **SECTION 279.** 879.09 of the statutes is amended to read:

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

15 **SECTION 280.** 879.11 of the statutes is amended to read:

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

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

3 **SECTION 281.** 879.13 of the statutes is amended to read:

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

12 **SECTION 282.** 879.15 (1) of the statutes is amended to read:

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

17 **SECTION 283.** 879.19 of the statutes is amended to read:

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

25 **SECTION 284.** 879.23 (1) of the statutes is amended to read:

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

10 **SECTION 285.** 879.23 (4) (a) of the statutes is amended to read:

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

19 **SECTION 286.** 879.23 (4) (c) of the statutes is amended to read:

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

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

5 **SECTION 287.** 879.23 (5) of the statutes is amended to read:

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

11 **SECTION 288.** 879.26 of the statutes is amended to read:

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

16 **SECTION 289.** 879.27 (4) of the statutes is amended to read:

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

21 **SECTION 290.** 879.27 (5) of the statutes is amended to read:

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

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

3 **SECTION 291.** 879.57 of the statutes is amended to read:

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

20 **SECTION 292.** Chapter 880 (title) of the statutes is repealed.

21 **SECTION 293.** Subchapter I (title) of chapter 880 [precedes 880.01] of the
22 statutes is repealed.

23 **SECTION 294.** 880.01 (intro.) of the statutes is repealed.

24 **SECTION 295.** 880.01 (1) of the statutes is renumbered 54.01 (2) and amended
25 to read:

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

8 **SECTION 296.** 880.01 (2) of the statutes is renumbered 54.01 (8) and amended
9 to read:

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

20 **SECTION 297.** 880.01 (3) of the statutes is renumbered 54.01 (10) and amended
21 to read:

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

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

3 **SECTION 298.** 880.01 (4) of the statutes is repealed.

4 **SECTION 299.** 880.01 (5) of the statutes is repealed.

5 **SECTION 300.** 880.01 (6) of the statutes is repealed.

6 **SECTION 301.** 880.01 (7) of the statutes is renumbered 54.01 (20) and amended
7 to read:

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

10 **SECTION 302.** 880.01 (7m) of the statutes is renumbered 55.14 (1) (b) and
11 amended to read:

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

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

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

1 **SECTION 303.** 880.01 (8) of the statutes is renumbered 54.01 (22) and amended
2 to read:

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

8 **SECTION 304.** 880.01 (9) of the statutes is renumbered 54.01 (31) and amended
9 to read:

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

17 **SECTION 305.** 880.01 (10) of the statutes is renumbered 54.01 (37) and amended
18 to read:

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

21 **SECTION 306.** 880.02 of the statutes is renumbered 54.30 (1) and amended to
22 read:

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

1 shall extend to all of ~~his or her estate~~ the ward's income and assets in this state and
2 shall exclude the jurisdiction of every other circuit court, except as provided in ch.
3 786. Jurisdiction under this subsection also extends to the petition by a foreign
4 guardian for the receipt and acceptance of a foreign guardianship, except as provided
5 in s. 54.38 (1m) and, if the petition is granted, to the accepted guardianship.

6 **SECTION 307.** 880.03 of the statutes is repealed.

7 **SECTION 308.** 880.04 (title) of the statutes is renumbered 54.12 (title) and
8 amended to read:

9 **54.12 (title) Exceptions to appointment of guardian.**

10 **SECTION 309.** 880.04 (1) of the statutes is renumbered 54.46 (6) and amended
11 to read:

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

19 **SECTION 310.** 880.04 (2) of the statutes is renumbered 54.12 (1) and amended
20 to read:

21 54.12 (1) SMALL ESTATES. If a minor or an individual found incompetent, except
22 for his or her incapacity, is entitled to ~~possession of personal property of a value of~~
23 ~~\$10,000~~ possess assets valued at the amount specified in s 867.03 (1g) (intro.) or less,
24 any court ~~wherein~~ in which an action or proceeding involving said property the assets

1 is pending may, ~~in its discretion~~, without requiring the appointment of a guardian,
2 order that the register i probate do one of the following:

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

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

16 (c) ~~Payment~~ Make payment to the minor.

17 (d) ~~Payment~~ Make payment to the person having actual or legal custody of the
18 incompetent or to the person providing for the incompetent's care and maintenance
19 of the individual found incompetent for the benefit of the individual found
20 incompetent.

21 **SECTION 311.** 880.04 (2m) of the statutes is renumbered 54.12 (2) and amended
22 to read:

23 54.12 (2) INFORMAL ADMINISTRATION. If ~~a minor or an~~ individual found
24 incompetent, except for his or her incapacity, a minor, or a spendthrift is entitled to
25 possession of ~~personal property~~ assets of a value of \$5,000 the amount specified in

1 s. 867.03 (1g) (intro.) or less from an estate administered through informal
2 administration under ch. 865, the personal representative may, without the
3 appointment of a guardian, do any of the following:

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

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

10 **SECTION 312.** 880.04 (3) of the statutes is renumbered 54.12 (3) and amended
11 to read:

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

19 **SECTION 313.** 880.05 of the statutes is renumbered 54.30 (2) and amended to
20 read:

21 54.30 (2) VENUE. All petitions for guardianship of residents of the state shall
22 be directed to the circuit court of the county of residence of the ~~person subject to~~
23 guardianship proposed ward or of the county in which the ~~person proposed ward~~ is
24 physically present. A petition for guardianship of the person or estate of a
25 nonresident may be directed to the circuit court of any county where in which the

1 person nonresident or any property assets of the nonresident may be found or of the
2 county in which the petitioner proposes that the proposed ward resides. A petition
3 for receipt and acceptance of a foreign guardianship shall be directed to the circuit
4 court of the county in which the foreign ward resides or intends to reside.

5 **SECTION 314.** 880.06 (title) of the statutes is renumbered 54.30 (3) (title).

6 **SECTION 315.** 880.06 (1) of the statutes is renumbered 54.30 (3) (a) and
7 amended to read:

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

24 **SECTION 316.** 880.06 (2) of the statutes is renumbered 54.30 (3) (b) (intro.) and
25 amended to read:

1 54.30 (3) (b) (intro.) *Change of residence of ward or guardian.* If a guardian
2 removes from the county where appointed to another county within the state or a
3 ward removes from the county in which he or she has resided changes residence from
4 one county to another county within the state, the circuit court for the county in
5 which the ward resides may appoint a new guardian as provided by law for the
6 appointment of a guardian. Upon verified petition of the new guardian, accompanied
7 by a certified copy of appointment and bond if the appointment is in another county,
8 and upon the notice prescribed by s. 879.05 to the originally appointed guardian,
9 unless he or she is the same person, and to any other persons that the court shall
10 order, the court of original appointment may order the guardianship accounts settled
11 and the property delivered to the new guardian. venue may be transferred to the
12 ward's new county of residence under the following procedure:

13 **SECTION 317.** 880.07 (title) of the statutes is renumbered 54.34 (title) and
14 amended to read:

15 **54.34** (title) **Petition; fees for guardianship or for receipt and**
16 **acceptance of a foreign guardianship.**

17 **SECTION 318.** 880.07 (1) (intro.) of the statutes is renumbered 54.34 (1) (intro.)
18 and amended to read:

19 54.34 (1) (intro.) Any ~~relative, public official or other person,~~ may petition for
20 the appointment of a guardian of a person subject to guardianship. Such for an
21 individual. The petition shall state, so far as may be all of the following, if known
22 to the petitioner:

23 **SECTION 319.** 880.07 (1) (a) of the statutes is renumbered 54.34 (1) (a).

24 **SECTION 320.** 880.07 (1) (b) of the statutes is renumbered 54.34 (1) (b) and
25 amended to read:

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

3 **SECTION 321.** 880.07 (1) (c) of the statutes is renumbered 54.34 (1) (c).

4 **SECTION 322.** 880.07 (1) (d) of the statutes is renumbered 54.34 (1) (d) and
5 amended to read:

6 54.34 (1) (d) Any assets of the proposed ward previously derived from or
7 benefits of the proposed ward now due and payable from the U.S. department of
8 veterans affairs.

9 **SECTION 323.** 880.07 (1) (e) of the statutes is renumbered 54.34 (1) (e).

10 **SECTION 324.** 880.07 (1) (f) of the statutes is renumbered 54.34 (1) (f).

11 **SECTION 325.** 880.07 (1) (g) of the statutes is renumbered 54.34 (1) (g).

12 **SECTION 326.** 880.07 (1) (h) of the statutes is renumbered 54.34 (1) (h) and
13 amended to read:

14 54.34 (1) (h) The names and post-office addresses of ~~the spouse and~~
15 ~~presumptive or apparent adult heirs of the proposed ward, and all other persons~~
16 ~~believed by the petitioner to be interested parties.~~

17 **SECTION 327.** 880.07 (1) (i) of the statutes is renumbered 54.34 (1) (i) and
18 amended to read:

19 54.34 (1) (i) The name and post-office address of the person or institution
20 ~~having the, if any, that has care and custody of the proposed ward or the facility, if~~
21 any, that is providing care to the proposed ward.

22 **SECTION 328.** 880.07 (1) (j) of the statutes is renumbered 54.34 (1) (j) and
23 amended to read:

24 54.34 (1) (j) The interest of the petitioner, and, if a public official ~~or creditor~~ is
25 the petitioner, ~~then the fact of indebtedness or continuing liability for maintenance~~

1 or continuing breach of the public peace as well as the authority of the petitioner to
2 act.

3 **SECTION 329.** 880.07 (1m) of the statutes is repealed.

4 **SECTION 330.** 880.07 (2) of the statutes is renumbered 54.34 (2) and amended
5 to read:

6 54.34 (2) A petition for guardianship may also include an application for
7 protective placement or protective services or both under ch. 55.

8 **SECTION 331.** 880.07 (3) of the statutes is repealed.

9 **SECTION 332.** 880.07 (4) of the statutes is repealed.

10 **SECTION 333.** 880.075 of the statutes is renumbered 54.44 (1) (b) and amended
11 to read:

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

20 **SECTION 334.** 880.08 (intro.) of the statutes is renumbered 54.38 (2) (intro.) and
21 amended to read:

22 54.38 (2) NOTICE OF HEARING FOR APPOINTMENTS AND REHEARINGS, SERVICE, AND
23 DELIVERY (intro.) Upon the filing of a petition for guardianship, ~~and the court being~~
24 of the person or of the estate, including appointment or change of a guardian, if the
25 court is satisfied as to compliance with s. ~~880.07~~ 54.34, the court shall, except as

1 provided in sub. (3), order the petitioner to serve notice on the proposed ward and
2 guardian, if any, and to deliver notice to interested persons of the time and place of
3 the hearing, as follows:

4 **SECTION 335.** 880.08 (1) (title) of the statutes is repealed.

5 **SECTION 336.** 880.08 (1) of the statutes is renumbered 54.38 (2) (a) and
6 amended to read:

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

1 attend if requested by the proposed ward, guardian ad litem, adversary counsel or
2 other interested person. Such notice shall also be given personally or by mail at least
3 10 days before the hearing to the proposed incompetent's counsel, if any, guardian
4 ad litem, presumptive adult heirs or other persons who have legal or physical custody
5 of the proposed incompetent whose names and addresses are known to the petitioner
6 or can with reasonable diligence be ascertained, to any governmental or private
7 agency, charity or foundation from which the proposed incompetent is receiving aid
8 and to such other persons or entities as the court may require. The court shall then
9 proceed under s. 880.33 court.

10 **SECTION 337.** 880.08 (2) of the statutes is repealed.

11 **SECTION 338.** 880.08 (3) (title) of the statutes is repealed.

12 **SECTION 339.** 880.08 (3) (am) (intro.) of the statutes is renumbered 54.38 (3)
13 (intro.) and amended to read:

14 54.38 (3) NOTICE OF HEARING FOR APPOINTMENT OF GUARDIAN FOR A MINOR. (intro.)
15 When If the proposed ward is a minor, notice shall be given as provided in s. 879.05
16 the court shall order delivery of notice by the petitioner of the time and place of the
17 hearing to all of the following persons, if applicable:

18 **SECTION 340.** 880.08 (3) (am) 1. of the statutes is renumbered 54.38 (3) (a) and
19 amended to read:

20 54.38 (3) (a) The proposed ward's spouse, if any.

21 **SECTION 341.** 880.08 (3) (am) 2. of the statutes is renumbered 54.38 (3) (b) and
22 amended to read:

23 54.38 (3) (b) The proposed ward's parents parent, unless the parent's parental
24 rights have been judicially terminated.

1 **SECTION 342.** 880.08 (3) (am) 3. of the statutes is renumbered 54.38 (3) (c) and
2 amended to read:

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

5 **SECTION 343.** 880.08 (3) (am) 4. of the statutes is renumbered 54.38 (3) (d) and
6 amended to read:

7 54.38 (3) (d) Any other person, ~~agency, institution, welfare department or other~~
8 ~~entity having~~ that has the legal or actual physical custody of the minor.

9 **SECTION 344.** 880.08 (3) (e) of the statutes is repealed.

10 **SECTION 345.** 880.08 (4) of the statutes is renumbered 54.38 (4) and amended
11 to read:

12 54.38 (4) REHEARINGS. Notice of a rehearing to determine if a ward is a proper
13 subject to continue under guardianship shall be given as required ~~for the~~
14 ~~appointment of a guardian~~ under subs. (1), (2), and (3).

15 **SECTION 346.** 880.09 (intro.) of the statutes is renumbered 54.15 (intro.) and
16 amended to read:

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

23 **SECTION 347.** 880.09 (1) (title) of the statutes is repealed.

24 **SECTION 348.** 880.09 (1) of the statutes is renumbered 54.15 (4) (b) and
25 amended to read:

1 54.15 (4) (b) A minor ~~over~~ who is 14 years or older may in writing in circuit court
2 nominate his or her own guardian, but if the minor is in the armed service, is ~~without~~
3 outside of the state, or if other good reason exists, the court may dispense with the
4 minor's right of nomination.

5 **SECTION 349.** 880.09 (2) of the statutes is renumbered 54.15 (5) and amended
6 to read:

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

15 **SECTION 350.** 880.09 (3) (title) of the statutes is repealed.

16 **SECTION 351.** 880.09 (3) of the statutes is renumbered 54.15 (4) (c) and
17 amended to read:

18 54.15 (4) (c) If neither parent of a minor who is 14 years or older is suitable and
19 willing to be appointed guardian, the court may appoint the nominee of ~~a~~ the minor.

20 **SECTION 352.** 880.09 (4) of the statutes is repealed.

21 **SECTION 353.** 880.09 (5) of the statutes is repealed.

22 **SECTION 354.** 880.09 (6) of the statutes is renumbered 54.15 (6) and amended
23 to read:

24 54.15 (6) ~~TESTAMENTARY GUARDIANSHIP OF CERTAIN PERSONS~~ NOMINATION BY
25 PROPOSED WARD'S PARENTS. Subject to the rights of a surviving parent, a parent may

1 by will nominate a guardian and successor guardian of the person or estate of for any
2 of his or her minor children who are is in need of guardianship, unless the court finds
3 that appointment of the guardian or successor guardian is not i the minor's best
4 interests. For ~~a person over the age of an individual who is aged 18 or older and is~~
5 found to be in need of guardianship under s. 880.33 by reason of a developmental
6 disability or ~~other like incapacity~~ serious and persistent mental illness, a parent may
7 by will nominate a testamentary guardian. The parent may waive the requirement
8 of a bond for such an estate that is derived through a will.

9 **SECTION 355.** 880.09 (7) (title) of the statutes is repealed.

10 **SECTION 356.** 880.09 (7) of the statutes is renumbered 54.15 (4) (a) and
11 amended to read:

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

23 **SECTION 357.** 880.10 of the statutes is renumbered 54.38 (5) and amended to
24 read:

1 54.38 (5) NOTICE OF APPOINTMENT OF GUARDIAN OF A MINOR WARD. If for any reason
2 the court fails to appoint as guardian the nominee of the minor, the guardian who
3 qualifies shall give notice of the guardian's appointment to the minor by certified
4 mail addressed to the minor's last-known post-office address and shall file an
5 affidavit of such ~~the~~ mailing shall be filed with the court within 10 days after the
6 issuance of letters notice is given.

7 **SECTION 358.** 880.12 of the statutes is repealed.

8 **SECTION 359.** 880.125 of the statutes is repealed.

9 **SECTION 360.** 880.13 (title) of the statutes is renumbered 54.46 (5) (title).

