

Bill No. CS for CS for SB 472

Barcode 175974

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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4	05/02/2006 02:27 PM	.	
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11 Senator Saunders moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 16, between lines 9 and 10,

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16 insert:

17 Section 8. Section 744.3135, Florida Statutes, is

18 amended to read:

19 744.3135 Credit and criminal investigation.--

20 (1) The court may require a nonprofessional guardian

21 and shall require a professional or public guardian, and all

22 employees of a professional guardian who have a fiduciary

23 responsibility to a ward, to submit, at their own expense, to

24 an investigation of the guardian's credit history and to

25 undergo level 2 background screening as required under s.

26 435.04. If a credit or criminal history record check is

27 required, the court must consider the results of any

28 investigation before appointing a guardian. At any time, the

29 court may require a guardian or its employees to submit to an

30 investigation of the person's credit history and complete a

31 level 1 background screening as set forth in s. 435.03. The

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1 court shall consider the results of any investigation when
2 reappointing a guardian. The clerk of the court shall maintain
3 a file on each guardian appointed by the court and retain in
4 the file documentation of the result of any investigation
5 conducted under this section. A professional guardian must pay
6 the clerk of the court a fee of up to \$7.50 for handling and
7 processing professional guardian files.

8 (2) The court and the Statewide Public Guardianship
9 Office shall accept the satisfactory completion of a criminal
10 history record check by any method described in this
11 subsection. A guardian satisfies the requirements of this
12 section by undergoing:

13 (a) An electronic fingerprint criminal history record
14 check. A guardian may use any electronic fingerprinting
15 equipment used for criminal history record checks of public
16 employees. The guardian shall pay the actual costs incurred by
17 the Federal Bureau of Investigation and the Department of Law
18 Enforcement for the criminal history record check. The agency
19 that operates the equipment used by the guardian may charge
20 the guardian an additional fee, not to exceed \$10, for the use
21 of the equipment. The agency completing the investigation must
22 immediately send the results of the criminal history record
23 check to the clerk of the court and the Statewide Public
24 Guardianship Office. The clerk of the court shall maintain the
25 results in the guardian's file and shall make the results
26 available to the court; or

27 (b) A criminal history record check using a
28 fingerprint card. The clerk of the court shall obtain
29 fingerprint cards from the Federal Bureau of Investigation and
30 make them available to guardians. Any guardian who is so
31 required shall have his or her fingerprints taken and forward

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1 the proper fingerprint card along with the necessary fee to
2 the Florida Department of Law Enforcement for processing. ~~The~~
3 ~~professional guardian shall pay to the clerk of the court a~~
4 ~~fee of up to \$7.50 for handling and processing professional~~
5 ~~guardian files.~~ The results of the fingerprint card criminal
6 history record checks shall be forwarded to the clerk of the
7 court who shall maintain the results in the guardian's a
8 guardian file and shall make the results available to the
9 court and the Statewide Public Guardianship Office. ~~If credit~~
10 ~~or criminal investigations are required, the court must~~
11 ~~consider the results of the investigations before appointing a~~
12 ~~guardian. Professional guardians and all employees of a~~
13 ~~professional guardian who have a fiduciary responsibility to a~~
14 ~~ward, so appointed, must resubmit, at their own expense, to an~~
15 ~~investigation of credit history, and undergo level 1~~
16 ~~background screening as required under s. 435.03, at least~~
17 ~~every 2 years after the date of their appointment. At any~~
18 ~~time, the court may require guardians or their employees to~~
19 ~~submit to an investigation of credit history and undergo level~~
20 ~~1 background screening as required under s. 435.03. The court~~
21 ~~must consider the results of these investigations in~~
22 ~~reappointing a guardian.~~

23 (3)(a) A professional guardian, and each employee of a
24 professional guardian who has a fiduciary responsibility to a
25 ward, must complete, at his or her own expense, a level 2
26 background screening as set forth in s. 435.04 before and at
27 least once every 5 years after the date the guardian is
28 appointed. A professional guardian, and each employee of a
29 professional guardian who has a fiduciary responsibility to a
30 ward, must complete, at his or her own expense, a level 1
31 background screening as set forth in s. 435.03 at least once

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1 every 2 years after the date the guardian is appointed.
 2 However, a person is not required to resubmit fingerprints for
 3 a criminal history record check if he or she has been screened
 4 using electronic fingerprinting equipment and the fingerprints
 5 are retained by the Department of Law Enforcement in order to
 6 notify the clerk of the court of any crime charged against the
 7 person in the State of Florida or elsewhere as appropriate.

