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576-03014-18

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to guardianship; amending s. 744.2104, F.S.; requiring certain medical, financial, or mental health records or financial audits that are necessary as part of an investigation of a guardian as a result of a complaint filed for certain purposes with a designee of the Office of Public and Professional Guardians to be provided to the Office of Public and Professional Guardians upon that office's request; amending s. 744.368, F.S.; authorizing the clerk of the court to conduct audits and cause the initial and annual guardianship reports to be audited under certain circumstances; requiring the clerk to advise the court of the results of any such audit; prohibiting any fee or cost incurred by the guardian in responding to the review or audit from being paid or reimbursed by the ward's assets if there is a finding of wrongdoing by the court; amending s. 744.3701, F.S.; authorizing the clerk to disclose confidential information to the Department of Children and Families or law enforcement agencies for certain purposes as provided by court order; amending s. 744.444, F.S.; authorizing certain guardians of property to provide confidential information about a ward which is related to an investigation arising under specified provisions to a clerk or to an Office of Public and Professional Guardians investigator



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28 conducting such an investigation; providing that any
29 such clerk or Office of Public and Professional
30 Guardians investigator has a duty to maintain the
31 confidentiality of such information; providing an
32 effective date.
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34 Be It Enacted by the Legislature of the State of Florida:
35

36 Section 1. Subsection (1) of section 744.2104, Florida
37 Statutes, is amended to read:

38 744.2104 Access to records by the Office of Public and
39 Professional Guardians; confidentiality.—

40 (1) Notwithstanding any other provision of law to the
41 contrary, any medical, financial, or mental health records held
42 by an agency, or the court and its agencies, or financial audits
43 prepared by the clerk of the court pursuant to s. 744.368 and
44 held by the court, which are necessary as part of an
45 investigation of a guardian as a result of a complaint filed
46 with the Office of Public and Professional Guardians or its
47 designee to evaluate the public guardianship system, to assess
48 the need for additional public guardianship, or to develop
49 required reports, shall be provided to the Office of Public and
50 Professional Guardians upon that office's request. Any
51 confidential or exempt information provided to the Office of
52 Public and Professional Guardians shall continue to be held
53 confidential or exempt as otherwise provided by law.

54 Section 2. Subsection (5) of section 744.368, Florida
55 Statutes, is amended to read:

56 744.368 Responsibilities of the clerk of the circuit



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57 court.-

58 (5) If the clerk has reason to believe further review is
59 appropriate, the clerk may request and review records and
60 documents that reasonably impact guardianship assets, including,
61 but not limited to, the beginning inventory balance and any fees
62 charged to the guardianship. As a part of this review, the clerk
63 may conduct audits and may cause the initial and annual
64 guardianship reports to be audited. The clerk shall advise the
65 court of the results of any such audit. Any fee or cost incurred
66 by the guardian in responding to the review or audit may not be
67 paid or reimbursed by the ward's assets if there is a finding of
68 wrongdoing by the court.

69 Section 3. Subsection (4) is added to section 744.3701,
70 Florida Statutes, to read:

71 744.3701 Confidentiality.-

72 (4) The clerk may disclose confidential information to the
73 Department of Children and Families or law enforcement agencies
74 for other purposes as provided by court order.

75 Section 4. Subsection (17) of section 744.444, Florida
76 Statutes, is amended to read:

77 744.444 Power of guardian without court approval.-Without
78 obtaining court approval, a plenary guardian of the property, or
79 a limited guardian of the property within the powers granted by
80 the order appointing the guardian or an approved annual or
81 amended guardianship report, may:

82 (17) Provide confidential information about a ward which
83 ~~that~~ is related to an investigation arising under s. 744.368 to
84 the clerk, part II of this chapter to an Office of Public and
85 Professional Guardians investigator, or part I of chapter 400 to



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86 a local or state ombudsman council member conducting such an
87 investigation. Any such clerk, Office of Public and Professional
88 Guardians investigator, or ombudsman shall have a duty to
89 maintain the confidentiality of such information.

90 Section 5. This act shall take effect July 1, 2018.