10 **SECTION 361.** 880.13 (1) of the statutes is renumbered 54.46 (4) (a) and
11 amended to read:

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

18 **SECTION 362.** 880.13 (2) (title) of the statutes is renumbered 54.46 (4) (b) (title).

19 **SECTION 363.** 880.13 (2) (a) of the statutes is renumbered 54.46 (4) (b) (intro.)
20 and amended to read:

21 54.46 (4) (b) (intro.) Unless required under s. ~~880.60~~ 54.852 (9), the court may
22 waive the requirement of a bond at under any of the following circumstances:

23 1. At any time in its discretion or if

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

1 **SECTION 364.** 880.13 (2) (b) of the statutes is renumbered 54.46 (4) (b) 3. and
2 amended to read:

3 54.46 (4) (b) 3. ~~Whenever~~ If a guardian has or will have possession of funds of
4 the ward with a total value of \$40,000 \$100,000 or less, and the court ~~may direct~~
5 directs deposit of the funds in an insured account of a bank, credit union, savings
6 bank, or savings and loan association in the name of the guardian and the ward and
7 payable only upon further order of the court. ~~In such event the court may waive the~~
8 ~~requirement of a bond.~~

9 **SECTION 365.** 880.13 (3) of the statutes is repealed.

10 **SECTION 366.** 880.14 of the statutes is renumbered 54.46 (5) and amended to
11 read:

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

18 **SECTION 367.** 880.15 (title) of the statutes is repealed.

19 **SECTION 368.** 880.15 (1) of the statutes is renumbered 54.50 (2) and amended
20 to read:

21 54.50 (2) ~~APPOINTMENT~~ DURATION AND EXTENT OF AUTHORITY. ~~If, after~~
22 ~~consideration of a petition for temporary guardianship, the court finds that the~~
23 ~~welfare of a minor, spendthrift or an alleged incompetent requires the immediate~~
24 ~~appointment of a guardian of the person or of the estate, or of both, it~~ The court may
25 appoint a temporary guardian for a ward for a period not to exceed 60 days ~~unless~~

1 further extended for 60 days by order of the court. The court may extend the period
2 only once, except that the court may extend this period for good cause shown for one
3 additional 60-day period. The court may impose no further temporary guardianship
4 on the ward for at least 90 days after the expiration of the temporary guardianship
5 and any extension. The court's determination and order appointing the temporary
6 guardian shall specify the authority of the temporary guardian and shall be limited
7 to those acts that are reasonably related to the reasons for appointment that are
8 specified in the petition for temporary guardianship. The authority of the temporary
9 guardian shall be is limited to the performance of duties respecting specific property,
10 or to the performance of particular those acts, as stated in the order of appointment.
11 All provisions of the statutes concerning the powers and duties of guardians shall
12 apply to temporary guardians except as limited by the order of appointment. The
13 temporary guardian shall make the reports the court directs and shall account to the
14 court upon termination of authority. The court assigned to exercise jurisdiction
15 under chs. 48 and 938 has exclusive jurisdiction over the appointment of a temporary
16 guardian of a minor for medical purposes but shall proceed in accordance with this
17 section Unless the court first specifically approves and orders bond, the temporary
18 guardian may not sell real estate or expend an amount in excess of \$2,000.

19 **SECTION 369.** 880.15 (1m) of the statutes is repealed.

20 **SECTION 370.** 880.15 (1s) of the statutes is renumbered 54.38 (6) and amended
21 to read:

22 54.38 (6) NOTICE OF PETITION AND HEARING FOR TEMPORARY GUARDIANSHIP. The
23 person petitioning petitioner for appointment of a temporary guardian shall cause
24 give notice to be given under s. 880.08 of that the petition to the minor, spendthrift
25 or alleged incompetent and, if the appointment is made, shall give notice of the

1 ~~appointment to the ward. The time limits of s. 880.08 do not apply to notice given~~
2 ~~under this subsection proposed ward. The notice shall be served before or at the time~~
3 ~~the petition is filed or as soon thereafter as possible and shall include notice of the~~
4 ~~right to counsel and of the right to petition for reconsideration or modification of the~~
5 ~~temporary guardianship at any time under s. 880.34 within 30 days of receipt of the~~
6 ~~notice 54.50 (3) (d) The petitioner shall serve notice of the order for hearing on the~~
7 ~~proposed ward before the hearing or not later than 3 calendar days after the hearing.~~
8 ~~If the petitioner serves notice after the hearing is conducted and the court has~~
9 ~~entered an order, the petitioner shall include the court's order with the notice of the~~
10 ~~order for hearing.~~

11 **SECTION 371.** 880.15 (2) of the statutes is repealed.

12 **SECTION 372.** 880.15 (3) of the statutes is renumbered 54.50 (4) and amended
13 to read:

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

1 guardian of the estate has had control. Any action ~~which~~ that has been commenced
2 by the temporary guardian may be prosecuted to final judgment by the successor or
3 successors in interest, if any.

4 **SECTION 373.** 880.155 of the statutes is renumbered 54.56 and amended to
5 read:

6 **54.56 Visitation by a minor's grandparents and stepparents.** (1) In this
7 section, "stepparent" means the surviving spouse of a deceased parent of a minor
8 ~~child~~, whether or not the surviving spouse has remarried.

9 (2) If one or both parents of a minor ~~child~~ are deceased and the ~~child~~ minor is
10 in the custody of the surviving parent or any other person, a grandparent or
11 stepparent of the ~~child~~ minor may petition for visitation privileges with respect to the
12 ~~child~~ minor, whether or not the person with custody is married. The grandparent or
13 stepparent may file the petition in a guardianship or temporary guardianship
14 proceeding under this chapter that affects the minor ~~child~~ or may file the petition to
15 commence an independent action under this chapter. Except as provided in sub.
16 (3m), the court may grant reasonable visitation privileges to the grandparent or
17 stepparent if the surviving parent or other person who has custody of the ~~child~~ minor
18 has notice of the hearing and if the court determines that visitation is in the best
19 interest of the ~~child~~ minor.

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

22 (3m) (a) Except as provided in par. (b), the court may not grant visitation
23 privileges to a grandparent or stepparent under this section if the grandparent or
24 stepparent has been convicted under s. 940.01 of the first-degree intentional

1 homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of
2 the child minor, and the conviction has not been reversed, set aside or vacated.

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

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

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

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

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

22 **SECTION 374.** 880.157 (title) of the statutes is renumbered 54.57 (title).

23 **SECTION 375.** 880.157 (1) of the statutes is renumbered 54.57 (1) and amended
24 to read:

1 54.57 (1) Except as provided in sub. (2), in an action under this chapter that
2 affects a minor child, a court may not grant to a parent of the child minor visitation
3 or physical placement rights with the child minor if the parent has been convicted
4 under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the
5 2nd-degree intentional homicide, of the child's minor's other parent, and the
6 conviction has not been reversed, set aside or vacated.

7 **SECTION 376.** 880.157 (2) of the statutes is renumbered 54.57 (2) and amended
8 to read:

9 54.57 (2) Subsection (1) does not apply if the court determines by clear and
10 convincing evidence that visitation or periods of physical placement would be in the
11 best interests of the child minor. The court shall consider the wishes of the child
12 minor in making the determination.

13 **SECTION 377.** 880.16 of the statutes is repealed.

14 **SECTION 378.** 880.17 of the statutes is renumbered 54.54 and amended to read:

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

23 **(2) NOTICE.** If the appointment under sub. (1) is made without hearing, the
24 successor guardian shall provide notice to the ward and all interested persons of the
25 appointment, the right to counsel, and the right to petition for reconsideration of the

1 successor guardian. The notice shall be served personally or by mail not later than
2 10 days after the appointment.

3 **SECTION 379.** 880.173 (title) of the statutes is repealed.

4 **SECTION 380.** 880.173 (1) of the statutes is renumbered 54.20 (2) (h) and
5 amended to read:

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

17 **SECTION 381.** 880.173 (2) of the statutes is repealed.

18 **SECTION 382.** 880.175 (title) of the statutes is repealed.

19 **SECTION 383.** 880.175 of the statutes is renumbered 54.20 (2) (b) and amended
20 to read:

21 54.20 (2) (b) ~~Upon petition by the guardian, a parent, the spouse, any issue or~~
22 ~~next of kin of any person, assets of the person may, in the discretion of the court and~~
23 ~~upon its order, after such notice as the court may require, be transferred~~ Transfer
24 assets of the ward to the trustee or trustees of an any existing revocable living trust
25 ~~created by the person for the benefit of~~ that the ward has created for himself or

1 herself and ~~those dependent upon the person for support~~ any dependents, or, ~~if the~~
2 ward is a minor, to the trustee ~~or trustees of a~~ any trust created for the exclusive
3 benefit of the ~~person, if a minor, which~~ ward that distributes to him or her at age 18
4 or 21, or, ~~if the ward dies before age 18 or 21~~, to his or her estate, or as ~~he or she~~
5 ~~appoints if he or she dies prior to age 18 or 21~~ the ward has appointed by a written
6 instrument that is executed after the ward attains age 14.

7 **SECTION 384.** 880.18 (title) of the statutes is renumbered 54.60 (title).

8 **SECTION 385.** 880.18 of the statutes is renumbered 54.60 (1) and amended to
9 read:

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

16 **SECTION 386.** 880.19 (title) of the statutes is repealed.

17 **SECTION 387.** 880.19 (1) (title) of the statutes is repealed.

18 **SECTION 388.** 880.19 (1) of the statutes is renumbered 54.19 (1) and amended
19 to read:

20 54.19 (1) ~~The guardian of the estate shall take~~ Take possession of all of the
21 ward's real and personal property, and of any rents, income, issues and benefits
22 ~~therefrom, whether accruing before or after the guardian's appointment~~ from the
23 property, and of the any proceeds arising from the sale, mortgage, lease, or exchange
24 thereof of the property and prepare an inventory of these. Subject to such this
25 possession, the title of all such estate the income and assets of the ward and to the

1 increment and proceeds thereof shall be of the income and assets of the ward in the
2 ward and not in the guardian. It is the duty of the guardian of the estate to protect
3 and preserve it, to retain, sell and invest it as hereinafter provided, to account for it
4 faithfully, to perform all other duties required of the guardian by law and at the
5 termination of the guardianship to deliver the assets of the ward to the persons
6 entitled thereto.

7 **SECTION 389.** 880.19 (2) (title) of the statutes is repealed.

8 **SECTION 390.** 880.19 (2) (a) of the statutes is renumbered 54.20 (1) (intro.) and
9 amended to read:

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

22 **SECTION 391.** 880.19 (2) (b) of the statutes is renumbered 54.20 (3) (f) and
23 amended to read:

24 54.20 (3) (f) The guardian of the estate may, with the approval of the court, after
25 such notice as the court directs, retain Retain any real or personal property

1 ~~possessed by that the ward at the time of the appointment of the possesses when the~~
2 ~~guardian or subsequently acquired by is appointed or that the ward acquires by gift~~
3 ~~or inheritance for such period of time as shall be designated in the order of the court~~
4 ~~approving such retention, without regard to ch. 881 during the guardian's~~
5 ~~appointment.~~

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

7 **SECTION 393.** 880.19 (3) of the statutes is renumbered 54.20 (2) (k) and
8 amended to read:

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

13 **SECTION 394.** 880.19 (4) (title) of the statutes is repealed.

14 **SECTION 395.** 880.19 (4) (a) of the statutes is renumbered 54.20 (3) (h) and
15 amended to read:

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

20 **SECTION 396.** 880.19 (4) (b) of the statutes is renumbered 54.20 (3) (i) and
21 amended to read:

22 54.20 (3) (i) ~~The guardian of the estate may, with the approval of the court, after~~
23 ~~Notwithstanding ch. 881, after such notice as the court directs, and subject to ch. 786,~~
24 ~~invest the proceeds of sale of any guardianship assets of the ward and any of the~~
25 ~~ward's other moneys in the guardian's possession in such the real or personal~~

1 property ~~as the court determines~~ that is determined by the court to be in the best
2 interests of the guardianship estate, ~~without regard to ch. 881 of the ward.~~

3 **SECTION 397.** 880.19 (4) (c) of the statutes is renumbered 54.18 (3) (a) and
4 amended to read:

5 54.18 (3) (a) ~~No guardian shall lend guardianship~~ Lend funds of the ward to
6 himself or herself.

7 **SECTION 398.** 880.19 (5) (title) of the statutes is repealed.

8 **SECTION 399.** 880.19 (5) (a) of the statutes is renumbered 54.20 (3) (g) and
9 amended to read:

10 54.20 (3) (g) ~~The guardian of the estate may, without approval of the court, sell~~
11 Subject to ch. 786, sell, mortgage, pledge, lease, or exchange any property asset of the
12 guardianship estate acquired by the guardian pursuant to sub. (4) ward at fair
13 market value.

14 **SECTION 400.** 880.19 (5) (b) of the statutes is renumbered 54.22 and amended
15 to read:

16 **54.22 Petition for authority to sell, mortgage, pledge, lease, or**
17 **exchange ward's property.** ~~The court, on the application of the guardian of the~~
18 ~~estate or of any other~~ Notwithstanding s. 54.20 (3) (g), (h), and (i), a person interested
19 in the estate of any a ward, after such notice if any, as the court directs, may authorize
20 or petition the court to require the guardian to sell, mortgage, pledge, lease, or
21 exchange any property asset of the guardianship estate upon such terms as of the
22 ward. Following the petition and upon any notice and hearing that the court
23 requires, the court may so order, subject to ch. 786, for the purpose of paying the
24 ward's debts, providing for the ward's care, maintenance, and education and the care,

1 maintenance, and education of the ward's dependents, investing the proceeds, or for
2 any other purpose ~~which~~ that is in the best interest of the ward.

3 **SECTION 401.** 880.19 (5) (c) of the statutes is renumbered 54.18 (3) (c) and
4 amended to read:

5 54.18 (3) (c) ~~No guardian shall purchase~~ Purchase property of the ward, ~~unless~~
6 ~~sold at public sale~~ except at fair market value, subject to ch. 786, and with the
7 approval of the court, ~~and then only if the guardian is a spouse, parent, child, brother~~
8 ~~or sister of the ward or is a cotenant with the ward in the property.~~

9 **SECTION 402.** 880.19 (5) (d) of the statutes is repealed.

10 **SECTION 403.** 880.19 (6) of the statutes is repealed.

11 **SECTION 404.** 880.191 (title) of the statutes is repealed.

12 **SECTION 405.** 880.191 (1) of the statutes is renumbered 54.60 (7) and amended
13 to read:

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

1 **SECTION 406.** 880.191 (2) of the statutes is renumbered 54.60 (8) and amended
2 to read:

3 **54.60 (8) CITATION TO FILE INVENTORY AND TO ACCOUNT.** If any guardian neglects
4 to file the inventory or account when required by law, the circuit judge court shall call
5 the guardian's attention of the guardian of the estate to the neglect. If the guardian
6 still neglects of the estate continues to neglect his or her duty in the premises, the
7 court shall order the guardian of the estate to file the inventory, and the costs may
8 be adjudged against the guardian of the estate.

9 **SECTION 407.** 880.192 of the statutes is repealed.

10 **SECTION 408.** 880.195 of the statutes is renumbered 54.625 and amended to
11 read:

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

24 **SECTION 409.** 880.21 of the statutes is repealed.

1 **SECTION 410.** 880.215 of the statutes is renumbered 54.47 and amended to
2 read:

3 **54.47 Lis pendens, void contracts.** A certified copy of the petition and order
4 for hearing provided for in ss. ~~880.07~~ 54.34 and ~~880.08~~ 54.38 may be filed in the office
5 of the register of deeds for the county; ~~and if. If~~ a guardian shall be ~~is~~ appointed upon
6 ~~such application~~ after a hearing on the petition and if the court's order includes a
7 finding that the ward may not make contracts, all contracts, except for necessities
8 at reasonable prices, and all gifts, sales, and transfers of property made by such
9 ~~insane or incompetent person or spendthrift~~, the ward after the filing of a certified
10 copy of such ~~petition and the~~ order as aforesaid, shall be void. ~~The validity of a~~
11 ~~contract made by a person under limited guardianship is not void, however, unless~~
12 ~~the determination is made by the court in its finding under s. 880.33 (3) that the ward~~
13 ~~is incapable of exercising the power to make contracts~~ are void, unless notified by the
14 guardian in writing.

15 **SECTION 411.** 880.22 (title) of the statutes is repealed.

16 **SECTION 412.** 880.22 (1) (title) of the statutes is repealed.