8 (b) Effective December 15, 2006, all fingerprints
 9 electronically submitted to the Department of Law Enforcement
 10 under this section shall be retained by the Department of Law
 11 Enforcement in a manner provided by rule and entered in the
 12 statewide automated fingerprint identification system
 13 authorized by s. 943.05(2)(b). The fingerprints shall
 14 thereafter be available for all purposes and uses authorized
 15 for arrest fingerprint cards entered in the statewide
 16 automated fingerprint identification system under s. 943.051.

17 (c) Effective December 15, 2006, the Department of Law
 18 Enforcement shall search all arrest fingerprint cards received
 19 under s. 943.051 against the fingerprints retained in the
 20 statewide automated fingerprint identification system under
 21 paragraph (b). Any arrest record that is identified with the
 22 fingerprints of a person described in this paragraph must be
 23 reported as soon as possible to the clerk of court. The clerk
 24 of court must forward any arrest record received for a
 25 professional guardian to the Statewide Public Guardianship
 26 Office within 5 days. Each guardian who elects to submit
 27 fingerprint information electronically shall participate in
 28 this search process by paying an annual fee to the clerk of
 29 court and by informing the clerk of court of any change in the
 30 status of his or her guardianship appointment. The amount of
 31 the annual fee to be imposed upon each clerk of court for

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1 performing these searches and the procedures for the retention
2 of guardian fingerprints and the dissemination of search
3 results shall be established by rule of the Department of Law
4 Enforcement. The fee may be borne by the clerk of court or the
5 guardian, but may not exceed \$10.

6 (4)(a) A professional guardian, and each employee of a
7 professional guardian who has a fiduciary responsibility to a
8 ward, must complete, at his or her own expense, an
9 investigation of the credit history of the person before and
10 at least once every 2 years after the date of the guardian's
11 appointment.

12 (b) The Statewide Public Guardianship Office shall
13 adopt a rule detailing the acceptable methods for completing a
14 credit investigation under this section. If appropriate, the
15 Statewide Public Guardianship Office may administer credit
16 investigations. If the office chooses to administer the credit
17 investigation, the office may adopt a rule setting a fee, not
18 to exceed \$25, to reimburse the costs associated with the
19 administration of a credit investigation.

20 (5) The Statewide Public Guardianship Office may
21 inspect at any time the results of any credit or criminal
22 investigation of a public or professional guardian conducted
23 under this section. The office shall maintain copies of the
24 credit or criminal history record results in the guardian's
25 registration file. If the results of a credit or criminal
26 investigation of a public or professional guardian have not
27 been forwarded to the Statewide Public Guardianship Office by
28 the investigating agency, the clerk of the court shall forward
29 copies of the results of the investigations to the office upon
30 receiving them.

31 ~~(1) Upon receiving the results of a credit or criminal~~

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1 ~~investigation of any public or professional guardian, the~~
 2 ~~clerk of the court shall forward copies of the results to the~~
 3 ~~Statewide Public Guardianship Office in order that the results~~
 4 ~~may be maintained in the guardian's registration file.~~

5 (6)(2) The requirements of this section do ~~does~~ not
 6 apply to a professional guardian, or to the employees of a
 7 professional guardian, which is a trust company, a state
 8 banking corporation or state savings association authorized
 9 and qualified to exercise fiduciary powers in this state, or a
 10 national banking association or federal savings and loan
 11 association authorized and qualified to exercise fiduciary
 12 powers in this state.

13

14 (Redesignate subsequent sections.)

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17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 On page 2, line 9, after the semicolon,

20

21 insert:

22 amending s. 744.3135, F.S.; providing
 23 procedures for completing a guardian's criminal
 24 history record check; authorizing a guardian to
 25 use electronic fingerprinting equipment that is
 26 available for criminal history record checks of
 27 public employees; providing that a guardian
 28 need not be rescreened if he or she uses
 29 certain electronic fingerprinting equipment;
 30 requiring the Department of Law Enforcement to
 31 retain electronically submitted fingerprints

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1 and to enter them into the statewide automated
2 fingerprint identification system; requiring
3 the department to search all fingerprint cards
4 received from each guardian and each employee
5 of such guardian against fingerprints retained
6 in the statewide automated fingerprint
7 identification system; requiring a guardian to
8 pay an annual fee to the clerk of court for the
9 background investigation; requiring a guardian
10 and each employee of such guardian to complete
11 an investigation of his or her credit history;
12 requiring the Statewide Public Guardianship
13 Office to adopt a rule for credit
14 investigations of guardians; authorizing the
15 office to inspect the results of any criminal
16 or credit investigation;

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