State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0143/1
JPC:cdc

2021 BILL

AN ACT ***to renumber*** 46.977 (2) (a) and 54.15 (8) (a) 1. to 4.; ***to renumber and amend*** 46.977 (1) (b); ***to consolidate, renumber and amend*** 46.977 (1) (intro.) and (a); ***to amend*** 46.977 (2) (b) (intro.), 46.977 (2) (c), 54.15 (8) (a) (intro.) and 54.15 (8) (b); and ***to create*** 46.977 (3), 54.15 (8) (a) 2m. and 54.26 of the statutes; **relating to:** guardian training requirements.

Analysis by the Legislative Reference Bureau

This bill establishes initial training requirements for guardians. Under the bill, every proposed guardian of the person must complete training on all of the following topics: 1) the duties and required responsibilities of a guardian under the law and limits of a guardian's decision-making authority; 2) alternatives to guardianship, including supported decision-making and powers of attorney; 3) rights retained by a ward; 4) best practices for a guardian to solicit and understand the wishes and preferences of a ward, involving a ward in decision-making, and taking a ward's wishes and preferences into account in decisions made by the guardian; 5) restoration of a ward's rights and the process for removal of guardianship; 6) future planning and identification of a potential standby or successor guardian; and 7) resources and technical support for guardians. The bill also requires that every proposed guardian of the estate complete training on the duties and responsibilities of a guardian under the law and limits of a guardian's decision-making authority and inventory and accounting requirements. The bill provides limited exemptions to these training requirements for certain corporate guardians, volunteer guardians, and guardians of minors.

BILL

Under the bill, a proposed guardian of the person or the estate must submit, prior to permanent guardianship being granted, a sworn and notarized statement to the court that the person has completed the training requirements.

The bill requires the Department of Health Services to award a grant to administer and conduct the required guardian training. DHS must require, in the request for proposal, that the grantee have expertise in state guardianship law, experience with technical assistance and support to guardians and wards, and knowledge of common challenges and questions encountered by guardians and wards. In addition, the grantee selected to develop training shall develop plain language, web–based online training modules using adult–learning design principles that can be accessed for free by training topic and in formats that maximize accessibility, with printed versions available for free upon request.

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

SECTION 1. 46.977 (1) (intro.) and (a) of the statutes are consolidated, renumbered 46.977 (1) and amended to read:

46.977 **(1)** ~~DEFINITIONS~~ DEFINITION. In this section~~: (a) "Guardian"~~, "guardian" has the meaning given in s. 54.01 (10).

SECTION 2. 46.977 (1) (b) of the statutes is renumbered 46.977 (2) (ag) and amended to read:

46.977 **(2)** (ag) ~~"Organization"~~ In this subsection, "organization" means a private, nonprofit agency or a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437.

SECTION 3. 46.977 (2) (a) of the statutes is renumbered 46.977 (2) (am).

SECTION 4. 46.977 (2) (b) (intro.) of the statutes is amended to read:

46.977 **(2)** (b) (intro.) Organizations awarded grants under par. ~~(a)~~ (am) shall do all of the following:

SECTION 5. 46.977 (2) (c) of the statutes is amended to read:

46.977 **(2)** (c) In reviewing applications for grants under par. (am), the department shall consider the extent to which the proposed program will effectively train and assist guardians for individuals found incompetent under ch. 54.

SECTION 6. 46.977 (3) of the statutes is created to read:

46.977 **(3)** GRANT FOR INITIAL TRAINING. (a) The department shall award a grant to develop, administer, and conduct the guardian training required under s. 54.26.

(b) The department shall require the grantee to have expertise in state guardianship law, experience with technical assistance and support to guardians and wards, and knowledge of common challenges and questions encountered by guardians and wards.

(c) The grantee selected to develop training that meets the requirements under s. 54.26 (1) shall develop plain language, web–based online training modules using adult–learning design principles that can be accessed for free by training topic and in formats that maximize accessibility, with printed versions available for free upon request.

SECTION 7. 54.15 (8) (a) (intro.) of the statutes is amended to read:

54.15 **(8)** (a) (intro.) At least 96 hours before the hearing under s. 54.44, the proposed guardian shall submit to the court ~~a~~ all of the following:

1m. A sworn and notarized statement as to whether any of the following is true:

SECTION 8. 54.15 (8) (a) 1. to 4. of the statutes are renumbered 54.15 (8) (a) 1m. a. to d.

SECTION 9. 54.15 (8) (a) 2m. of the statutes is created to read:

54.15 **(8)** (a) 2m. A sworn and notarized statement that the proposed guardian has completed the training requirements under s. 54.26 (1), unless exempted under s. 54.26 (2) (c), (d), or (e).

SECTION 10. 54.15 (8) (b) of the statutes is amended to read:

54.15 **(8)** (b) If par. (a) ~~1., 2., 3., or 4.~~ 1m. a., b., c., or d. applies to the proposed guardian, he or she shall include in the sworn and notarized statement a description of the circumstances surrounding the applicable event under par. (a) ~~1., 2., 3., or 4.~~ 1m. a., b., c., or d.

SECTION 11. 54.26 of the statutes is created to read:

54.26 Guardian training requirements. (1) REQUIRED TRAINING TOPICS. (a) Every guardian of the person, unless exempted under sub. (2) (c), (d), or (e), shall complete training on all of the following topics:

1. The duties and required responsibilities of a guardian under the law and limits of a guardian's decision–making authority.

2. Alternatives to guardianship, including supported decision–making agreements and powers of attorney.

3. Rights retained by a ward.

4. Best practices for a guardian to solicit and understand the wishes and preferences of a ward, involving a ward in decision making, and taking a ward's wishes and preferences into account in decisions made by the guardian.

5. Restoration of a ward's rights and the process for removal of guardianship.

6. Future planning and identification of a potential standby or successor guardian.

7. Resources and technical support for guardians.

(b) Every guardian of the estate shall complete training on all of the following topics:

1. The duties and required responsibilities of a guardian under the law and limits of a guardian's decision–making authority.

2. Inventory and accounting requirements.

(2) INITIAL TRAINING REQUIREMENTS. (a) Before the final hearing for a permanent guardianship, any person nominated for appointment or seeking appointment as a guardian of the person is required to receive the training required under sub. (1) (a).

(b) Before the final hearing for permanent guardianship, any person nominated for appointment or seeking appointment as a guardian of the estate is required to receive at least the training required under sub. (1) (b).

(c) A guardian under s. 54.15 (7) who is regulated by the department is exempt from pars. (a) and (b).

(d) A volunteer guardian who has completed the training requirements under sub. (1) is exempt from pars. (a) and (b) with regard to subsequent wards.

(e) A guardian of the person or a guardian of the estate, or both, for a minor under s. 54.10 (1) is exempt from pars. (a) and (b).

SECTION 12. Nonstatutory provisions.

(1) The entity selected under s. 46.977 to administer and conduct training shall, no later than one year after the effective date of this subsection and in coordination with the department of health services, develop the content for the initial training to be provided to guardians under s. 54.26, and implement the program.

SECTION 13. Initial applicability.

(1) The treatment of ss. 54.15 (8) (a) (intro.) (as it relates to any requirement for a statement as described under s. 54.15 (8) (a) 2m.) and 2m. and 54.26 first applies to petitions for guardianship filed on the first day of the 13th month beginning after the effective date of this subsection.

(END)