17 **SECTION 413.** 880.22 (1) of the statutes is renumbered 54.19 (7) and amended
18 to read:

19 54.19 (7) ~~Every general guardian shall~~ With respect to claims, pay the just
20 legally enforceable debts of the ward ~~out of, including by filing tax returns and paying~~
21 any taxes owed, from the ward's personal estate and the income of the ward's real
22 estate, if sufficient, ~~and if not, then out of the ward's real estate upon selling the same~~
23 ~~as provided by law. But a temporary guardian shall pay the debts of his or her ward~~
24 ~~only on order of the court~~ and assets.

25 **SECTION 414.** 880.22 (2) (title) of the statutes is repealed.

1 **SECTION 415.** 880.22 (2) of the statutes is renumbered 54.20 (2) (L) and
2 amended to read:

3 54.20 (2) (L) ~~The guardian or a creditor of any ward may apply~~ Apply to the
4 court for adjustment of any claims against the ward incurred ~~prior to~~ before entry
5 of the order appointing the guardian or the filing of a lis pendens as provided in s.
6 ~~880.215~~ 54.47. The court shall by order fix the time and place it will adjust claims
7 and the time within which all claims ~~must~~ shall be presented ~~or be barred~~. Notice
8 of the time and place ~~so fixed and limited~~ these times and the place shall be given by
9 publication as in ~~estates of decedents; and all statutes relating to claims against and~~
10 ~~in favor of estates of decedents~~ provided in s. 879.05 (4), and ch. 859 generally shall
11 apply. ~~As in the settlement of estates of deceased persons, after~~ After the court has
12 made the order, no action or proceeding may be commenced or maintained in any
13 court against the ward upon any claim ~~of~~ over which the circuit court has jurisdiction.

14 **SECTION 416.** 880.23 (title) of the statutes is repealed.

15 **SECTION 417.** 880.23 of the statutes is renumbered 54.20 (3) (j) and amended
16 to read:

17 54.20 (3) (j) ~~The guardian shall settle~~ Settle all claims and accounts of the ward
18 and ~~may demand, sue for, collect and receive all debts and claims for damages due~~
19 ~~him or her, or may, with the approval of the circuit court, compound and discharge~~
20 ~~the same, and shall appear for and represent his or her~~ the ward in all actions and
21 proceedings except where those for which another person is appointed ~~for that~~
22 purpose.

23 **SECTION 418.** 880.24 (title) of the statutes is repealed.

24 **SECTION 419.** 880.24 (1) of the statutes is repealed.

1 **SECTION 420.** 880.24 (2) of the statutes is renumbered 54.42 (4) and amended
2 to read:

3 54.42 (4) ~~WARD'S~~ RIGHT TO PAYMENT OF EXPENSES IN CONTESTING PROCEEDINGS.
4 ~~When~~ If a guardian is appointed, the court may shall, if the court determines it
5 reasonable, allow reasonable payment from the ward's income or assets of expenses
6 incurred by the ward in contesting the appointment. These expenses are payable
7 before other attorney or guardian ad litem fees.

8 **SECTION 421.** 880.24 (3) (title) of the statutes is renumbered 54.46 (3) (title) and
9 amended to read:

10 54.46 (3) (title) ~~FEEES AND COSTS OF PETITIONER.~~

11 **SECTION 422.** 880.24 (3) (a) (intro.) of the statutes is renumbered 54.46 (3) (a)
12 (intro.) and amended to read:

13 54.46 (3) (a) Petitioner's attorney fees and costs. (intro.) ~~Except as provided in~~
14 ~~par. (b), when~~ If a guardian is appointed, the court shall award from the ward's estate
15 income and assets payment of the petitioner's reasonable attorney fees and costs,
16 including those fees and costs, if any, related to protective placement of the ward,
17 unless the court finds, after considering all of the following, that it would be
18 inequitable to do so:

19 **SECTION 423.** 880.24 (3) (a) 1. to 3. of the statutes are renumbered 54.46 (3) (a)
20 1. to 3.

21 **SECTION 424.** 880.24 (3) (a) 4. of the statutes is renumbered 54.46 (3) (a) 5.

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

24 54.46 (3) (a) 4. ~~If the court finds that~~ Whether the ward had executed a durable
25 power of attorney under s. 243.07 or a power of attorney for health care under s.

1 155.05 or had engaged in other advance planning to avoid guardianship, the court
2 may not make the award specified in par. (a) for financial and health care decision
3 making.

4 **SECTION 426.** 880.245 of the statutes is renumbered 54.62 (6) and amended to
5 read:

6 54.62 (6) ACCOUNTING BY AGENT 3RD PARTIES TO GUARDIAN. ~~The circuit court, upon~~
7 ~~the application of any~~ If a guardian appointed by it a court so requests, the court may
8 order any person ~~who has been~~ entrusted by the guardian with any part of the estate
9 of a decedent or ward to appear before the court, and ~~may require the person to render~~
10 a full account, on oath, of any ~~property or papers belonging to the estate which have~~
11 ~~come to the person's possession~~ the income or assets and of his or her ~~proceedings~~
12 ~~thereon~~ action regarding the income or assets. If the person refuses to appear and
13 render an account, the court may proceed against him or her as for contempt.

14 **SECTION 427.** 880.25 (title) of the statutes is repealed.

15 **SECTION 428.** 880.25 (1) of the statutes is renumbered 54.62 (1) and amended
16 to read:

17 54.62 (1) ANNUAL REPORTS. ~~Every~~ Except as provided in sub. (3) or unless
18 waived by a court, every guardian, ~~except~~ including a corporate guardian, shall, prior
19 to April 15 of each year, file an account under oath ~~specifying~~ that specifies the
20 amount of ~~property~~ the ward's assets or income received and held or invested by the
21 guardian, the nature and manner of the investment, and the guardian's receipts and
22 expenditures during the preceding calendar year. ~~When ordered by the court, The~~
23 court may order the guardian ~~shall within 30 days to render and file, within 30 days,~~
24 a like account for any ~~shorter term~~ less than a year. In lieu of the filing of these
25 accounts before April 15 of each year, the court may, by appropriate order upon

1 motion of the guardian, direct the guardian of an estate to thereafter render and file
2 the annual accountings within 60 days after the anniversary date of the guardian's
3 qualification as guardian, with the accounting period from the anniversary date of
4 qualification to the ensuing annual anniversary date. ~~When any guardian of a minor~~
5 ~~has custody of the ward and the care of the ward's education, the guardian's report~~
6 ~~shall state the time that the ward attended school during the time for which the~~
7 ~~account is rendered and the name of the school.~~ The guardian shall also report any
8 change in the status of the surety upon the guardian's bond. If the court determines
9 it to be in the ward's best interests, the court may specify the persons to whom the
10 guardian shall distribute copies of the account.

11 **SECTION 429.** 880.25 (2) of the statutes is renumbered 54.62 (2) and amended
12 to read:

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

21 **SECTION 430.** 880.25 (3) of the statutes is renumbered 54.66 (2) and amended
22 to read:

23 54.66 (2) SMALL ESTATES. ~~When the whole estate of a ward or of several wards~~
24 ~~jointly, under the same guardianship, does not exceed \$1,000 in value, the~~ The
25 guardian shall be required to render of a ward with a small estate, as specified in s.

1 ~~54.62 (3) (a), need not file a final account only upon the termination of the guardian's~~
2 ~~guardianship, unless otherwise ordered by the court. The guardian shall instead~~
3 ~~provide the court with a list of the ward's assets that remain at the time the~~
4 ~~guardianship terminates, including at the death of the ward.~~

5 **SECTION 431.** 880.25 (4) of the statutes is renumbered 54.62 (5) and amended
6 to read:

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

15 **SECTION 432.** 880.25 (5) of the statutes is renumbered 54.62 (7) (intro.) and
16 amended to read:

17 54.62 (7) NOTICE OF FINAL ACTION ON AN ACCOUNT. (intro.) No action by the court
18 ~~upon any on an account shall be is final unless it is upon the guardian first provides~~
19 ~~notice. to all of the following, as applicable:~~

20 **SECTION 433.** 880.251 of the statutes is repealed.

21 **SECTION 434.** 880.252 of the statutes is renumbered 54.62 (8) and amended to
22 read:

23 54.62 (8) ACCOUNTS; FAILURE OF A GUARDIAN TO FILE. If a guardian fails to file the
24 guardian's account as required by law or ordered by the court, the court may, upon
25 its own motion or upon the petition of any interested party interested, ~~issue an order~~

1 to the sheriff ordering, order the guardian to show cause before the court why the
2 guardian should not immediately make and file the guardian's reports or accounts.
3 The court shall direct that a copy of the order be served on the guardian at least 20
4 days before the date that the court has ordered the guardian to appear in court. If
5 a guardian fails, neglects or refuses to make and file any report or account after
6 having been cited by the court so to do so, or if the guardian fails to appear in court
7 as directed by a citation issued ~~under direction and by authority~~ of the court, the
8 court may, ~~upon~~ on its own motion or ~~upon~~ on the petition of any interested party,
9 issue a warrant directed to the sheriff ordering that the guardian be brought before
10 the court to show cause why the guardian should not be punished for contempt. If
11 the court finds that the failure, refusal, or neglect is willful or inexcusable, the
12 guardian may be fined not to exceed \$50 \$250 or imprisoned not to exceed 10 days
13 or both.

14 **SECTION 435.** 880.253 of the statutes is renumbered 54.62 (9) and amended to
15 read:

16 54.62 (9) ~~FORMAL ACCOUNTING~~ ACCOUNTING BY GUARDIANS AT ANY TIME. The judge
17 court may at any time require an accounting by any guardian at a hearing, after
18 providing notice to all interested persons, including sureties on the bond of a
19 guardian. ~~The sureties on a bond of a guardian may once in every 3-year period~~
20 ~~petition the court for such a hearing.~~

21 **SECTION 436.** 880.26 (title) of the statutes is repealed.

22 **SECTION 437.** 880.26 (1) (intro.) of the statutes is renumbered 54.64 (3) (intro.)
23 and amended to read:

24 54.64 (3) ~~GUARDIANSHIP~~ TERMINATION OF GUARDIANSHIP OF THE PERSON. (intro.)

25 A guardianship of the person shall terminate ~~when~~ if any of the following occurs:

1 **SECTION 438.** 880.26 (1) (a) of the statutes is renumbered 54.64 (3) (c) and
2 amended to read:

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

6 **SECTION 439.** 880.26 (1) (b) of the statutes is renumbered 54.64 (3) (d) and
7 amended to read:

8 54.64 (3) (d) A minor ward lawfully whose guardianship was not ordered on the
9 grounds of incompetency marries.

10 **SECTION 440.** 880.26 (1) (c) of the statutes is renumbered 54.64 (3) (a) and
11 amended to read:

12 54.64 (3) (a) The court adjudicates a former ward who was formerly found to
13 be incompetent to be competent no longer incompetent or a ward who was formerly
14 found to be a spendthrift to be capable of handling his or her income and assets, or
15 terminates the guardianship under sub. (2) (d).

16 **SECTION 441.** 880.26 (2) (intro.) of the statutes is renumbered 54.64 (4) (intro.)
17 and amended to read:

18 54.64 (4) GUARDIANSHIP TERMINATION OF GUARDIANSHIP OF THE ESTATE. (intro.)
19 A guardianship of the estate shall terminate when if any of the following occurs:

20 **SECTION 442.** 880.26 (2) (a) of the statutes is renumbered 54.64 (4) (c) and
21 amended to read:

22 54.64 (4) (c) A formerly minor ward attains his or her majority age 18.

23 **SECTION 443.** 880.26 (2) (b) of the statutes is renumbered 54.64 (4) (d) and
24 amended to read:

1 54.64 (4) (d) A minor ward lawfully whose guardianship was not ordered on the
2 grounds of incompetency marries and the court approves the termination.

3 **SECTION 444.** 880.26 (2) (c) of the statutes is renumbered 54.64 (4) (a) and
4 amended to read:

5 54.64 (4) (a) The court adjudicates a ~~former ward who was formerly found to~~
6 be incompetent or a spendthrift to be no longer incompetent or a ward who was
7 formerly found to be a spendthrift to be capable of handling his or her ~~property~~
8 income and assets.

9 **SECTION 445.** 880.26 (2) (d) of the statutes is renumbered 54.64 (4) (e) and
10 amended to read:

11 54.64 (4) (e) A ward dies, except when the estate can be settled as provided by
12 s. 880.28 54.66 (4).

13 **SECTION 446.** 880.26 (3) of the statutes is renumbered 54.64 (5) (intro.) and
14 amended to read:

15 54.64 (5) ~~DEPLETED GUARDIANSHIPS~~ GUARDIANSHIP. (intro.) ~~When the~~ If a court
16 determines that the estate income and assets of the a ward is ~~below \$5,000~~ do not
17 exceed the amount specified in s. 867.03 (1g) and are reduced to a point where it is
18 to the advantage of the ward to dispense with the guardianship, the court may
19 terminate do one of the following:

20 (a) Terminate the guardianship and authorize order disposition of the
21 remaining assets as provided by s. 880.04 ~~(2)~~ 54.12 (1). The court, as a part of the
22 disposition, may order ~~a suitable amount paid to the county treasurer under order~~
23 ~~of the court or reserved in the guardianship to assure the ward a decent burial, a~~
24 ~~marker and care for the grave.~~ In the case of an insolvent guardianship, the court
25 may order ~~an amount not exceeding \$400 reserved in the guardianship or paid to the~~

1 ~~county treasurer under order of the court to assure the ward a decent burial the~~
2 ~~guardian to make appropriate financial arrangements for the burial or other~~
3 ~~disposition of the remains of the ward.~~

4 **SECTION 447.** 880.27 of the statutes is renumbered 54.66 (1) and amended to
5 read:

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

18 **SECTION 448.** 880.28 of the statutes is renumbered 54.66 (4) and amended to
19 read:

20 54.66 (4) SUMMARY SETTLEMENT OF SMALL ESTATES. ~~When~~ If a ward dies leaving
21 an estate ~~which~~ that can be settled summarily under s. 867.01, the court may
22 approve ~~such~~ the settlement and distribution by the guardian, under the procedures
23 of s. 867.01 without the necessity of appointing a personal representative.

24 **SECTION 449.** 880.29 of the statutes is renumbered 54.64 (6) and amended to
25 read:

1 54.64 (6) DELIVERY OF PROPERTY TO FOREIGN GUARDIAN IN ANOTHER STATE. When
2 property of a nonresident ward is in the possession of or due from a guardian or
3 personal representative appointed in this state, the appointing court may order ~~such~~
4 the property delivered to the foreign guardian upon filing appointed in the state of
5 the nonresident ward after a verified petition, accompanied by a copy of ~~his or her~~
6 the nonresident guardian's appointment and bond, authenticated so as to be
7 admissible in evidence, is filed with the court and upon after 10 days' notice is
8 provided to the resident guardian or personal representative. ~~Such~~ The petition
9 shall be denied if granting it ~~shall appear~~ appears to be against the interests of the
10 ward. ~~The~~ Any receipt of obtained from the ~~foreign nonresident~~ guardian for the
11 property so delivered shall be taken and filed with the other papers in the proceeding,
12 and a certified copy ~~thereof~~ of the receipt shall be sent to the court ~~which that~~
13 appointed ~~such~~ the nonresident guardian.

14 **SECTION 450.** 880.295 of the statutes is repealed.

15 **SECTION 451.** 880.31 (title) of the statutes is repealed.

16 **SECTION 452.** 880.31 (1) and (7) of the statutes are consolidated, renumbered
17 54.76 (1) and amended to read:

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

1 be paid at the time of the filing of the inventory or other documents setting forth the
2 value of the estate assets and income.

3 **SECTION 453.** 880.31 (2) of the statutes is renumbered 54.76 (2) and amended
4 to read:

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

12 **SECTION 454.** 880.31 (3) of the statutes is renumbered 54.76 (3) and amended
13 to read:

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

20 **SECTION 455.** 880.31 (4) and (5) of the statutes are consolidated, renumbered
21 54.76 (4) and amended to read:

22 54.76 (4) Any person, including an individual whose estate is income and assets
23 are under conservatorship, may apply to the court at any time for termination
24 thereof of the conservatorship. Upon ~~such~~ receipt of the application, the court shall
25 fix a time and place for hearing and may direct that 10 days' notice by mail be given

1 to the person's individual's guardian, ~~if any,~~ of the person or agent under a power of
2 attorney for health care, the conservator, any standby conservator, and the
3 presumptive adult heirs of the applicant. ~~Upon such~~ individual whose income and
4 assets are under conservatorship. A potential recipient of the notice may waive its
5 receipt. At the hearing, the court shall, unless it is clearly shown that the applicant
6 individual whose income and assets are under conservatorship is incompetent,
7 remove the conservator and order the ~~property~~ income and assets restored to the
8 applicant, or if the applicant so desires and the nominee is suitable, the court may
9 appoint a successor conservator. ~~(5) individual.~~ If, ~~however,~~ the court shall upon
10 such hearing ~~determine~~ determines at the hearing that the person individual whose
11 estate is income and assets are administered by a conservator ~~may be~~ is incapable
12 of handling his or her estate income and assets, the court shall order the
13 conservatorship continued, or, if the applicant so desires and ~~the~~ a nominee is
14 suitable, ~~the court may~~ appoint a successor conservator. A conservatorship may only
15 be terminated under a hearing under this subsection.

