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Take next step in guardianship reform

By **the Sun Sentinel Editorial Board**

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Legislature considers bill to provide state oversight of professional guardians.

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Court-appointed guardians are supposed to protect their wards. So it is depressing that somebody needs to guard against the guardians.

Yet that is the situation

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Last year, spurred on by reports of widespread abuses, the **Florida Legislature** enacted a first round of reforms to improve court oversight of guardians appointed to safeguard the property, wealth and health of people deemed incapable of managing their own affairs. Many of those incapacitated people are elderly.

These reforms included protections for people who wish to resist appointment of a guardian and procedures to keep courts from handing out for-profit guardianships to preferred insiders.

Lawmakers also were poised to approve a second round of reforms that for the first time, would have given the state Department of Elder Affairs the power and duty to regulate the burgeoning "professional guardian" business.

The courts turn to professional guardians when there is no appropriate family member or friend to assume those duties. Professional guardians are entitled to collect fees, usually paid from the assets of the ward they have been appointed to protect.

Although the proposal to improve regulation unanimously passed the Senate, it died when the House — angry about unrelated matters — threw a childish fit and went home early.

This year, the measure's main sponsor, Nancy Detert, R-Venice, has reintroduced the bill (SB 232), and it has cleared several early tests. The Legislature should approve it this session, and Gov. Rick Scott should sign it.

Most guardians are honest. All judicial circuits strive, with the help of clerks of court, to provide guidance and oversight for guardians. Yet there is ample evidence — most

recently out of **Palm Beach County** — that more is required on the state level.

Allegations in a recent Palm Beach Post series help to frame the issues. The Post series suggested that Elizabeth "Betsy" Savitt, who is a professional guardian, has benefited from her status as the wife of Circuit Court Judge Martin Colin, who serves in the probate division.

Savitt, according to The Post, collected fees before they were approved by a court, cited her husband's power in an attempt to intimidate opponents, instigated unnecessary legal action to increase guardianship and lawyers' fees, and frequently appeared before a probate judge who was a close family friend. Savitt denied any wrongdoing.

Two chief judges did nothing to intervene until The Post series ran, though now Chief Judge Jeffrey Colbath has undertaken an investigation.

Judges are supposed to oversee fees collected by guardians and attorneys in guardianship cases before them. That system is insufficient if one of the probate judges is friendly with a guardian. Probate attorneys would be reluctant to file complaints since retaliation could affect the outcome of guardianship and other cases.

The **Palm Beach County** example, which raises at least the appearance of a conflict of interest, shows the need to establish an office above the judicial-circuit level to handle complaints concerning guardians and, where appropriate, to discipline guardians for misconduct.

Detert's bill would create the Office of Public and Professional Guardians. It would provide for a staff of investigators and empower the office to review and recommend regulations governing guardians.

Some advocacy groups, such as Americans Against Abusive Probate Guardianship, lobby for even further reforms, including a cap on guardianship fees, which would prevent gouging. For the moment, Detert's bill is the next reasonable legislative step.

Of course, individuals can and should take steps on their own before they are incapacitated. Those include granting trusted family or friends financial power of attorney and designating individuals to make health care decisions. Even those arrangements can fail in the midst of family feuds — which are common, particularly when large sums are at stake, and currently are a major reason why the courts turn to

professional guardians.

So — one of the most difficult pieces of advice to accomplish — make family peace when possible.

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