

## CHAPTER 2018-68

### Committee Substitute for House Bill No. 1187

An act relating to guardianship; amending s. 744.2104, F.S.; requiring certain medical, financial, or mental health records or financial audits that are necessary as part of an investigation of a guardian as a result of a complaint filed for certain purposes with a designee of the Office of Public and Professional Guardians to be provided to the Office of Public and Professional Guardians upon that office's request; amending s. 744.368, F.S.; authorizing the clerk of the court to conduct audits and cause the initial and annual guardianship reports to be audited under certain circumstances; requiring the clerk to advise the court of the results of any such audit; prohibiting any fee or cost incurred by the guardian in responding to the review or audit from being paid or reimbursed by the ward's assets if there is a finding of wrongdoing by the court; amending s. 744.3701, F.S.; authorizing the clerk to disclose confidential information to the Department of Children and Families or law enforcement agencies for certain purposes as provided by court order; amending s. 744.444, F.S.; authorizing certain guardians of property to provide confidential information about a ward which is related to an investigation arising under specified provisions to a clerk or to an Office of Public and Professional Guardians investigator conducting such an investigation; providing that any such clerk or Office of Public and Professional Guardians investigator has a duty to maintain the confidentiality of such information; providing an effective date.

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

Section 1. Subsection (1) of section 744.2104, Florida Statutes, is amended to read:

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

(1) Notwithstanding any other provision of law to the contrary, any medical, financial, or mental health records held by an agency, or the court and its agencies, or financial audits prepared by the clerk of the court pursuant to s. 744.368 and held by the court, which are necessary as part of an investigation of a guardian as a result of a complaint filed with the Office of Public and Professional Guardians to evaluate the public guardianship system, to assess the need for additional public guardianship, or to develop required reports, shall be provided to the Office of Public and Professional Guardians or its designee upon that office's request. Any confidential or exempt information provided to the Office of Public and Professional Guardians shall continue to be held confidential or exempt as otherwise provided by law.

Section 2. Subsection (5) of section 744.368, Florida Statutes, is amended to read:

744.368 Responsibilities of the clerk of the circuit court.—

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

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

744.3701 Confidentiality.—

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

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

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

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

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

Approved by the Governor March 21, 2018.

Filed in Office Secretary of State March 21, 2018.