16 **SECTION 456.** 880.31 (6) of the statutes is renumbered 54.76 (5) and amended
17 to read:

18 54.76 (5) Appointment of a conservator shall ~~not be~~ does not constitute
19 evidence of the competency or incompetency of the person individual whose estate
20 is income and assets are being administered.

21 **SECTION 457.** 880.32 of the statutes is renumbered 45.55 and amended to read:

22 **45.55 Notes and mortgages of minor veterans.** Notwithstanding any
23 provision of this chapter or any other law to the contrary, any minor who served in
24 the active armed forces of the United States at any time after August 27, 1940, and
25 the husband or wife of such a minor may execute, in his or her own right, notes or

1 mortgages, as defined in s. 851.15, the payment of which is guaranteed or insured
2 by the U.S. department of veterans affairs or the federal housing administrator
3 under the servicemen's readjustment act of 1944 ~~or~~, the national housing act, or any
4 acts ~~supplementary thereto or amendatory thereof~~ supplementing or amending
5 these acts. In connection with ~~such~~ these transactions, ~~such~~ the minors may sell,
6 release or convey ~~such~~ the mortgaged property and litigate or settle controversies
7 arising therefrom, including the execution of releases, deeds, and other necessary
8 papers or instruments. ~~Such~~ The notes, mortgages, releases, deeds and other
9 necessary papers or instruments when so executed shall are not be subject to
10 avoidance by ~~such~~ the minor or the husband or wife of ~~such~~ the minor upon either
11 or both of them attaining the age of 18 because of the minority of either or both of
12 them at the time of the execution thereof.

13 **SECTION 458.** 880.33 (title) of the statutes is repealed.

14 **SECTION 459.** 880.33 (1) of the statutes is renumbered 54.36 (1) and amended
15 to read:

16 **54.36 Examination of proposed ward.** (1) Whenever it is proposed to
17 appoint a guardian on the ground of that a proposed ward allegedly has
18 incompetency or is a spendthrift, a licensed physician or licensed psychologist, or
19 both, shall examine the proposed ward and furnish a written statement concerning
20 the mental condition of report stating the physician's or psychologist's professional
21 opinion regarding the presence and likely duration of any medical or other condition
22 causing the proposed ward, based upon examination to have incapacity or to be a
23 spendthrift. The privilege under s. 905.04 shall does not apply to ~~this~~ the statement.
24 ~~A~~ The petitioner shall provide a copy of the statement shall be provided report to
25 the proposed ward, or his or her counsel, the guardian ad litem, and the petitioner's

1 attorney, if any. Prior to the examination, ~~under this subsection,~~ of a person alleged
2 to be not competent to refuse psychotropic medication under s. 880.07 (1m), the
3 person shall be informed that his or her on which the report is based, the guardian
4 ad litem, physician, or psychologist shall inform the proposed ward that statements
5 made by the proposed ward may be used as a basis for a finding of incompetency and
6 an order for protective services, including psychotropic medication. ~~The person shall~~
7 ~~also be informed~~ or a finding that he or she is a spendthrift, that he or she has a right
8 to remain silent refuse to participate in the examination, absent a court order, or
9 speak to the physician or psychologist and that the examiner physician or
10 psychologist is required to report to the court even if the person remains silent
11 proposed ward does not speak to the physician or psychologist. The issuance of such
12 a warning to the person proposed ward prior to each examination establishes a
13 presumption that the person proposed ward understands that he or she need not
14 speak to the examiner. physician or psychologist. Nothing in this section prohibits
15 the use of a report by a physician or psychologist that is based on an examination of
16 the proposed ward by the physician or psychologist before filing the petition for
17 appointment of a guardian, but the court will consider the recency of the report in
18 determining whether the report sufficiently describes the proposed ward's current
19 state and in determining the weight to be given to the report.

20 **SECTION 460.** 880.33 (2) (a) 1. of the statutes is renumbered 54.42 (1) (a) (intro.)
21 and amended to read:

22 54.42 (1) (a) (intro.) The proposed ward or ward has the right to counsel
23 ~~whether or not present at the hearing on determination of competency.~~ The court
24 shall in all cases require the appointment of an attorney as guardian ad litem in
25 accordance with s. 757.48 (1) and shall in addition require representation by full

1 ~~legal counsel whenever the petition contains the allegations under s. 880.07 (1m) or~~
2 ~~if, at least 72 hours before the hearing, the alleged incompetent requests; the~~
3 ~~guardian ad litem or any other person states that the alleged incompetent is opposed~~
4 ~~to the guardianship petition; or the court determines that the interests of justice~~
5 ~~require it. The proposed ward has the right to a trial by a jury if demanded by the~~
6 ~~proposed ward, attorney or guardian ad litem, except that if the petition contains the~~
7 ~~allegations under s. 880.07 (1m) and if notice of the time set for the hearing has~~
8 ~~previously been provided to the proposed ward and his or her counsel, a jury trial is~~
9 ~~deemed waived unless demanded at least 48 hours prior to the time set for the~~
10 ~~hearing. The number of jurors shall be determined under s. 756.06 (2) (b). The~~
11 ~~proposed ward, attorney or guardian ad litem shall have the right to present and~~
12 ~~cross-examine witnesses, including the physician or psychologist reporting to the~~
13 ~~court under sub. (1). The attorney or guardian ad litem for the proposed ward shall~~
14 ~~be provided with a copy of the report of the physician or psychologist at least 96 hours~~
15 ~~in advance of the hearing. Any final decision of the court is subject to the right of~~
16 ~~appeal. if any of the following occurs:~~

17 **SECTION 461.** 880.33 (2) (a) 2. of the statutes is renumbered 54.42 (1) (c) and
18 amended to read:

19 54.42 (1) (c) ~~If the person requests but is par. (a) 1., 2., or 3. applies but the~~
20 ~~proposed ward or ward is unable to obtain legal counsel, the court shall appoint legal~~
21 ~~counsel. If the person is represented by counsel appointed under s. 977.08 in a~~
22 ~~proceeding for a protective placement under s. 55.06 or for the appointment of a~~
23 ~~guardian under s. 880.07 (1m), the court shall order the counsel appointed under s.~~
24 ~~977.08 to represent the person.~~

1 **SECTION 462.** 880.33 (2) (a) 3. of the statutes is renumbered 54.46 (3) (b) and
2 amended to read:

3 54.46 (3) (b) Guardian ad litem and defense fees for indigents; liability. If the
4 ~~person proposed ward~~ is an adult who is indigent, the county of legal settlement shall
5 be ~~in which venue lies for the guardianship proceeding~~ is the county liable for any
6 fees due the guardian ad litem and, if counsel was not appointed under s. 977.08, for
7 any legal fees due the ~~person's proposed ward's~~ legal counsel. ~~If the person is a minor,~~
8 ~~the person's parents or the county of legal settlement shall be liable for any fees due~~
9 ~~the guardian ad litem as provided in s. 48.235 (8).~~

10 **SECTION 463.** 880.33 (2) (b) of the statutes is renumbered 54.42 (3) and
11 amended to read:

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

19 **SECTION 464.** 880.33 (2) (d) of the statutes is repealed.

20 **SECTION 465.** 880.33 (2) (e) of the statutes is renumbered 54.44 (5) and
21 amended to read:

22 54.44 (5) PRIVACY OF HEARING. Every hearing ~~on a petition under s. 880.07 (1m)~~
23 ~~under this chapter~~ shall be ~~open~~ closed, unless the proposed ward or his or her
24 attorney acting with the proposed ward's consent or the attorney for a foreign ward
25 moves that it be ~~closed~~ open. If the hearing is closed, only ~~persons in interest,~~

1 ~~including representatives of providers of service and interested persons, their~~
2 ~~attorneys, and witnesses, may be present.~~

3 **SECTION 466.** 880.33 (3) of the statutes is repealed.

4 **SECTION 467.** 880.33 (4) of the statutes is repealed.

5 **SECTION 468.** 880.33 (4m) and (4r) of the statutes are repealed.

6 **SECTION 469.** 880.33 (5) of the statutes is renumbered 54.15 (1) and amended
7 to read:

8 54.15 (1) OPINIONS OF PROPOSED WARD AND FAMILY. ~~In appointing a guardian, the~~
9 ~~The~~ court shall take into consideration the opinions of the ~~alleged incompetent~~
10 ~~proposed ward~~ and of the members of the his or her family as to what is in the best
11 interests of the proposed ~~incompetent~~ ward. However, the best interests of the
12 proposed ~~incompetent~~ ward shall control in making the determination when the
13 opinions of the family are in conflict with ~~the clearly appropriate decision~~ those best
14 interests.

15 **(1m)** The court shall also consider potential conflicts of interest resulting from
16 the prospective guardian's employment or other potential conflicts of interest. ~~If the~~
17 ~~proposed incompetent has executed a power of attorney for health care under ch. 155,~~
18 ~~the court shall give consideration to the appointment of the health care agent for the~~
19 ~~individual as the individual's guardian.~~

20 **SECTION 470.** 880.33 (5m) of the statutes is renumbered 54.15 (9) and amended
21 to read:

22 54.15 (9) LIMITATION ON NUMBER OF WARDS OF GUARDIAN. ~~No person, except a~~
23 ~~nonprofit corporation approved by the department of health and family services~~
24 ~~under s. 880.35, who has~~ individual may have guardianship of the person of more
25 than 5 or more adult wards who are unrelated to the person ~~may accept appointment~~

1 individual, except that a court may, under circumstances that the court determines
2 are appropriate, waive this limitation to authorize appointment of the individual as
3 guardian of the person of another adult ward unrelated to the person, unless
4 approved by the department. No such person may accept appointment as guardian
5 of more than 10 such additional adult wards who are unrelated to the person
6 individual. A corporation or association that is approved by the department under
7 sub. (7) is not limited in the number of adult wards for which the corporation or
8 association may accept appointment by a court as guardian.

9 **SECTION 471.** 880.33 (6) of the statutes is renumbered 54.75 and amended to
10 read:

11 **54.75 Access to court records.** All court records pertinent to the finding of
12 incompetency are closed but subject to access as provided in s. ~~55.06 (17)~~ 51.30 or
13 under an order of a court under this chapter. The fact that a person has been found
14 incompetent and the name of and contact information for the guardian is accessible
15 to any person who demonstrates to the custodian of the records a need for that
16 information.

17 **SECTION 472.** 880.33 (7) of the statutes is renumbered 54.48 and amended to
18 read:

19 **54.48 Protective placement and protective services.** A finding of
20 incompetency and appointment of a guardian under this subchapter ~~chapter~~ is not
21 grounds for involuntary protective placement. ~~Such~~ or the provision of protective
22 services. Protective placement and the provision of protective services may be made
23 only in accordance with s. ~~55.06~~ ch. 55.

24 **SECTION 473.** 880.33 (8) (intro.) of the statutes is repealed.

25 **SECTION 474.** 880.33 (8) (a) of the statutes is repealed.

1 **SECTION 475.** 880.33 (8) (b) of the statutes is renumbered 54.46 (2) (b) and
2 amended to read:

3 54.46 (2) (b) Power of attorney for health care. If the proposed incompetent has
4 ward executed a power of attorney for health care under ch. 155, ~~find that before a~~
5 finding of incompetency and appointment of a guardian is made for the ward under
6 this chapter, the power of attorney for health care instrument ~~should remain~~ remains
7 in effect. ~~If the court so finds, the court shall so order and shall, except that the court~~
8 may, only for good cause shown, revoke the power of attorney for health care or limit
9 the power of the guardian to make those health care decisions for the ward that are
10 not to be made by the health care authority of the agent under the terms of the power
11 of attorney for health care instrument. Unless the court makes this revocation or
12 limitation, the ward's guardian may not make health care decisions for the ward that
13 may be made by the health care agent, unless the guardian is the health care agent
14 under those terms.

15 **SECTION 476.** 880.33 (9) of the statutes is renumbered 54.25 (2) (c) 1. g. and
16 amended to read:

17 54.25 (2) (c) 1. g. ~~All the rights and privileges afforded a proposed incompetent~~
18 ~~under this section shall be given to any person who is alleged to be ineligible to~~
19 ~~register to vote or to vote in an election by reason that such person is incapable of~~
20 ~~understanding the objective of the elective process. The determination of the court~~
21 ~~shall be limited to a finding that the elector is either eligible or ineligible~~ The right
22 to register to vote or to vote in an election by reason that the person is or is not
23 capable, if the court finds that the individual is incapable of understanding the
24 objective of the elective process. Also, in accordance with s. 6.03 (3), any elector of
25 a municipality may petition the circuit court for a determination that an individual

1 residing in the municipality is incapable of understanding the objective of the
2 elective process and thereby ineligible to register to vote or to vote in an election. This
3 determination shall be made by the court in accordance with the procedures specified
4 in this paragraph. If a petition is filed under this subd. 1. g., the finding of the court
5 shall be limited to a determination as to voting eligibility. The appointment of a
6 guardian is not required for an individual whose sole limitation is ineligibility to
7 vote. The determination of the court shall be communicated in writing by the clerk
8 of court to the election official or agency charged under s. 6.48, 6.92, 6.925, or 6.93
9 with the responsibility for determining challenges to registration and voting which
10 that may be directed against that elector. The determination may be reviewed as
11 provided in s. 880.34 (4) and (5) 54.64 (2) and any subsequent determination of the
12 court shall be likewise communicated by the clerk of court.

13 **SECTION 477.** 880.331 (title) of the statutes is renumbered 54.40 (title) and
14 amended to read:

15 **54.40 (title) Guardian ad litem in incompetency cases; appointment;**
16 **duties; termination.**

17 **SECTION 478.** 880.331 (1) of the statutes is renumbered 54.40 (1) and amended
18 to read:

19 54.40 (1) APPOINTMENT. The court shall appoint a guardian ad litem whenever
20 it is proposed that the court appoint a guardian on the ground of incompetency under
21 s. 880.33, when a petition for appointment of a guardian is brought under s. 54.34
22 (1), when a petition for receipt and acceptance of a foreign guardianship is brought
23 under s. 54.34 (3), to review the scope of a guardianship, to protectively place a person
24 or order protective services under s. 55.06, to review any protective placement or
25 protective service order under s. 55.06 or, to terminate a protective placement under

1 s. 55.06, to expand an order of guardianship under s. 54.63, to review incompetency
2 and terminate a guardianship under s. 54.64, to review the conduct of a guardian
3 under s. 54.68, to expand an order of guardianship under s. 54.3, to review
4 incompetency and terminate a guardianship under s. 54.64, to review the conduct of
5 a guardian under s. 54.68, or at any other time that the court determines it is
6 necessary.

7 **SECTION 479.** 880.331 (2) of the statutes is renumbered 54.40 (2) and amended
8 to read:

9 54.40 (2) QUALIFICATIONS. The guardian ad litem shall be an attorney admitted
10 to practice in this state and in compliance with SCR chapter 36. No ~~person~~ one who
11 is an interested ~~party~~ person in a proceeding, appears as counsel in a proceeding on
12 behalf of any party, or is a relative or representative of an interested ~~party~~ person
13 may be appointed guardian ad litem in that proceeding or in any other proceeding
14 that involves the same proposed ward or ward.

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

17 54.40 (3) RESPONSIBILITIES. The guardian ad litem shall be an advocate for the
18 best interests of the proposed ward or ~~alleged incompetent~~ ward as to guardianship,
19 protective placement, and protective services. The guardian ad litem shall function
20 independently, in the same manner as an attorney for a party to the action, and shall
21 consider, but ~~shall not be~~ is not bound by, the wishes of the proposed ward or ~~alleged~~
22 ~~incompetent~~ ward or the positions of others as to the best interests of the proposed
23 ward or ~~alleged incompetent~~ ward. The guardian ad litem has none of the rights or
24 duties of a general guardian.

