

By the Committees on Rules; and Children, Families, and Elder Affairs; and Senators Bradley, Brandes, and Brodeur

595-03645-22

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1 A bill to be entitled
2 An act relating to guardianship data transparency;
3 creating s. 744.2112, F.S.; requiring the Florida
4 Clerks of Court Operations Corporation and the clerks
5 of court to establish a statewide database of
6 guardianship data on or after a certain date;
7 specifying requirements for the database; specifying
8 database access restrictions; requiring the
9 corporation to establish a webpage for certain
10 purposes on or after a specified date; requiring the
11 corporation to generate certain monthly reports;
12 requiring that the webpage include a database meeting
13 certain requirements; requiring the Office of Public
14 and Professional Guardians to share certain data;
15 requiring the corporation to generate certain reports
16 at the request of certain entities; requiring the
17 corporation to provide the Legislature with certain
18 lists by a specified date; providing requirements for
19 the corporation in developing such lists and in
20 implementing data elements and databases; requiring
21 the corporation to annually compile and submit certain
22 data to the Office of Program Policy Analysis and
23 Government Accountability (OPPAGA); requiring OPPAGA
24 to conduct a certain analysis and submit annual
25 reports to the Governor and the Legislature;
26 specifying requirements for certain data and reports;
27 amending s. 744.2001, F.S.; requiring the Office of
28 Public and Professional Guardians to publish profiles
29 of registered professional guardians on its website;

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30 specifying requirements for the profiles; authorizing
31 the Department of Elderly Affairs to adopt rules;
32 providing appropriations; providing an effective date.
33

34 Be It Enacted by the Legislature of the State of Florida:
35

36 Section 1. Section 744.2112, Florida Statutes, is created
37 to read:

38 744.2112 Guardianship data collection and transparency.-

39 (1) (a) On or after July 1, 2023, the Florida Clerks of
40 Court Operations Corporation and the clerks of court shall
41 establish a statewide database of guardianship information to
42 facilitate improving court oversight of guardianship cases. The
43 database must meet interoperability standards defined by the
44 Florida Courts Technology Commission, such that each circuit
45 court can easily access the data for regular use in judicial
46 proceedings under this chapter. The database must include, at a
47 minimum, all of the following:

48 1. The status of each professional guardian's bond and
49 registration data.

50 2. Substantiated disciplinary data of each professional
51 guardian provided by the Office of Public and Professional
52 Guardians and the grounds for such discipline.

53 3. Information regarding the status of each guardian's
54 compliance with the statutory qualifications for guardianship.

55 4. The status of statutorily required annual registrations
56 for the professional guardian as required by s. 744.2002(2) and
57 the status of reports and submissions statutorily required under
58 chapter 744.

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59 5. The number of wards served by each guardian, by ward
60 county of residence.

61 (b) The database must be searchable by, at a minimum, the
62 name of the petitioner, ward, guardian, guardian advocate, and
63 legal counsel for all parties; the demographic information of
64 the ward; the guardian's location; the name of the judge and
65 circuit in which the case is brought; and the number of wards
66 served by each guardian, by ward county of residence. The
67 database must have the ability to generate statewide and
68 circuit-level statistical data to provide assistance to the
69 courts.

70 (c) The database established under this subsection must be
71 accessible only by members of the judiciary and their direct
72 staff. The database must restrict access to that information
73 needed to perform an individual court personnel's duties, but in
74 no way restrict access by judges and magistrates.

75 (2) On or after July 1, 2023, the Florida Clerks of Court
76 Operations Corporation shall also establish a publicly
77 accessible webpage to facilitate improving transparency of
78 guardianship cases to the public.

79 (a) The Florida Clerks of Court Operations Corporation must
80 generate monthly reports of statewide, circuit-level, and
81 county-level statistical data to provide assistance to the
82 courts and the Department of Elderly Affairs, and transparency
83 to the public and policymakers, regarding the state's
84 guardianship system. Such data reports must include only
85 aggregated and deidentified data and must be published on the
86 webpage established under this subsection.

87 (b) The webpage established under this subsection must

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88 include a database that is accessible to and searchable by the
89 public. The database must be searchable by the name of a
90 professional guardian to view current data regarding the number
91 of wards served by that guardian, the counties of residence of
92 such wards, and whether the wards are under limited or plenary
93 guardianships. Such search may not allow access to personal
94 identifying information of wards.

95 (3) The Office of Public and Professional Guardians is
96 directed to share professional guardian registration and
97 disciplinary action data for the purposes of this section.

