

By the Committee on Appropriations; and Senators Passidomo and Bean

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1 A bill to be entitled
2 An act relating to guardianship; amending s. 744.2104,
3 F.S.; requiring certain medical, financial, or mental
4 health records or financial audits that are necessary
5 as part of an investigation of a guardian as a result
6 of a complaint filed for certain purposes with the
7 Office of Public and Professional Guardians to be
8 provided to the office or its designee upon that
9 office's request; amending s. 744.368, F.S.;
10 authorizing the clerk of the court to conduct audits
11 and cause the initial and annual guardianship reports
12 to be audited under certain circumstances; requiring
13 the clerk to advise the court of the results of any
14 such audit; prohibiting any fee or cost incurred by
15 the guardian in responding to the review or audit from
16 being paid or reimbursed by the ward's assets if there
17 is a finding of wrongdoing by the court; amending s.
18 744.3701, F.S.; authorizing the clerk to disclose
19 confidential information to the Department of Children
20 and Families or law enforcement agencies for certain
21 purposes as provided by court order; amending s.
22 744.444, F.S.; authorizing certain guardians of
23 property to provide confidential information about a
24 ward which is related to an investigation arising
25 under specified provisions to a clerk or to an Office
26 of Public and Professional Guardians investigator
27 conducting such an investigation; providing that any
28 such clerk or Office of Public and Professional
29 Guardians investigator has a duty to maintain the

576-03576-18

20181002c1

30 confidentiality of such information; providing an
31 effective date.

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

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

37 744.2104 Access to records by the Office of Public and
38 Professional Guardians; confidentiality.—

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

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

55 744.368 Responsibilities of the clerk of the circuit
56 court.—

57 (5) If the clerk has reason to believe further review is
58 appropriate, the clerk may request and review records and

576-03576-18

20181002c1

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

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

70 744.3701 Confidentiality.—

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

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

76 744.444 Power of guardian without court approval.—Without
77 obtaining court approval, a plenary guardian of the property, or
78 a limited guardian of the property within the powers granted by
79 the order appointing the guardian or an approved annual or
80 amended guardianship report, may:

81 (17) Provide confidential information about a ward which
82 ~~that~~ is related to an investigation arising under s. 744.368 to
83 the clerk, part II of this chapter to an Office of Public and
84 Professional Guardians investigator, or part I of chapter 400 to
85 a local or state ombudsman council member conducting such an
86 investigation. Any such clerk, Office of Public and Professional
87 Guardians investigator, or ombudsman shall have a duty to

576-03576-18

20181002c1

88 maintain the confidentiality of such information.

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