1 **SECTION 481.** 880.331 (4) (intro.) of the statutes is renumbered 54.40 (4)
2 (intro.).

3 **SECTION 482.** 880.331 (4) (a) of the statutes is renumbered 54.40 (4) (a) and
4 amended to read:

5 54.40 (4) (a) Interview the proposed ward or ~~alleged incompetent~~ ward and
6 explain the contents of the petition, the applicable hearing procedure, the right to
7 counsel, and the right to request or continue a limited guardianship.

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

10 54.40 (4) (b) Advise the proposed ward or ~~alleged incompetent~~ ward, both orally
11 and in writing, of that person's rights to be present at the hearing, to a jury trial, to
12 an appeal, to counsel, and to an independent medical or psychological examination
13 on the issue of competency, at county expense if the person is indigent.

14 **SECTION 484.** 880.331 (4) (c) of the statutes is renumbered 54.40 (4) (e) and
15 amended to read:

16 54.40 (4) (e) Request that the court order additional medical, psychological, or
17 other evaluation, if necessary.

18 **SECTION 485.** 880.331 (4) (d) of the statutes is renumbered 54.40 (4) (f) and
19 amended to read:

20 54.40 (4) (f) If applicable, inform the court and petitioner's attorney or, if none,
21 the petitioner that the proposed ward or ~~alleged incompetent~~ ward objects to a
22 finding of incompetency, the present or proposed placement, or the recommendation
23 of the guardian ad litem as to the proposed ward's or ~~alleged incompetent's~~ ward's
24 best interests or that the proposed ward's or ~~alleged incompetent's~~ ward's position
25 on these matters is ambiguous. If the guardian ad litem recommends that the

1 hearing be held in a place other than a courtroom, the guardian ad litem shall provide
2 the information under this paragraph as soon as possible.

3 **SECTION 486.** 880.331 (4) (e) of the statutes is renumbered 54.40 (4) (i) and
4 amended to read:

5 54.40 (4) (i) Present evidence concerning the best interests of the proposed
6 ward or alleged incompetent ward, if necessary.

7 **SECTION 487.** 880.331 (4) (f) of the statutes is renumbered 54.40 (4) (j) and
8 amended to read:

9 54.40 (4) (j) Report to the court on any ~~other relevant~~ matter that the court
10 requests.

11 **SECTION 488.** 880.331 (5) (intro.) of the statutes is renumbered 55.195 (intro.)
12 and amended to read:

13 **55.195 Duties in of guardian ad litem for reviews.** (intro.) In any review
14 of a protective placement under s. 55.06 or of a protective ~~service~~ services order under
15 s. 55.05, except as provided in s. 55.19 (2), the guardian ad litem shall do all of the
16 following:

17 **SECTION 489.** 880.331 (5) (a) of the statutes is renumbered 55.195 (1) and
18 amended to read:

19 55.195 (1) Interview the ward to explain the review procedure, the right to an
20 independent evaluation, the right to counsel, and the right to a hearing.

21 **SECTION 490.** 880.331 (5) (b) of the statutes is renumbered 55.195 (2) and
22 amended to read:

23 55.195 (2) Provide the information under ~~par. (a)~~ sub. (1) to the ward in writing.

24 **SECTION 491.** 880.331 (5) (c) of the statutes is renumbered 55.195 (3) and
25 amended to read:

1 55.195 (3) ~~Secure~~ Request that the court order an additional medical,
2 psychological, or other evaluation of the ward, if necessary.

3 **SECTION 492.** 880.331 (5) (d) of the statutes is renumbered 55.195 (4).

4 **SECTION 493.** 880.331 (5) (e) of the statutes is renumbered 55.195 (5) and
5 amended to read:

6 55.195 (5) Review the ward's condition, placement, and rights with the
7 guardian.

8 **SECTION 494.** 880.331 (5) (f) of the statutes is renumbered 55.195 (6) and
9 amended to read:

10 55.195 (6) If relevant, report to the court that the ward objects to the finding
11 of continuing incompetency, the present or proposed placement, the position of the
12 guardian, or the recommendation of the guardian ad litem as to the best interests of
13 the ward or if there is ambiguity about the ward's position on these matters.

14 **SECTION 495.** 880.331 (5) (g) of the statutes is renumbered 55.195 (8).

15 **SECTION 496.** 880.331 (6) of the statutes is renumbered 54.40 (5) and amended
16 to read:

17 54.40 (5) COMMUNICATION TO A JURY. In jury trials under this chapter or ch. 55
18 or 880, the court or guardian ad litem may tell the jury that the guardian ad litem
19 represents the best interests of the proposed ward or ~~alleged incompetent~~ ward.

20 **SECTION 497.** 880.331 (7) of the statutes is renumbered 54.40 (6) and amended
21 to read:

22 54.40 (6) TERMINATION AND EXTENSION OF APPOINTMENT. The appointment of a
23 guardian ad litem under sub. (1) terminates upon the entry of the court's final order
24 or upon the termination of any appeal in which the guardian ad litem participates,
25 even if counsel has been appointed for the proposed ward or ~~alleged incompetent~~

1 ward. The court may extend that appointment, or reappoint a guardian ad litem
2 whose appointment under this section has terminated, by an order specifying the
3 scope of responsibilities of the guardian ad litem. At any time, the guardian ad litem,
4 any party, or the ~~person~~ individual for whom the appointment is made may request
5 that the court terminate any extension or reappointment. The guardian ad litem
6 may appeal, or may participate in an appeal ~~or may do neither~~. If an appeal is taken
7 by any party and the guardian ad litem chooses not to participate in that appeal, he
8 or she shall file with the appellate court a statement of reasons for not participating.
9 Irrespective of the guardian ad litem's decision not to participate in an appeal, the
10 appellate court may order the guardian ad litem to participate in the appeal.

11 **SECTION 498.** 880.331 (8) of the statutes is renumbered 54.74 and amended to
12 read:

13 **54.74 Compensation of guardian ad litem.** ~~On order of the court, the~~
14 ~~guardian ad litem appointed under this chapter shall be allowed reasonable~~
15 ~~compensation to be paid by the county of venue, unless~~ Unless the court otherwise
16 ~~directs or unless the guardian ad litem is appointed for a minor, in which case the~~
17 ~~compensation of the guardian ad litem shall be paid by the minor's parents or the~~
18 ~~county of venue as provided in s. 48.235 (8) or unless a petition to the court under this~~
19 ~~chapter is dismissed, the court shall order reasonable compensation to be paid to a~~
20 ~~guardian ad litem appointed under s. 54.40 (1) from the ward's income or assets, if~~
21 ~~sufficient, or, if insufficient, by the county of venue. If a petition to the court under~~
22 ~~this chapter is dismissed, the court shall order the petitioner to pay the compensation~~
23 ~~of the guardian ad litem.~~ If the court orders a county to pay the compensation of the
24 guardian ad litem, the amount ordered may not exceed the compensation paid to a
25 private attorneys attorney under s. 977.08 (4m) (b). The guardian ad litem shall

1 receive compensation for performing all duties required under s. 54.40 (4) and for any
2 other acts that are approved by the court and are reasonably necessary to promote
3 the ward's best interests.

4 **SECTION 499.** 880.34 (title) of the statutes is renumbered 54.64 (title) and
5 amended to read:

6 **54.64 (title) Duration Review of incompetency and termination of**
7 **guardianship; review.**

8 **SECTION 500.** 880.34 (1) of the statutes is renumbered 54.64 (1) and amended
9 to read:

10 54.64 (1) DURATION. Any guardianship of an individual found to be incompetent
11 under this chapter shall continue during the life of the ~~incompetent, or ward,~~ until
12 terminated by the court, or as provided under sub. (3) or (4). ~~Upon reaching the age~~
13 ~~of majority, an incompetent subject to guardianship under this chapter shall be~~
14 ~~reviewed by the court for the purpose of determining whether the guardianship~~
15 ~~should be continued or modified. The court shall make a specific finding of any rights~~
16 ~~under s. 880.33 (3) which the individual is competent to exercise at the time.~~

17 **SECTION 501.** 880.34 (2) of the statutes is renumbered 54.64 (2) (d) and
18 amended to read:

19 54.64 (2) (d) The court shall review and may terminate the guardianship of the
20 person of an individual found incompetent upon marriage to any person who is not
21 subject to a guardianship.

22 **SECTION 502.** 880.34 (3) of the statutes is repealed.

23 **SECTION 503.** 880.34 (4) of the statutes is renumbered 54.64 (2) (a) (intro.) and
24 amended to read:

1 54.64 (2) (a) (intro.) A ward who is 18 years of age or older, any interested
2 person acting on the ward's behalf, or the ward's guardian may petition for a review
3 of incompetency. Upon such, to have the guardian discharged and a new guardian
4 appointed, or to have the guardianship limited and specific rights restored. The
5 petition may be filed at any time after 180 days after any previous hearing under s.
6 54.44, or at any time if the court determines that exigent circumstances, including
7 presentation of new evidence, require a review. If a petition for review is filed, the
8 court shall ~~conduct~~ do all of the following:

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

14 **SECTION 504.** 880.34 (5) of the statutes is renumbered 54.64 (2) (c) and
15 amended to read:

16 54.64 (2) (c) After a hearing under ~~sub. (4) par. (a)~~ or on its own motion, a court
17 may terminate or modify ~~a~~ the guardianship of an incompetent, including restoring
18 certain of the ward's rights.

19 **SECTION 505.** 880.34 (6) of the statutes is repealed.

20 **SECTION 506.** 880.35 of the statutes is renumbered 54.15 (7) and amended to
21 read:

22 54.15 (7) ~~NONPROFIT CORPORATION AS GUARDIAN~~ PRIVATE NONPROFIT CORPORATION
23 OR OTHER ENTITY. A private nonprofit corporation organized under ch. 181, 187, or 188
24 is ~~qualified to act~~ or an unincorporated association that is approved by the court may
25 be appointed as guardian of the person or of the property estate or both, of an

1 individual found to be in need of guardianship under s. 880.33, if a proposed ward,
2 if no suitable individual is available as guardian and the department of health and
3 family services, under rules ~~established~~ promulgated under ch. 55 this chapter, finds
4 the corporation or association to be a suitable agency to perform such duties.

5 **SECTION 507.** 880.36 (title) of the statutes is renumbered 54.52 (title).

6 **SECTION 508.** 880.36 (1) of the statutes is renumbered 54.52 (1) and amended
7 to read:

8 54.52 (1) A person may at any time bring a petition for the appointment of a
9 standby guardian of the person or property or both estate of a minor or person found
10 incompetent under s. 880.08 to assume the duty and authority of guardianship on
11 the death, incapacity or resignation of the initially appointed guardian may be
12 brought under this chapter at any time. A an individual who is determined under
13 s. 54.10 to be incompetent, a minor, or a spendthrift, except that, as specified in s.
14 48.97 a petition for the appointment of a standby guardian of the person or property
15 or both of a minor to assume the duty and authority of guardianship on the
16 incapacity, death, or debilitation and consent, of the minor's parent shall may be
17 brought under s. 48.978.

18 **SECTION 509.** 880.36 (2) of the statutes is renumbered 54.52 (2) and amended
19 to read:

20 54.52 (2) At any hearing conducted under this section the court may designate
21 one or more standby guardians of the person or ~~property~~ estate whose appointment
22 shall become effective immediately upon the death, ~~incapacity~~ unwillingness, or
23 inability to act, or resignation or court's removal of the initially appointed guardian
24 or during a period, as determined by the initially appointed guardian, when the
25 initially appointed guardian or the court is temporarily unable to fulfill his or her

1 duties, including during an extended vacation or illness. The powers and duties of
2 the standby guardian shall be the same as those of the initially appointed guardian.
3 The standby guardian shall receive a copy of the court order establishing or
4 modifying the initial guardianship, and the order designating the standby guardian.
5 Upon assuming office, the standby guardian shall so notify the court. Upon
6 notification, the court shall issue new letters of guardianship that specify that the
7 standby guardianship is permanent or that specify the time period for a limited
8 standby guardianship.

9 **SECTION 510.** 880.37 of the statutes is repealed.

10 **SECTION 511.** 880.38 (title) of the statutes is renumbered 54.25 (title) and
11 amended to read:

12 **54.25 (title) Guardian Duties and powers of guardian of the person of**
13 **incompetent.**

14 **SECTION 512.** 880.38 (1) of the statutes is repealed.

15 **SECTION 513.** 880.38 (2) of the statutes is renumbered 54.25 (1) (b) (intro.) and
16 amended to read:

17 54.25 (1) (b) (intro.) ~~A guardian of the person shall endeavor~~ Endeavor to
18 secure any necessary care, or services ~~or appropriate protective placement on behalf~~
19 ~~of~~ for the ward. that are in the ward's best interests, based on all of the following:

20 **SECTION 514.** 880.38 (3) of the statutes is renumbered 54.25 (1) (a) and
21 amended to read:

22 54.25 (1) (a) ~~A guardian of the person of an incompetent appointed under s.~~
23 ~~880.33 shall make~~ Make an annual report on the condition of the ward to the court
24 that ordered the guardianship and to the county department designated under s.
25 55.02. That county department shall develop reporting requirements for the

1 guardian of the person. The report shall include, ~~but not be limited to,~~ the location
2 of the ward, the health condition of the ward, any recommendations regarding the
3 ward, and a statement of as to whether or not the ward is living in the least restrictive
4 environment consistent with the needs of the ward. ~~The guardian may fulfill the~~
5 ~~requirement under this subsection by submitting the report required under s. 55.06~~
6 ~~(10).~~

7 **SECTION 515.** 880.39 (title) of the statutes is repealed.

8 **SECTION 516.** 880.39 of the statutes is renumbered 54.18 (4) and amended to
9 read:

10 54.18 (4) ~~Any~~ A guardian of the person or of the estate is immune from civil
11 liability for his or her acts or omissions in performing the duties of the guardianship
12 if he or she performs the duties in good faith, in the best interests of the ward, and
13 with the degree of diligence and prudence that an ordinarily prudent person
14 exercises in his or her own affairs.

15 **SECTION 517.** Subchapter II (title) of chapter 880 [precedes 880.60] of the
16 statutes, as affected by 2005 Wisconsin Act 22, is repealed.

17 **SECTION 518.** 880.60 (title) of the statutes, as affected by 2005 Wisconsin Act
18 22, is renumbered 54.852 (title).

19 **SECTION 519.** 880.60 (1) (intro.) of the statutes is renumbered 54.852 (1)
20 (intro.).

21 **SECTION 520.** 880.60 (1) (a) of the statutes, as affected by 2005 Wisconsin Act
22 22, is renumbered 54.852 (1) (a).

23 **SECTION 521.** 880.60 (1) (b) to (g), (2) to (4) and (5) (title) and (a) of the statutes
24 are renumbered 54.852 (1) (b) to (g), (2) to (4) and (5) (title) and (a), and 54.852 (1)
25 (d) and (g), as renumbered, are amended to read:

1 54.852 (1) (d) “Guardian” Notwithstanding s. 54.01 (10), “guardian” means any
2 fiduciary for the person or estate of a ward.

3 (g) “Ward” Notwithstanding s. 54.01 (37), “ward” means a beneficiary of an
4 individual who receives benefits from the U.S. department of veterans affairs.

5 **SECTION 522.** 880.60 (5) (b) of the statutes, as affected by 2005 Wisconsin Act
6 22, is renumbered 54.852 (5) (b).

7 **SECTION 523.** 880.60 (5) (c) and (d) and (6) to (18) of the statutes are
8 renumbered 54.852 (5) (c) and (d) and (6) to (18), and 54.852 (10) (a) and (12), as
9 renumbered, are amended to read:

10 54.852 (10) (a) Every guardian shall file his or her accounts as required by this
11 chapter and shall be excused from filing accounts in the case as provided by s. 880.25
12 ~~(3)~~ 54.66 (2).

13 **(12) COMPENSATION OF GUARDIANS.** Guardians shall be compensated as provided
14 in s. ~~880.24 (1)~~ 54.72.

15 **SECTION 524.** 880.60 (19) of the statutes, as affected by 2005 Wisconsin Act 22,
16 is renumbered 54.852 (19).

17 **SECTION 525.** 880.60 (20) and (21) of the statutes are renumbered 54.852 (20)
18 and (21).

19 **SECTION 526.** Subchapter III (title) of chapter 880 [precedes 880.61] of the
20 statutes is repealed.

