

**§5-308. Confidentiality of records****(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)****(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 18-C, §5-308, sub-§4)**

**1. Matter of public record; exception.** The existence of a proceeding for or the existence of a guardianship for an adult is a matter of public record unless the court seals the records after:

A. The respondent or individual subject to guardianship requests the records be sealed; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Either:

(1) The petition for guardianship is dismissed; or

(2) The guardianship is terminated. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

**2. Access to court records.** An adult subject of a proceeding for a guardianship, whether or not a guardian is appointed, any attorney designated by the adult or appointed by the court to represent the adult, a person entitled to notice under section 5-310, subsection 5 and a person listed under subsection 3-A are entitled to access court records of the proceeding and resulting guardianship, including a guardian's report or plan. In addition, a person for good cause may petition the court for access to court records of the guardianship, including an annual report or guardian's plan. The court shall grant access if access is in the best interest of the respondent or adult subject to guardianship or furthers the public interest and does not endanger the welfare or financial interest of the adult.

[PL 2025, c. 18, §2 (AMD).]

**3. Reports confidential; availability.** A report under section 5-304 of a visitor or a professional evaluation under section 5-306 is confidential and must be sealed on filing but is available to:

A. The court; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The individual who is the subject of the report or evaluation, without limitation as to use; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. The petitioner, visitor and petitioner's and respondent's attorneys, for purposes of the proceeding; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. An agent appointed under a power of attorney for health care or advance health care directive, or power of attorney for finances in which the respondent is identified as the principal, unless the court orders otherwise; [PL 2025, c. 18, §3 (AMD).]

D-1. A person listed under subsection 3-A; and [PL 2025, c. 18, §4 (NEW).]

E. Other persons when it is in the public interest or for a purpose the court orders for good cause. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2025, c. 18, §§3, 4 (AMD).]

**3-A. Access for public interest purposes; confidentiality extended.** An authorized employee or legal counsel of the following may access and review a probate court record related to an adult guardianship proceeding under this Article to carry out an official function, duty or responsibility in the public interest:

A. The Department of Health and Human Services; [PL 2025, c. 18, §5 (NEW).]

B. The Office of the Attorney General; [PL 2025, c. 18, §5 (NEW).]

C. An agency designated by the Governor to provide protection and advocacy for persons with disabilities pursuant to Title 5, section 19502; [PL 2025, c. 18, §5 (NEW).]

D. A hospital licensed under Title 22, chapter 404 or 405; and [PL 2025, c. 18, §5 (NEW).]

E. A nonprofit organization that provides civil legal services to elderly residents of the State and that receives funding from the Maine Civil Legal Services Fund established in Title 4, section 18-A. [PL 2025, c. 18, §5 (NEW).]

A person that receives information or a record under this subsection may use the information or record only for the purpose for which accessing the information or record is intended and shall comply with any confidentiality law, rule or regulation limiting further disclosure of the information or record. [PL 2025, c. 18, §5 (NEW).]

**4. Effective date.** This section takes effect January 15, 2026 or on the effective date of amendments to the Maine Rules of Probate Procedure incorporating the substantive requirements of this section, whichever is earlier. The State Court Administrator shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes when amendments to the Maine Rules of Probate Procedure incorporating the substantive requirements of this section have taken effect.

[PL 2025, c. 18, §6 (AMD).]

#### SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. A, §30 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2021, c. 4, §2 (AMD). PL 2023, c. 4, §12 (AMD). PL 2023, c. 4, §18 (AFF). PL 2025, c. 18, §§2-6 (AMD).

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