

CS/HB 1433

2010

1 A bill to be entitled
2 An act relating to public records; amending s. 744.3201,
3 F.S.; creating an exemption from public records
4 requirements for petitions to determine incapacity;
5 listing persons to whom the clerk of the court shall allow
6 access to the petition; providing for future legislative
7 review and repeal of the exemption; providing a statement
8 of public necessity; providing a contingent effective
9 date.

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

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13 Section 1. Subsection (6) is added to section 744.3201,
14 Florida Statutes, to read:

15 744.3201 Petition to determine incapacity.—

16 (6) The petition to determine incapacity filed with the
17 clerk of the court is confidential and exempt from s. 119.07(1)
18 and s. 24(a), Art. I of the State Constitution. A petition made
19 confidential and exempt by this subsection shall be disclosed by
20 the clerk of the court, upon request, to a judge of the circuit,
21 the alleged incapacitated person, the next of kin listed in the
22 petition, an attorney of record for the alleged incapacitated
23 person, the public guardian if there is one for the judicial
24 circuit, the guardian and the attorney for the guardian if a
25 guardian is appointed, the members of the examining committee,
26 an appellate court as part of a record on appeal, and to any
27 other person as directed by order of the court. This subsection
28 is subject to the Open Government Sunset Review Act in

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29 accordance with s. 119.15 and shall stand repealed on October 2,
30 2015, unless reviewed and saved from repeal through reenactment
31 by the Legislature.

32 Section 2. The Legislature finds that it is a public
33 necessity to exempt from public records requirements all
34 petitions to determine incapacity, whether initial, amended, or
35 supplementary, in order to preserve the privacy of an alleged
36 incapacitated person by preserving the privacy of information in
37 the petition that would otherwise be available to the public.
38 The Legislature finds that the public disclosure of financial or
39 medical information in the petition to determine incapacity
40 would produce undue harm to the alleged incapacitated person.

41 Section 3. This act shall take effect October 1, 2010, if
42 HB 1431 or similar legislation is adopted in the same
43 legislative session or an extension thereof and becomes law.