21 **SECTION 527.** 880.61 of the statutes is renumbered 54.854, and 54.854 (intro.),
22 (3) to (6), (10), (11), (13) and (14), as renumbered, are amended to read:

23 **54.854 (title) Definitions Uniform transfers to minors act; definitions.**
24 (intro.) In ss. ~~880.61 to 880.72~~ 54.854 to 54.898:

1 **(3)** “Conservator” Notwithstanding s. 54.01 (3), “conservator” means a person
2 appointed or qualified by a court to act as general, limited or temporary guardian of
3 a minor’s property or a person legally authorized to perform substantially the same
4 functions.

5 **(4)** “Court” Notwithstanding s. 54.01 (4), “court” means the circuit court.

6 **(5)** “Custodial property” means any interest in property transferred to a
7 custodian under ss. ~~880.61 to 880.72~~ 54.854 to 54.898 and the income from and
8 proceeds of that interest in property.

9 **(6)** “Custodian” means a person so designated under s. ~~880.65~~ 54.870 or a
10 successor or substitute custodian designated under s. ~~880.695~~ 54.888.

11 **(10)** “Minor” Notwithstanding s. 54.01 (20), “minor” means an individual who
12 has not attained the age of 21 years.

13 **(11)** “Personal representative” Notwithstanding s. 54.01 (23), “personal
14 representative” means an executor, administrator, successor personal
15 representative or special administrator of a decedent’s estate or a person legally
16 authorized to perform substantially the same functions.

17 **(13)** “Transfer” means a transaction that creates custodial property under s.
18 ~~880.65~~ 54.870.

19 **(14)** “Transferor” means a person who makes a transfer under ss. ~~880.61 to~~
20 ~~880.72~~ 54.854 to 54.898.

21 **SECTION 528.** 880.615 of the statutes is renumbered 54.856, and 54.856 (1) and
22 (2), as renumbered, are amended to read:

23 54.856 **(1)** Sections ~~880.61 to 880.72~~ 54.854 to 54.898 apply to a transfer that
24 refers to ss. ~~880.61 to 880.72~~ 54.854 to 54.898 in the designation under s. ~~880.65~~
25 54.870 (1) by which the transfer is made if at the time of the transfer the transferor,

1 the minor or the custodian is a resident of this state or the custodial property is
2 located in this state. The custodianship so created remains subject to ss. ~~880.61 to~~
3 ~~880.72~~ 54.854 to 54.898 despite a subsequent change in residence of a transferor, the
4 minor or the custodian, or the removal of custodial property from this state.

5 (2) A person designated as custodian under s. ~~880.65 to 880.695~~ 54.870 to
6 54.888 is subject to personal jurisdiction in this state with respect to any matter
7 relating to the custodianship.

8 **SECTION 529.** 880.62 of the statutes is renumbered 54.858, and 54.858 (2) and
9 (3), as renumbered, are amended to read:

10 54.858 (2) A custodian nominated under this section must be a person to whom
11 a transfer of property of that kind may be made under s. ~~880.65~~ 54.870 (1).

12 (3) The nomination of a custodian under this section does not create custodial
13 property until the nominating instrument becomes irrevocable or a transfer to the
14 nominated custodian is completed under s. ~~880.65~~ 54.870. Unless the nomination
15 of a custodian has been revoked, upon the occurrence of the future event the
16 custodianship becomes effective and the custodian shall enforce a transfer of the
17 custodial property under s. ~~880.65~~ 54.870.

18 **SECTION 530.** 880.625 of the statutes is renumbered 54.860 and amended to
19 read:

20 **54.860 Transfer by gift or exercise of power of appointment.** A person
21 may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of
22 appointment in favor of, a custodian for the benefit of a minor under s. ~~880.65~~ 54.870.

23 **SECTION 531.** 880.63 of the statutes is renumbered 54.862 and amended to
24 read:

1 **54.862 Transfer authorized by will or trust.** (1) A personal representative
2 or trustee may make an irrevocable transfer under s. ~~880.65~~ 54.870 to a custodian
3 for the benefit of a minor as authorized in the governing will or trust.

4 (2) If the testator or settlor has nominated a custodian under s. ~~880.62~~ 54.858
5 to receive the custodial property, the transfer must be made to that person.

6 (3) If the testator or settlor has not nominated a custodian under s. ~~880.62~~
7 54.858, or all persons so nominated as custodian die before the transfer or are unable,
8 decline or are ineligible to serve, the personal representative or the trustee, as the
9 case may be, shall designate the custodian from among those eligible to serve as
10 custodian for property of that kind under s. ~~880.65~~ 54.870 (1).

11 **SECTION 532.** 880.635 of the statutes is renumbered 54.864, and 54.864 (1) and
12 (2), as renumbered, are amended to read:

13 54.864 (1) Subject to sub. (3), a personal representative or trustee may make
14 an irrevocable transfer to another adult or trust company as custodian for the benefit
15 of a minor under s. ~~880.65~~ 54.870 in the absence of a will or under a will or trust that
16 does not contain an authorization to do so.

17 (2) Subject to sub. (3), a conservator may make an irrevocable transfer to
18 another adult or trust company as custodian for the benefit of the minor under s.
19 ~~880.65~~ 54.870.

20 **SECTION 533.** 880.64 of the statutes is renumbered 54.866 and amended to
21 read:

22 **54.866 Transfer by obligor.** (1) Subject to subs. (2) and (3), a person not
23 subject to s. ~~880.63~~ or ~~880.635~~ 54.862 or 54.864 who holds property of or owes a
24 liquidated debt to a minor not having a conservator may make an irrevocable
25 transfer to a custodian for the benefit of the minor under s. ~~880.65~~ 54.870.

1 (2) If a person having the right to do so under s. ~~880.62~~ 54.858 has nominated
2 a custodian under that section to receive the custodial property, the transfer must
3 be made to that person.

4 (3) If no custodian has been nominated under s. ~~880.62~~ 54.858, or all persons
5 so nominated as custodian die before the transfer or are unable, decline or are
6 ineligible to serve, a transfer under this section may be made to an adult member of
7 the minor's family or to a trust company unless the property exceeds \$10,000 in
8 value.

9 **SECTION 534.** 880.645 of the statutes is renumbered 54.868 and amended to
10 read:

11 **54.868 Receipt for custodial property.** A written acknowledgment of
12 delivery by a custodian constitutes a sufficient receipt and discharge for custodial
13 property transferred to the custodian under ss. ~~880.61 to 880.72~~ 54.854 to 54.898.

14 **SECTION 535.** 880.65 of the statutes is renumbered 54.870.

15 **SECTION 536.** 880.655 of the statutes is renumbered 54.872 and amended to
16 read:

17 **54.872 Single custodianship.** A transfer may be made only for one minor,
18 and only one person may be the custodian. All custodial property held under ss.
19 ~~880.61 to 880.72~~ 54.854 to 54.898 by the same custodian for the benefit of the same
20 minor constitutes a single custodianship.

21 **SECTION 537.** 880.66 of the statutes is renumbered 54.874 and amended to
22 read:

23 **54.874 Validity and effect of transfer.** (1) The validity of a transfer made
24 in a manner prescribed in ss. ~~880.61 to 880.72~~ 54.854 to 54.898 is not affected by:

1 (a) Failure of the transferor to comply with s. ~~880.65~~ 54.870 (3) concerning
2 possession and control;

3 (b) Designation of an ineligible custodian, except designation of the transferor
4 in the case of property for which the transferor is ineligible to serve as custodian
5 under s. ~~880.65~~ 54.870 (1); or

6 (c) Death or incapacity of a person nominated under s. ~~880.62~~ 54.858 or
7 designated under s. ~~880.65~~ 54.870 as custodian or the disclaimer of the office by that
8 person.

9 (2) A transfer made under s. ~~880.65~~ 54.870 is irrevocable, and the custodial
10 property is indefeasibly vested in the minor, but the custodian has all the rights,
11 powers, duties and authority provided in ss. ~~880.61 to 880.72~~ 54.854 to 54.898, and
12 neither the minor nor the minor's legal representative has any right, power, duty or
13 authority with respect to the custodial property except as provided in ss. ~~880.61 to~~
14 ~~880.72~~ 54.854 to 54.898.

15 (3) By making a transfer, the transferor incorporates in the disposition all of
16 the provisions of ss. ~~880.61 to 880.72~~ 54.854 to 54.898 and grants to the custodian,
17 and to any 3rd person dealing with a person designated as custodian, the respective
18 powers, rights and immunities provided in ss. ~~880.61 to 880.72~~ 54.854 to 54.898.

19 **SECTION 538.** ~~880.665~~ of the statutes is renumbered 54.876.

20 **SECTION 539.** ~~880.67~~ of the statutes is renumbered 54.878, and 54.878 (2), as
21 renumbered, is amended to read:

22 54.878 (2) This section does not relieve a custodian from liability for breach of
23 s. ~~880.665~~ 54.876.

24 **SECTION 540.** ~~880.675~~ of the statutes is renumbered 54.880.

1 **SECTION 541.** 880.68 of the statutes is renumbered 54.882, and 54.882 (2) and
2 (3), as renumbered, are amended to read:

3 54.882 (2) Except for a person who is a transferor under s. ~~880.625~~ 54.860, a
4 custodian has a noncumulative election during each calendar year to charge
5 reasonable compensation for services performed during that year.

6 (3) Except as provided in s. ~~880.695~~ 54.888 (6), a custodian need not give a bond.

7 **SECTION 542.** 880.685 of the statutes is renumbered 54.884, and 54.884 (2) and
8 (3), as renumbered, are amended to read:

9 54.884 (2) The propriety of, or the authority under ss. ~~880.61 to 880.72~~ 54.854
10 to 54.898 for, any act of the purported custodian.

11 (3) The validity or propriety under ss. ~~880.61 to 880.72~~ 54.854 to 54.898 of any
12 instrument or instructions executed or given either by the person purporting to make
13 a transfer or by the purported custodian.

14 **SECTION 543.** 880.69 of the statutes is renumbered 54.886.

15 **SECTION 544.** 880.695 of the statutes is renumbered 54.888, and 54.888 (1), (2)
16 and (6), as renumbered are amended to read:

17 54.888 (1) A person nominated under s. ~~880.62~~ 54.858 or designated under s.
18 ~~880.65~~ 54.870 as custodian may decline to serve by delivering a valid disclaimer
19 under s. 854.13 to the person who made the nomination or to the transferor or the
20 transferor’s legal representative. If the event giving rise to a transfer has not
21 occurred and no substitute custodian able, willing and eligible to serve was
22 nominated under s. ~~880.62~~ 54.858, the person who made the nomination may
23 nominate a substitute custodian under s. ~~880.62~~ 54.858; otherwise the transferor or
24 the transferor’s legal representative shall designate a substitute custodian at the
25 time of the transfer, in either case from among the persons eligible to serve as

1 custodian for that kind of property under s. ~~880.65~~ 54.870 (1). The custodian so
2 designated has the rights of a successor custodian.

3 **(2)** A custodian at any time may designate a trust company or an adult other
4 than a transferor under s. ~~880.625~~ 54.860 as successor custodian by executing and
5 dating an instrument of designation before a subscribing witness other than the
6 successor. If the instrument of designation does not contain or is not accompanied
7 by the resignation of the custodian, the designation of the successor does not take
8 effect until the custodian resigns, dies, becomes incapacitated or is removed.

9 **(6)** A transferor, the legal representative of a transferor, an adult member of
10 the minor's family, a guardian of the person of the minor, the conservator of the minor
11 or the minor if the minor has attained the age of 14 years may petition the court to
12 remove the custodian for cause and to designate a successor custodian other than a
13 transferor under s. ~~880.625~~ 54.860 or to require the custodian to give appropriate
14 bond.

15 **SECTION 545.** 880.70 of the statutes is renumbered 54.890, and 54.890 (1) (b),
16 (3) and (4), as renumbered, are amended to read:

17 54.890 **(1)** (b) For a determination of responsibility, as between the custodial
18 property and the custodian personally, for claims against the custodial property
19 unless the responsibility has been adjudicated in an action under s. ~~880.69~~ 54.886
20 to which the minor or the minor's legal representative was a party.

21 **(3)** The court, in a proceeding under ss. ~~880.61 to 880.72~~ 54.854 to 54.898 or
22 in any other proceeding, may require or permit the custodian or the custodian's legal
23 representative to account.

24 **(4)** If a custodian is removed under s. ~~880.695~~ 54.888 (6), the court shall require
25 an accounting and order delivery of the custodial property and records to the

1 successor custodian and the execution of all instruments required for transfer of the
2 custodial property.

3 **SECTION 546.** 880.705 of the statutes is renumbered 54.892, and 54.892 (1) and
4 (2), as renumbered, are amended to read:

5 54.892 (1) The minor’s attainment of 21 years of age with respect to custodial
6 property transferred under s. ~~880.625 or 880.63~~ 54.860 or 54.862;

7 (2) The minor’s attainment of 18 years of age with respect to custodial property
8 transferred under s. ~~880.635 or 880.64~~ 54.864 or 54.866; or

9 **SECTION 547.** 880.71 of the statutes is renumbered 54.894, and 54.894 (intro.)
10 and (2), as renumbered, are amended to read:

11 **54.894 Applicability.** (intro.) Sections ~~880.61 to 880.72~~ 54.854 to 54.898
12 apply to a transfer within the scope of s. ~~880.615~~ 54.856 made after April 8, 1988, if:

13 (2) The instrument by which the transfer purports to have been made uses in
14 substance the designation “as custodian under the Uniform Gifts to Minors Act” or
15 “as custodian under the Uniform Transfers to Minors Act” of any other state, and the
16 application of ss. ~~880.61 to 880.72~~ 54.854 to 54.898 is necessary to validate the
17 transfer.

18 **SECTION 548.** 880.715 of the statutes is renumbered 54.896 and amended to
19 read:

20 **54.896 Effect on existing custodianships.** (1) Any transfer of custodial
21 property as defined in ss. ~~880.61 to 880.72~~ 54.854 to 54.898 made before April 8, 1988,
22 is validated notwithstanding that there was no specific authority in ss. 880.61 to
23 880.71, 1985 stats., for the coverage of custodial property of that kind or for a transfer
24 from that source at the time the transfer was made.

1 (2) Sections ~~880.61 to 880.72~~ 54.854 to 54.898 apply to all transfers made before
2 April 8, 1988, in a manner and form prescribed in ss. 880.61 to 880.71, 1985 stats.,
3 except insofar as the application impairs constitutionally vested rights or extends
4 the duration of custodianships in existence on April 8, 1988.

5 (3) Sections ~~880.61 to 880.705~~ 54.854 to 54.892 with respect to the age of a
6 minor for whom custodial property is held under ss. ~~880.61 to 880.72~~ 54.854 to 54.898
7 do not apply to custodial property held in a custodianship that terminated because
8 of the minor's attainment of the age of 18 after March 23, 1972 and before April 8,
9 1988.

10 (4) To the extent that ss. ~~880.61 to 880.72~~ 54.854 to 54.898, by virtue of sub.
11 (2), do not apply to transfers made in a manner prescribed in ss. 880.61 to 880.71,
12 1985 stats., or to the powers, duties and immunities conferred by transfers in that
13 manner upon custodians and persons dealing with custodians, the repeal of ss.
14 880.61 to 880.71, 1985 stats., does not affect those transfers, powers, duties and
15 immunities.

16 **SECTION 549.** 880.72 of the statutes is renumbered 54.898 and amended to
17 read:

18 **54.898 Uniformity of application and construction.** Sections ~~880.61 to~~
19 ~~880.72~~ 54.854 to 54.898 shall be applied and construed to effectuate their general
20 purpose to make uniform the law with respect to the subject of ss. ~~880.61 to 880.72~~
21 54.854 to 54.898 among states enacting it.

22 **SECTION 550.** Subchapter IV (title) of chapter 880 [precedes 880.75] of the
23 statutes is repealed.

24 **SECTION 551.** 880.75 of the statutes is renumbered 54.92.

1 **SECTION 552.** 880.76 of the statutes is renumbered 54.93, and 54.93 (1), (2) and
2 (3), as renumbered, are amended to read:

3 54.93 (1) DEFINITIONS. (a) All definitions in s. ~~880.75~~ 54.92 (1) (a) to (e) and (g)
4 shall apply in this section, unless the context otherwise requires. “~~Third~~

5 (b) In this section, “3rd party” is a person other than a bank, broker, transfer
6 agent or issuer who with respect to a security held by an incompetent or spendthrift
7 effects a transaction otherwise than directly with the incompetent or spendthrift.

