

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; amending s.
19 744.3701, F.S.; authorizing the clerk to disclose
20 confidential information to the Department of Children
21 and Families or law enforcement agencies for certain
22 purposes as provided by court order; amending s.
23 744.444, F.S.; authorizing certain guardians of
24 property to provide confidential information about a
25 ward which is related to an investigation arising

26 | under specified provisions to a clerk or to an Office
27 | of Public and Professional Guardians investigator
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:
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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 to evaluate
47 | the public guardianship system, to assess the need for
48 | additional public guardianship, or to develop required reports,
49 | shall be provided to the Office of Public and Professional
50 | Guardians or its designee 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
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
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.