98 (4) In addition to the reports required under paragraph
99 (2) (a), the Florida Clerks of Court Operations Corporation must
100 also generate reports using information in the databases
101 established under subsection (1) or subsection (2) at the
102 request of the Legislature, the judiciary, or the Department of
103 Elderly Affairs.

104 (5) (a) By January 1, 2023, the Florida Clerks of Court
105 Operations Corporation must provide the President of the Senate
106 and the Speaker of the House of Representatives with a proposed
107 list of specific data elements for inclusion in a database
108 established pursuant to subsection (1) for regular judicial use.
109 Additionally, the Florida Clerks of Court Operations Corporation
110 must provide a proposed list of relevant data elements that may
111 be considered for inclusion, in addition to those enumerated in
112 paragraph (2) (b), in a publicly accessible and searchable
113 database to be used for providing enhanced transparency of the
114 state's guardianship cases to the public. Any data elements
115 recommended for inclusion in the publicly searchable database
116 must be established in a manner that ensures confidentiality of

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117 ward information.

118 (b) To develop the proposed lists of data points, the
119 Florida Clerks of Court Operations Corporation shall engage with
120 stakeholders, including, but not limited to, judicial officers
121 and magistrates who handle guardianship and probate matters; the
122 Florida State Guardianship Association; the Elder Law Section of
123 The Florida Bar; the Real Property, Probate, and Trust Law
124 Section of The Florida Bar; and the Department of Elderly
125 Affairs, to obtain feedback for use in the development of
126 specific data elements for any databases established in
127 accordance with this section. The Florida Clerks of Court
128 Operations Corporation must collaborate with the Office of the
129 State Courts Administrator and the clerks of court through the
130 Florida Courts Technology Commission to implement the data
131 elements and databases to achieve interoperability.

132 (6) (a) Beginning July 1, 2024, and annually thereafter
133 through July 1, 2027, the Florida Clerks of Court Operations
134 Corporation shall compile data maintained in the database that
135 has been collected from the clerks of court and the Department
136 of Elderly Affairs and submit such data to the Office of Program
137 Policy Analysis and Government Accountability (OPPAGA).

138 (b) OPPAGA shall analyze the consolidated data compiled in
139 accordance with paragraph (a) to evaluate trends in the use of
140 guardianships in this state and conduct a comparative analysis
141 of guardianship laws in other states. In conducting the
142 analysis, OPPAGA shall consult with the Office of State Courts
143 Administrator, the Clerks of Court Operations Corporation, the
144 clerks of the court, and the Department of Elderly Affairs.
145 OPPAGA shall submit a report containing findings and

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146 recommendations to the Governor, the President of the Senate,
147 and the Speaker of the House of Representatives by October 15,
148 2024, and annually thereafter through October 15, 2027.

149 (c) The data compiled and reported under paragraphs (a) and
150 (b) must be produced in a statewide, circuit-level, and county-
151 level statistical format. Such reports must include only
152 aggregated and deidentified data. Further, the reports provided
153 under paragraphs (a) and (b) may not contain personal
154 identifying information of wards.

155 Section 2. Subsection (7) is added to section 744.2001,
156 Florida Statutes, to read:

157 744.2001 Office of Public and Professional Guardians.—There
158 is created the Office of Public and Professional Guardians
159 within the Department of Elderly Affairs.

160 (7) The Office of Public and Professional Guardians shall
161 publish on its website a profile of each registered professional
162 guardian. The profiles must be accessible and searchable by the
163 public and must include, at a minimum, the guardian's name and
164 business address, whether the guardian meets the education and
165 bonding requirements under s. 744.2003, the number and type of
166 substantiated complaints against the professional guardian, and
167 any disciplinary actions taken by the Department of Elderly
168 Affairs against the guardian. The Department of Elderly Affairs
169 may adopt rules necessary to implement this subsection.

170 Section 3. For the 2022-2023 fiscal year, the sum of
171 \$2,400,000 in nonrecurring funds is appropriated from the
172 General Revenue Fund to the Justice Administrative Commission
173 for distribution to the Florida Clerks of Court Operations
174 Corporation for the purpose of implementing this act.

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175 Section 4. For the 2022-2023 fiscal year, the sums of
176 \$40,000 in recurring funds and \$300,000 in nonrecurring funds
177 are appropriated from the General Revenue Fund to the Department
178 of Elderly Affairs for the purpose of implementing this act.

179 Section 5. This act shall take effect July 1, 2022.