8 **(2) SECURITY TRANSACTIONS INVOLVING INCOMPETENT OR SPENDTHRIFT; LIABILITY.**

9 A bank, broker, issuer, ~~third~~ 3rd party, or transfer agent incurs no liability by reason
10 of his or her treating an incompetent or spendthrift as having capacity to transfer
11 a security, to receive or to empower others to receive dividends, interest, principal,
12 or other payments or distributions, to vote or give consent in person or by proxy, or
13 to make elections or exercise rights relating to the security, unless prior to acting in
14 the transaction the bank, broker, issuer, ~~third~~ 3rd party, or transfer agent had
15 received written notice in the office acting in the transaction that the specific security
16 is held by a person who has been adjudicated an incompetent or a spendthrift or
17 unless an individual conducting the transaction for the bank, broker, issuer, ~~third~~
18 3rd party, or transfer agent had actual knowledge that the holder of the security is
19 a person who has been adjudicated an incompetent or a spendthrift, or actual
20 knowledge of filing of lis pendens as provided in s. ~~880.215~~ 54.47. Except as
21 otherwise provided in this section, such a bank, broker, issuer, ~~third~~ 3rd party, or
22 transfer agent may assume without inquiry that the holder of a security is not an
23 incompetent or spendthrift.

24 **(3) ACTS NOT SUBJECT TO DISAFFIRMANCE OR AVOIDANCE.** An incompetent or
25 spendthrift, who has transferred a security, received or empowered others to receive

1 dividends, interest, principal, or other payments or distributions, voted or given
2 consent in person or by proxy, or made an election or exercised rights relating to the
3 security, has no right thereafter, as against a bank, broker, issuer, ~~third~~ 3rd party,
4 or transfer agent to disaffirm or avoid the transaction, unless prior to acting in the
5 transaction the bank, broker, issuer, ~~third~~ 3rd party, or transfer agent against whom
6 the transaction is sought to be disaffirmed or avoided had received notice in the office
7 acting in the transaction that the specific security is held by a person who has been
8 adjudicated an incompetent or a spendthrift or unless an individual conducting the
9 transaction for the bank, broker, issuer, ~~third~~ 3rd party, or transfer agent had actual
10 knowledge that the holder is a person who has been adjudicated an incompetent or
11 a spendthrift, or actual knowledge of filing of lis pendens as provided in s. 880.215
12 54.47.

13 **SECTION 553.** Subchapter V (title) of chapter 880 [precedes 880.81] of the
14 statutes is repealed.

15 **SECTION 554.** 880.81 of the statutes is renumbered 54.950, and 54.950 (3), (4),
16 (7) and (12), as renumbered, are amended to read:

17 54.950 (3) “Conservator” Notwithstanding s. 54.01 (3), “conservator” means a
18 person appointed or qualified by a court by voluntary proceedings to manage the
19 estate of an individual, or a person legally authorized to perform substantially the
20 same functions.

21 (4) “Court” Notwithstanding s. 54.01 (4), “court” means the circuit court of this
22 state.

23 (7) “Guardian” Notwithstanding s. 54.01 (10), “guardian” means a person
24 appointed or qualified by a court as a guardian of the person or estate, or both, of an

1 individual, including a ~~limited~~ guardian with limited powers, but not a person who
2 is only a guardian ad litem.

3 (12) “~~Personal representative~~” Notwithstanding s. 54.01 (23), “personal
4 representative” means an executor, administrator or special administrator of a
5 decedent’s estate, a person legally authorized to perform substantially the same
6 functions or a successor to any of them.

7 **SECTION 555.** 880.815 of the statutes is renumbered 54.952, and 54.952 (8), as
8 renumbered, is amended to read:

9 54.952 (8) ~~This subchapter does~~ Sections 54.950 to 54.988 do not displace or
10 restrict other means of creating trusts. A trust whose terms do not conform to this
11 subchapter may be enforceable according to its terms under other law.

12 **SECTION 556.** 880.82 of the statutes is renumbered 54.954.

13 **SECTION 557.** 880.825 of the statutes is renumbered 54.956.

14 **SECTION 558.** 880.83 of the statutes is renumbered 54.958, and 54.958 (1), as
15 renumbered, is amended to read:

16 54.958 (1) Unless otherwise directed by an instrument designating a custodial
17 trustee pursuant to s. ~~880.82~~ 54.954, a person, including a fiduciary other than a
18 custodial trustee, who holds property of or owes a debt to an incapacitated individual
19 not having a conservator or guardian of the estate may make a transfer to an adult
20 member of the beneficiary’s family or to a trust company as custodial trustee for the
21 use and benefit of the incapacitated individual. If the value of the property or the
22 debt exceeds \$10,000, the transfer is not effective unless authorized by the court.

23 **SECTION 559.** 880.835 of the statutes is renumbered 54.960, and 54.960 (3), as
24 renumbered, is amended to read:

1 54.960 (3) A custodial trustee of custodial trust property held for more than one
2 beneficiary shall separately account to each beneficiary pursuant to ss. ~~880.84 and~~
3 ~~880.88~~ 54.962 and 54.978 for the administration of the custodial trust.

4 **SECTION 560.** 880.84 of the statutes is renumbered 54.962.

5 **SECTION 561.** 880.845 of the statutes is renumbered 54.964, and 54.964 (2), as
6 renumbered, is amended to read:

7 54.964 (2) This section does not relieve a custodial trustee from liability for a
8 violation of s. ~~880.84~~ 54.962.

9 **SECTION 562.** 880.85 of the statutes is renumbered 54.966.

10 **SECTION 563.** 880.855 of the statutes is renumbered 54.968, and 54.968 (1) (a),
11 as renumbered, is amended to read:

12 54.968 (1) (a) The custodial trust was created under s. ~~880.83~~ 54.958.

13 **SECTION 564.** 880.86 of the statutes is renumbered 54.970.

14 **SECTION 565.** 880.865 of the statutes is renumbered 54.972.

15 **SECTION 566.** 880.87 of the statutes is renumbered 54.974, and 54.974 (1) and
16 (3), as renumbered, are amended to read:

17 54.974 (1) Before accepting the custodial trust property, a person designated
18 as custodial trustee may decline to serve by notifying the person who made the
19 designation, the transferor or the transferor's legal representative. If an event
20 giving rise to a transfer has not occurred, the substitute custodial trustee designated
21 under s. ~~880.82~~ 54.954 becomes the custodial trustee, or, if a substitute custodial
22 trustee has not been designated, the person who made the designation may
23 designate a substitute custodial trustee pursuant to s. ~~880.82~~ 54.954. In other cases,
24 the transferor or the transferor's legal representative may designate a substitute
25 custodial trustee.

1 **(3)** If a custodial trustee or successor custodial trustee is ineligible, resigns,
2 dies or becomes incapacitated, the successor designated under s. ~~880.815 (7) or~~
3 ~~880.82~~ 54.952 (7) or 54.954 becomes custodial trustee. If there is no effective
4 provision for a successor, the beneficiary, if not incapacitated, may designate a
5 successor custodial trustee. If the beneficiary is incapacitated or fails to act within
6 90 days after the ineligibility, resignation, death or incapacity of the custodial
7 trustee, the beneficiary’s conservator or guardian of the estate becomes successor
8 custodial trustee. If the beneficiary does not have a conservator or a guardian of the
9 estate, or the conservator or guardian of the estate fails to act, the resigning custodial
10 trustee may designate a successor custodial trustee.

11 **SECTION 567.** 880.875 of the statutes is renumbered 54.976.

12 **SECTION 568.** 880.88 of the statutes is renumbered 54.978.

13 **SECTION 569.** 880.885 of the statutes is renumbered 54.980.

14 **SECTION 570.** 880.89 of the statutes is renumbered 54.982, and 54.982 (2) (b),
15 as renumbered, is amended to read:

16 54.982 **(2)** (b) To the survivor of multiple beneficiaries if survivorship is
17 provided for pursuant to s. ~~880.835~~ 54.960.

18 **SECTION 571.** 880.895 of the statutes is renumbered 54.984, and 54.984 (1)
19 (intro.), as renumbered, is amended to read:

20 54.984 **(1)** (intro.) If a transaction, including a declaration with respect to or
21 a transfer of specific property, otherwise satisfies applicable law, the criteria of s.
22 ~~880.815~~ 54.952 are satisfied by any of the following:

23 **SECTION 572.** 880.90 of the statutes is renumbered 54.986, and 54.986 (1), as
24 renumbered, is amended to read:

1 54.986 (1) ~~This subchapter applies~~ Sections 54.950 to 54.988 apply to a transfer
2 or declaration creating a custodial trust that refers to this subchapter if, at the time
3 of the transfer or declaration, the transferor, beneficiary or custodial trustee is a
4 resident of or has its principal place of business in this state or custodial trust
5 property is located in this state. The custodial trust remains subject to this
6 subchapter despite a later change in residence or principal place of business of the
7 transferor, beneficiary or custodial trustee, or removal of the custodial trust property
8 from this state.

9 **SECTION 573.** 880.905 of the statutes is renumbered 54.988 and amended to
10 read:

11 **54.988 Uniformity of application and construction.** ~~This subchapter~~
12 Sections 54.950 to 54.988 shall be applied and construed to effectuate its general
13 purpose to make uniform the law with respect to the subject of this subchapter
14 among states enacting it.

15 **SECTION 574.** 885.17 of the statutes is amended to read:

16 **885.17 Transactions with deceased agent.** No party, and no person from,
17 through, or under whom a party derives the party's interest or title ~~shall, may be~~
18 examined as a witness in respect to any transaction or communication by the party
19 or person personally with an agent of the adverse party or an agent of the person
20 from, through, or under whom such adverse party derives his or her interest or title,
21 ~~when such~~ if the agent is dead or insane, or otherwise legally, mentally ill, or
22 adjudicated incompetent as a witness, unless the opposite party shall first be
23 examined or ~~examine~~ some other witness in his or her behalf examined in respect to
24 some transaction or communication between ~~such~~ the agent and ~~such~~ the other party
25 or person; or unless the testimony of ~~such~~ the agent, at any time taken, be first read

1 or given in evidence by the opposite party; and then, in either case respectively, only
2 in respect to such the transaction or communication of which testimony is so given
3 or to the matters to which ~~such~~ the testimony relates.

4 **SECTION 575.** 905.04 (4) (a) of the statutes is amended to read:

5 905.04 (4) (a) *Proceedings for hospitalization, guardianship, protective services*
6 *or protective placement.* There is no privilege under this rule as to communications
7 and information relevant to an issue in proceedings to hospitalize the patient for
8 mental illness, to appoint a guardian ~~under s. 880.33~~ in this state, for court-ordered
9 protective services or protective placement, or for review of guardianship, protective
10 services or protective placement orders, if the physician, registered nurse,
11 chiropractor, psychologist, social worker, marriage and family therapist or
12 professional counselor in the course of diagnosis or treatment has determined that
13 the patient is in need of hospitalization, guardianship, protective services, or
14 protective placement.

15 **SECTION 576.** 905.04 (4) (am) of the statutes is amended to read:

16 905.04 (4) (am) *Proceedings for guardianship.* There is no privilege under this
17 rule as to information contained in a statement concerning the mental condition of
18 the patient furnished to the court by a physician or psychologist under s. 54.36 (1)
19 or s. 880.33 (1), 2003 stats.

20 **SECTION 577.** 938.02 (20m) (a) 5. of the statutes is amended to read:

21 938.02 (20m) (a) 5. If a person specified in subd. 1. has been ~~determined to be~~
22 adjudicated incompetent ~~under ch. 880~~ in this state, the guardian of the person
23 appointed ~~under ch. 880~~ for him or her.

24 **SECTION 578.** 938.345 (1) (e) of the statutes is amended to read:

1 938.345 (1) (e) Place any juvenile not specifically found under chs. 46, 49, 51,
2 54. or 115 and or ch. 880, 2003 stats., to be developmentally disabled or mentally ill
3 or to be a child with a disability, as defined in s. 115.76 (5), in facilities ~~which~~ that
4 exclusively treat those categories of juveniles.

5 **SECTION 579.** 949.04 (1) (b) of the statutes is amended to read:

6 949.04 (1) (b) Application by an individual adjudicated incompetent may be
7 made on the ~~incompetent's~~ individual's behalf by the guardian or other person
8 authorized to administer the ~~incompetent's~~ individual's estate.

9 **SECTION 580.** 950.02 (4) (a) 5. of the statutes is amended to read:

10 950.02 (4) (a) 5. If a person specified in subd. 1. has been ~~determined to be~~
11 adjudicated incompetent ~~under ch. 880 in this state~~, the guardian of the person
12 appointed ~~under ch. 880 for him or her.~~

13 **SECTION 581.** 968.20 (1m) (a) 1. of the statutes is amended to read:

14 968.20 (1m) (a) 1. "Crime" includes an act committed by a juvenile or by an
15 adult who is adjudicated incompetent adult ~~which~~ that would have been a crime if
16 the act had been committed by a competent adult.

17 **SECTION 582.** 992.08 of the statutes is amended to read:

18 **992.08 Evidence as to county lands; minors.** Whenever in any action it is
19 material to any party to show that the title to any tract of land is vested in any county,
20 under chapter 132 of the general laws of 1866, by having been bid in for such county
21 for 5 successive years on sales for taxes and that the tract remains unredeemed, the
22 statement of such sales made by the county treasurer, or the record of such statement
23 in the book kept for that purpose in the treasurer's office, or the certificates of such
24 sales executed by the treasurer to the county shall be prima facie evidence of the
25 regularity of the tax proceedings from and including the valuation of any such tract

1 of land up to and inclusive of the sale thereof and of the existence of all conditions
2 precedent in any way affecting the validity of such sales, or requisite to make the title
3 of such land absolutely vest in the county in which the same is situate. This section
4 does not apply to any such lands if it appears that they were owned at the time of the
5 sales by minors or persons individuals who were adjudicated incompetent, insane or
6 mentally ill or were under guardianship.

7 **SECTION 583. Nonstatutory provisions.**

8 (1) REVIEW OF ORDER; INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION.

9 For an individual who is subject to an order appointing a guardian under section
10 880.33 (4m), 2003 stats., and to an order initially issued under section 880.33 (4r),
11 2003 stats., that is in effect on the effective date of this subsection, the county
12 department of the individual's county of residence shall, no later than 9 months after
13 the effective date of this subsection, review the individual's status under the
14 requirements of section 55.19 of the statutes, as created by this act.

15 (2) TRANSITION; INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION.

16 Notwithstanding the treatment of sections 880.07 (1m), 880.33 (2) (d), (4m), and (4r),
17 and 880.34 (6) of the statutes by this act, all orders issued under section 880.33 (4m)
18 and (4r), 2003 stats., in effect on the effective date of this subsection, remain in effect
19 until modified or terminated by a court order under section 55.19 (3) (e) 2. or 3. of the
20 statutes, as created by this act.

21 (3) COMPLIANCE BY FACILITIES WITH REQUIREMENTS FOR ADMINISTRATION OF
22 PSYCHOTROPIC MEDICATION.

23 (a) The department of health and family services shall submit in proposed form
24 the rules required under section 50.02 (2) (ad), as created in this act, to the legislative

1 council staff under section 227.15 (1) of the statutes no later than the first day of the
2 4th month beginning after the effective date of this paragraph.

3 (b) Using the procedure under section 227.24 of the statutes, the department
4 of health and family services may promulgate rules required under section 50.02 (2)
5 (ad) of the statutes, as created by this act, for the period before the effective date of
6 the rules submitted under paragraph (a), but not to exceed the period authorized
7 under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24
8 (1) (a), (2) (b), and (3) of the statutes, the department of health and family services
9 is not required to provide evidence that promulgating a rule under this paragraph
10 as an emergency rule is necessary for the preservation of the public peace, health,
11 safety, or welfare and is not required to provide a finding of emergency for a rule
12 promulgated under this paragraph.

13 (4) TRANSITION; GUARDIANSHIP APPOINTMENTS.

14 (a) 1. Notwithstanding the treatment of sections 880.03 and 880.12 of the
15 statutes by this act, except as provided in subsection (NO TAG), all guardianships
16 of the person appointed under section 880.03, 2003 stats., in effect on the effective
17 date of this subsection, remain in effect until modified by court order under section
18 54.64 (2), of the statutes, as affected by this act, terminated by court order under
19 section 54.64 (3) of the statutes, as affected by this act, or removed by court order
20 under section 54.68 (4) (d) or (5) of the statutes, as created by this act.

