

ENROLLED

CS/HB 1187

2018 Legislature

1  
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

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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.  
33 |

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

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

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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

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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.