

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 a  
7           designee of the Office of Public and Professional  
8           Guardians to be provided to the Office of Public and  
9           Professional Guardians upon that office's request;  
10          amending s. 744.368, F.S.; authorizing the clerk of  
11          the court to conduct audits and cause the initial and  
12          annual guardianship reports to be audited under  
13          certain circumstances; requiring the clerk to advise  
14          the court of the results of any such audit;  
15          prohibiting any fee or cost incurred by the guardian  
16          in responding to the review or audit from being paid  
17          or reimbursed by the ward's assets if there is a  
18          finding of wrongdoing by the court; prohibiting the  
19          clerk's advice to the court from being considered an  
20          ex parte communication; amending s. 744.3701, F.S.;  
21          authorizing the clerk to disclose confidential  
22          information to the Department of Children and Families  
23          or law enforcement agencies for certain purposes as  
24          provided by court order; amending s. 744.444, F.S.;  
25          authorizing certain guardians of property to provide

26 confidential information about a ward which is related  
 27 to an investigation arising under specified provisions  
 28 to a clerk or to an Office of Public and Professional  
 29 Guardians investigator conducting such an  
 30 investigation; providing that any such clerk or Office  
 31 of Public and Professional Guardians investigator has  
 32 a duty to maintain the confidentiality of such  
 33 information; providing an effective date.  
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35 Be It Enacted by the Legislature of the State of Florida:  
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37 Section 1. Subsection (1) of section 744.2104, Florida  
 38 Statutes, is amended to read:

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

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

51 Professional Guardians upon that office's request. Any  
52 confidential or exempt information provided to the Office of  
53 Public and Professional Guardians shall continue to be held  
54 confidential or exempt as otherwise provided by law.

55 Section 2. Subsection (5) of section 744.368, Florida  
56 Statutes, is amended, and subsection (8) is added to that  
57 section, to read:

58 744.368 Responsibilities of the clerk of the circuit  
59 court.—

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

71 (8) The clerk's advice to the court may not be considered  
72 an ex parte communication.

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

75 744.3701 Confidentiality.—

HB 1187

2018

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

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

81           744.444 Power of guardian without court approval.—Without  
82 obtaining court approval, a plenary guardian of the property, or  
83 a limited guardian of the property within the powers granted by  
84 the order appointing the guardian or an approved annual or  
85 amended guardianship report, may:

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

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