21 2. Notwithstanding the treatment of sections 880.03 and 880.12 of the statutes
22 by this act, except as provided in subsection (NO TAG), all guardianships of the
23 estate appointed under section 880.03, 2003 stats., in effect on the effective date of
24 this subsection, remain in effect until modified by court order under section 54.64 (2)
25 of the statutes, as affected by this act, terminated by court order under section 54.64

1 (4) of the statutes, as affected by this act, or removed by court order under section
2 54.68 (4) (d) or (5) of the statutes, as created by this act.

3 (b) Notwithstanding the treatment of sections 880.295 and 880.33 (4) of the
4 statutes, by this act, except as provided in subsection (NO TAG), all guardianships
5 appointed under section 880.295 or 880.33 (4), 2003 stats., in effect on the effective
6 date of this subsection, remain in effect until modified by court order under section
7 54.64 (2) of the statutes, as affected by this act, terminated by court order under
8 section 54.64 (3) or (4) of the statutes, as affected by this act, or removed by court
9 order under section 54.68 (4) (d) or (5) of the statutes, as created by this act.

10 (5) TRANSITION; GUARDIANSHIP REVIEW AND REMOVAL.

11 (a) Notwithstanding the treatment of section 880.16 and 880.192 of the
12 statutes by this act, all actions for removal of a guardian under section 880.16, 2003
13 stats., in effect on the effective date of this subsection, remain in effect until
14 determined by the court under that section, and all actions for review of an account
15 or removal of a guardian under section 880.192, 2003 stats., in effect on the effective
16 date of this subsection, remain in effect until determined by the court under that
17 section.

18 (b) Notwithstanding the treatment of sections 880.251 and 880.34 (3) of the
19 statutes by this act, all actions for removal of a guardian under section 880.251, 2003
20 stats., in effect on the effective date of this subsection remain in effect until the court
21 issues an order of removal or dismisses the action, and all actions under section
22 880.34 (3), 2003 stats., for discharge of a guardian or limitation of a guardianship in
23 effect on the effective date of this subsection remain in effect until determined by the
24 court under that subsection.

1 (6) TRANSITION; LIMITED GUARDIANSHIP. Notwithstanding the treatment of
2 sections 880.33 (3) and 880.37 of the statutes by this act, all limited guardianships
3 appointed under sections 880.33 (3) and 880.37, 2003 stats., in effect on the effective
4 date of this subsection remain in effect until modified by court order under section
5 54.64 (2) of the statutes, as affected by this act, terminated by court order under
6 section 54.64 (3) or (4) of the statutes, as affected by this act, or removed by court
7 order under section 54.68 (4) (d) or (5) of the statutes, as created by this act.

8 **SECTION 584. Initial applicability.**

9 (1) VENUE; COUNTY OF RESIDENCE; COUNTY OF RESPONSIBILITY. The treatment of
10 sections 51.01 (4g), (4r), (14), (14t), 51.05 (2), 51.22 (4), 51.40 (title), (1) (e), (em), (hm),
11 (j), and (m) and (2) (intro.), (a) 1. and 2., (b) (intro.), 1., 2. (intro.), a., b., c., d., and g.,
12 (f), and (g) 1. and 6., 55.06 (3) (c) and (d), 880.05, 880.06 (title), (1), and (2), and 880.33
13 (2) (a) 3. of the statutes first applies to determinations of the county of residence
14 made on the effective date of this subsection.

15 (2) REQUIREMENTS FOR FINDING THAT AN INDIVIDUAL IS A MINOR, INCOMPETENT, OR
16 A SPENDTHRIFT AND APPOINTMENT OF GUARDIAN. The treatment of sections 46.977 (1)
17 (a) and (2) (a) and (c) 2., 48.14 (2) (b) and (11), 48.345 (intro.), 48.347 (intro.), 48.62
18 (2), 48.831 (1) and (1m) (e), 48.977 (8) (title), (a), and (b), 48.978 (7) (title) and (a) to
19 (c), 50.03 (14) (c) 8. e., 50.06 (2) (c), 51.30 (4) (b) 8m. and 18. a. and c. and (5) (e), 51.40
20 (1) (f), 51.45 (2) (e) and (13) (c) and (e), 54.01 (title) and (intro.), (1), (4) to (7), (10) to
21 (15), (17) (a) and (b), (18), (19), (23) to (27), (29), (30), (33), (35), (36), and (38), 54.10,
22 54.15 (1m) (title), (2), (3), (4) (title), and (8), 54.25 (1) (title), (intro.) and (b) 1. to 5.
23 and (2), 54.34 (1) (k) to (p), 54.36 (2) and (3), 54.38 (title), (1), and (2) (b), 54.40 (4) (c),
24 (d), (g), and (h), 54.42 (title), (1) (a) 1. to 3. and (b), (2), (3) (title), (5), and (6), 54.44
25 (1) to (3) (a), (4) and (6), 54.46 (title), (intro.), (1), (2) (title), (intro.), (a) and (c), and

1 (3) (c), 54.60 (2) to (6), 55.06 (1) (a), 223.10, 243.07 (3) (b), 757.48 (1) (a), 814.66 (1)
2 (b) 2. and (m), 880.01 (intro.), (1) to (7), and (8) to (10), 880.02, 880.03, 880.04 (1),
3 880.05, 880.06 (title), (1), and (2), 880.07 (title), (1) (intro.), (a) to (j), (2), and (4),
4 880.08 (intro.), (2), (3) (title), (am) (intro.), and 1. to 4. and (e), and (4), 880.09 (intro.),
5 (2), and (4), 880.10, 880.12, 880.125, 880.13 (title), (1), (2) (title), (a), and (b), and (3),
6 880.14, 880.33 (title), (1) to (4), (5), (5m), (8), and (9), 880.331 (title), (1) to (3), (4)
7 (intro.) and (a) to (f), and (6) to (8), 880.35, and 880.81 (7), subchapters I (title), II
8 (title), III (title), IV (title), and V (title) of chapter 54, subchapter I (title) of chapter
9 880, and chapters 54 (title) and 880 (title) of the statutes, the repeal of sections
10 880.08 (1) (title) and 880.09 (1) (title), (3) (title), and (7) (title) of the statutes, and the
11 renumbering and amendment of sections 880.075, 880.08 (1), and 880.09 (1), (3), and
12 (7) of the statutes first apply to a petition for guardianship filed on the effective date
13 of this subsection.

14 (3) EXCEPTIONS TO APPOINTMENT OF GUARDIAN. The treatment of sections 54.12
15 (1) (e) and (f), 814.61 (12) (a) 1., 814.66 (1) (n), and 880.04 (title), (2), (2m), and (3) of
16 the statutes first applies to an action or proceeding pending on the effective date of
17 this subsection.

18 (4) STANDBY GUARDIANSHIP. The treatment of section 880.36 (title) and (1) of the
19 statutes first applies to a petition for appointment of a standby guardian filed on the
20 effective date of this subsection.

21 (5) SUCCESSOR GUARDIANSHIP. The treatment of section 880.17 of the statutes
22 first applies to a petition filed or motion brought on the effective date of this
23 subsection.

24 (6) ELIMINATION OF LIMITED GUARDIANSHIP OF PROPERTY. The treatment of
25 sections 6.03 (1) (a) and (3), 17.03 (6), 51.35 (7), 54.34 (1) (m), 55.06 (14), 155.60 (2),

1 706.03 (4), 880.215, and 880.37 of the statutes first applies to a procedure for
2 appointment of a limited guardian that is conducted on the effective date of this
3 subsection.

4 (7) TEMPORARY GUARDIANSHIP. The treatment of sections 50.94 (6), 54.50 (title),
5 (1), and (3), and 880.15 (title), (1), (1m), (1s), (2), and (3) of the statutes first applies
6 to petitions filed on the effective date of this subsection.

7 (8) POWER OF ATTORNEY FOR HEALTH CARE. The treatment of sections 155.05 (1),
8 155.40 (2m), 155.60 (2), and 880.33 (3) and (8) (b) of the statutes first applies to the
9 appointment of a guardian under section 54.46 (2) of the statutes, as created by this
10 act, on the effective date of this subsection.

11 (9) DURABLE POWER OF ATTORNEY. The treatment of sections 54.46 (2) (c), 54.76
12 (3) and (3g), and 243.07 (3) (a) and (b) and (7) (c) of the statutes first applies to the
13 appointment of a guardian under section 54.46 (2) of the statutes, as created by this
14 act, or to the appointment of a conservator under section 54.76 (2) of the statutes, as
15 created by this act, on the effective date of this subsection.

16 (10) DUTIES AND POWERS OF GUARDIAN OF THE ESTATE. The treatment of sections
17 54.18 (title) and (1) to (3) (intro.) and (b), 54.19 (title), (intro.), (2) to (6), (8) to (10),
18 54.20 (title), (1) (a) to (c), (2) (title), (intro.), (a), (c) to (g), (i), and (j), (3) (title), (intro.),
19 (a) to (e), and (k), 54.21, 880.173 (title), (1), and (2), 880.19 (title), (2) (title), (a) and
20 (b), (4) (title) and (a) to (c), and (5) (title) and (a) to (d), 880.191 (title), (1), and (2),
21 880.192, 880.195, 880.21, 880.215, 880.22 (title), and 880.24 (title), (1), (2), and (3)
22 (title), (a) (intro.) and 1. to 4., and (b) of the statutes, the repeal of section 880.175
23 (title), 880.18 (title), 880.19 (1) (title) and (3) (title), 880.22 (1) (title) and (2) (title),
24 and 880.23 (title) of the statutes, and the renumbering and amendment of sections

1 880.175, 880.18, 880.19 (1) and (3), 880.22 (1) and (2), and 880.23 of the statutes first
2 apply to a guardianship of the estate in effect on the effective date of this subsection.

3 (11) DUTIES AND POWERS OF GUARDIAN OF THE PERSON. The treatment of sections
4 54.18 (title) and (1) to (3) (intro.) and (b), 54.25 (1) (title), (intro.) and (b) 1. to 5. and
5 (2), 880.33 (9), and 880.38 (title) and (1) to (3) of the statutes first applies to a
6 guardianship of the person in effect on the effective date of this subsection and to a
7 petition for guardianship filed on the effective date of this subsection.

8 (12) NOTES AND MORTGAGES OF MINOR VETERANS. The treatment of section 880.32
9 of the statutes first applies to a note or mortgage executed on the effective date of this
10 subsection.

11 (13) PSYCHOTROPIC MEDICATIONS. The treatment of sections 51.03 (3) (a) 6., 54.01
12 (6), (28), and (30), 54.25 (2) (d) 2. a., 55.01 (1v), (6t), and (6v), 55.05 (2) (d), 55.14,
13 55.19, 609.65 (1) (intro.), 880.01 (2), (7m), and (8), 880.07 (1m), 880.33 (2) (d), (4m),
14 and (4r), 880.34 (6), and 905.04 (4) (am) of the statutes, the repeal of section 51.20
15 (7) (d) 1. a. and b. of the statutes, the renumbering and amendment of section 51.20
16 (7) (d) 1. (intro.) of the statutes first applies to petitions for involuntary
17 administration of psychotropic medication that are filed on the effective date of this
18 subsection.

19 (14) HUNTING, PATRON, AND GUIDE LICENSES. The treatment of sections 29.024
20 (2u), 29.161, 29.164 (3) (e), 29.171 (1), 29.173 (1), 29.182 (4m), 29.184 (6) (c) 1r. and
21 2., 29.231 (1), 29.235 (1), and 29.512 (1) of the statutes first applies to receipt by the
22 department of natural resources of a declaration issued by a court that an individual
23 is incapable of understanding the nature and risks of the licensed or credentialed
24 activity.

1 (15) ACCOUNTS. The treatment of sections 54.62 (title), (3), (4), and (7) (a) to (c),
2 808.075 (4) (f) 8., 880.245, 880.25 (title) and (1) to (5), 880.252, and 880.253 of the
3 statutes first applies to annual accounts that are due before April 15, 2006.

4 (16) EXPANSION OF ORDER OF GUARDIANSHIP. The treatment of section 54.63 of the
5 statutes first applies to submittal of a written statement to the court on the effective
6 date of this subsection.

7 (17) REVOCATION OR SUSPENSION OF LICENSES AND CREDENTIALS. The treatment
8 of sections 343.06 (1) (L), 343.31 (title), (2x), and (3) (a), and 440.121 of the statutes
9 first applies to receipt by an administrative agency of a record of a declaration on the
10 effective date of this subsection.

11 (18) SETTLEMENTS AND JUDGMENTS. The treatment of section 807.10 (title) and
12 (1) to (3) of the statutes first applies to settlements or judgments made on the
13 effective date of this subsection.

14 (19) REVIEW OF INCOMPETENCY AND TERMINATION OF GUARDIANSHIP. The treatment
15 of sections 54.64 (2) (title), (a) 1. to 3., and (b), 880.26 (title), (1) (intro.) and (a) to (c),
16 (2) (intro.) and (a) to (d), and (3), 880.29, and 880.34 (title) and (1) to (5) of the statutes
17 first applies to a petition for review of incompetency filed on the effective date of this
18 subsection.

19 (20) REVIEW OF CONDUCT OF GUARDIAN. The treatment of section 54.68 of the
20 statutes first applies to commitment by a guardian of any action specified under
21 section 54.68 (2) (a) to (j) of the statutes, as created by this act, on the effective date
22 of this subsection.

23 (21) FINAL ACCOUNTS. The treatment of sections 54.66 (title) and (3), 808.075
24 (4) (f) 8., 880.25 (3), 880.27, 880.28, and 880.60 (10) (a) of the statutes first applies

1 to the termination or the resignation, removal, or death of a guardian or the death
2 of a ward on the effective date of this subsection.

3 (22) APPOINTMENT OF CONSERVATOR AND STANDBY CONSERVATOR. The treatment of
4 sections 54.01 (3), (32), and (34), 54.34 (1) (p), 54.46 (1) (b), 54.76 (title), (3g), (3m) and
5 (3n), and (6) to (9), 243.07 (3) (a) to (c), 814.66 (1) (b) 2., 880.13 (3), 880.295, and 880.33
6 (8) (intro.) and (a) and subchapter VI (title) of chapter 54 of the statutes, the repeal
7 of section 880.31 (title) of the statutes, the renumbering and amendment of section
8 880.31 (2), (3), and (6) of the statutes, and the consolidation, renumbering, and
9 amendment of section 880.31 (1), (4), (5), and (7) of the statutes first apply to an
10 application or petition for appointment of a conservator made on the effective date
11 of this subsection.

12 (23) TERMINATION OF CONSERVATORSHIP. The treatment of section 54.76 (6) to (9)
13 of the statutes first applies to commitment by a conservator of any action specified
14 under section 54.76 (6) (a) to (h) of the statutes, as created by this act, or appointment
15 of a guardian, death of a conservatee, or change of residence of a conservator or
16 conservatee on the effective date of this subsection.

17 (24) DEGENERATIVE BRAIN DISORDER. The treatment of section 51.01 (5) (a) of the
18 statutes first applies to a diagnosis of developmental disability made on the effective
19 date of this subsection.

20 (25) PROTECTIVE PLACEMENT OR PROTECTIVE SERVICES. The treatment of sections
21 55.05 (2) (d), 55.06 (1) (a), (3) (c) and (d), (6), and (8) (c), and 880.33 (7) of the statutes
22 first applies to a petition for protective placement or protective services filed on the
23 effective date of this subsection.

24 (26) REVIEW OF PROTECTIVE PLACEMENT OR PROTECTIVE SERVICES. The treatment
25 of sections 55.195 (7) and (9) and 880.331 (5) (intro.) and (a) to (g) of the statutes first

1 applies to a review of protective placement or of protective services conducted on the
2 effective date of this subsection.

3 (27) PETITION FOR RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIP. The
4 treatment of sections 54.01 (9g), (9i), (9k), (9m), and (9p), 54.34 (3), 54.38 (1m), 54.44
5 (1) (c), (3) (b) and (4) (c), 54.46 (1m) and (1r), 54.68 (1), 880.02, 880.05, 880.07 (title),
6 880.33 (2) (e), and 880.331 (1) of the statutes first applies to a petition for receipt and
7 acceptance of a foreign guardianship filed on the effective date of this subsection.

8 **SECTION 585. Effective dates.** This act takes effect on the first day of the 7th
9 month beginning after publication, except as follows:

10 (1) COMPLIANCE BY FACILITIES WITH REQUIREMENTS FOR ADMINISTRATION OF
11 PSYCHOTROPIC MEDICATION. The treatment of SECTION 583 (3) of this act takes effect
12 on the day after publication.

13 (2) WILD TURKEY HUNTING LICENSES. The repeal and recreation of section 29.164
14 (3) (e) of the statutes takes effect on March 1, 2006.

15 (END)