

By the Committees on Governmental Oversight and Accountability; and Children, Families, and Elder Affairs; and Senator Stargel

585-03640-15

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 744.3701, F.S.; providing an exemption from public
 4 records requirements for records relating to the
 5 settlement of a claim on behalf of a ward or minor;
 6 authorizing a guardian ad litem, a ward, a minor, and
 7 a minor's attorney to inspect guardianship reports and
 8 court records relating to the settlement of a claim on
 9 behalf of a ward or minor upon a showing of good
 10 cause; authorizing the court to direct disclosure and
 11 recording of an amendment to a report or court records
 12 relating to the settlement of a claim on behalf of a
 13 ward or minor, in connection with real property or for
 14 other purposes; providing a statement of public
 15 necessity; providing a contingent effective date.

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

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 19 Section 1. Section 744.3701, Florida Statutes, is amended
 20 to read:

21 744.3701 Confidentiality ~~Inspection of report.~~-

22 (1) Unless otherwise ordered by the court, upon a showing
 23 of good cause, an ~~any~~ initial, annual, or final guardianship
 24 report or amendment thereto, or a court record relating to the
 25 settlement of a claim, is subject to inspection only by the
 26 court; ~~;~~ the clerk or the clerk's representative; ~~;~~ the guardian
 27 and the guardian's attorney; with respect to the settlement of
 28 the claim, the guardian ad litem; ~~and the ward, if, unless~~ he
 29 or she is at least 14 years of age and has not ~~a minor or has~~

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30 been determined to be totally incapacitated, and his or her ~~the~~
31 ~~ward's~~ attorney; and the minor, if he or she is at least 14
32 years of age, and the attorney representing the minor with
33 respect to his or her claim, or as otherwise provided by this
34 chapter.

35 (2) The court may direct disclosure and recording of parts
36 of an initial, annual, or final report or amendment thereto, or
37 a court record relating to the settlement of a claim, including
38 a petition for approval of a settlement on behalf of a ward or
39 minor, a report of a guardian ad litem relating to a pending
40 settlement, or an order approving a settlement on behalf of a
41 ward or minor, in connection with a ~~any~~ real property
42 transaction or for such other purpose as the court allows, ~~in~~
43 ~~its discretion.~~

44 (3) A court record relating to the settlement of a ward's
45 or minor's claim, including a petition for approval of a
46 settlement on behalf of a ward or minor; a report of a guardian
47 ad litem relating to a pending settlement; or an order approving
48 a settlement on behalf of a ward or minor, is confidential and
49 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
50 of the State Constitution and may not be disclosed except as
51 specifically authorized.

52 Section 2. The Legislature finds that it is a public
53 necessity that a court record relating to the settlement of a
54 ward's or minor's claim, including a petition for approval of a
55 settlement on behalf of a ward or minor, a report of a guardian
56 ad litem relating to a pending settlement, or an order approving
57 a settlement on behalf of a ward or minor, be made confidential
58 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),

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59 Art. I of the State Constitution. The information contained in
60 these records is of a sensitive, personal nature, and its
61 disclosure could jeopardize the physical safety and financial
62 security of the minor or ward. In order to protect minors,
63 wards, and others who could be at risk upon disclosure of a
64 settlement, it is necessary to ensure that only those interested
65 persons who are involved in settlement proceedings or the
66 administration of the guardianship have access to reports and
67 records. The Legislature finds that the court retaining
68 discretion to direct disclosure of these records is a fair
69 alternative to public access.

70 Section 3. This act shall take effect on the same date that
71 SB 318 or similar legislation takes effect if such legislation
72 is adopted in the same legislative session or an extension
73 thereof and becomes law.