

HB 1325 - AS AMENDED BY THE HOUSE

10Mar2022... 0230h

2022 SESSION

22-2532

05/10

HOUSE BILL

1325

AN ACT relative to release of confidential records of a person appointed a guardian.

SPONSORS: Rep. P. Schmidt, Straf. 19

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill provides that a person appointed a guardian shall retain the right to access and consent to the release of his or her confidential records unless the terms of the appointment provide otherwise. The bill also provides that the guardian shall provide records to the ward so that the ward may pursue a termination of guardianship request unless the court determines release of such records would be harmful to the ward.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to release of confidential records of a person appointed a guardian.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Guardians and Conservators; Findings; Release of Confidential Records. Amend RSA 464-A:9,
2 IV to read as follows:

3 IV. No person determined to be incapacitated thus requiring the appointment of a guardian
4 of the person and estate, or the person, or the estate, shall be deprived of any legal rights, including
5 the right to marry, to obtain a motor vehicle operator's license, to testify in any judicial or
6 administrative proceedings, to make a will, to convey or hold property, [ø] to contract, **or to have**
7 **access to or to grant release of his or her confidential records and papers, including**
8 **medical records**, except upon specific findings of the court. The court shall enumerate in its
9 findings which legal rights the proposed ward is incapable of exercising.

10 2 Guardians and Conservators; Termination of Guardianship; Release of Records to Ward.
11 Amend RSA 464-A:40, II(c) to read as follows:

12 (c) ***The guardian shall provide medical, financial, or other records to the ward***
13 ***upon the ward's request so that the ward may prepare and pursue a guardianship***
14 ***termination motion or request. The guardian may file a petition with the court for an***
15 ***order permitting the guardian to withhold such records based on a finding that the***
16 ***records would not be relevant to the termination of the guardianship or that their release***
17 ***to the ward would be harmful to the interests of the ward. The guardian shall bear the***
18 ***burden of establishing to the court that the records should not be released to the ward.***

19 (d) Unless the motion is without merit, the court shall hold a hearing similar to that
20 provided for in RSA 464-A:8 and RSA 464-A:9 at which the guardian shall be required to prove that
21 the grounds for appointment of a guardian provided in RSA 464-A:9 continue to exist.

22 3 Effective Date. This act shall take effect January 1, 2023.