

By Senator Passidomo

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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 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

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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

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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.—

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

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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.