

By the Committee on Criminal Justice; and Senator Saunders

591-1971-06

1 A bill to be entitled
2 An act relating to guardianship; amending s.
3 744.3135, F.S.; providing procedures for
4 completing a guardian's criminal history record
5 check; authorizing a guardian to use electronic
6 fingerprinting equipment that is available for
7 criminal history record checks of public
8 employees; providing that a guardian need not
9 be rescreened if he or she uses certain
10 electronic fingerprinting equipment; requiring
11 the Department of Law Enforcement to retain
12 electronically submitted fingerprints and to
13 enter them into the statewide automated
14 fingerprint identification system; requiring
15 the department to search all fingerprint cards
16 received from each guardian and each employee
17 of such guardian against fingerprints retained
18 in the statewide automated fingerprint
19 identification system; requiring a guardian to
20 pay an annual fee to the clerk of court for the
21 background investigation; requiring a guardian
22 and each employee of such guardian to complete
23 an investigation of his or her credit history;
24 requiring the Statewide Public Guardianship
25 Office to adopt a rule for credit
26 investigations of guardians; authorizing the
27 office to inspect the results of any criminal
28 or credit investigation; providing an effective
29 date.

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

1 Section 1. Section 744.3135, Florida Statutes, is
2 amended to read:

3 744.3135 Credit and criminal investigation.--

4 (1) The court may require a nonprofessional guardian
5 and shall require a professional or public guardian, and all
6 employees of a professional guardian who have a fiduciary
7 responsibility to a ward, to submit, at their own expense, to
8 an investigation of the guardian's credit history and to
9 undergo level 2 background screening as required under s.
10 435.04. If a credit or criminal investigation is required, the
11 court must consider the results of any investigation before
12 appointing a guardian. At any time, the court may require a
13 guardian or its employees to submit to an investigation of the
14 person's credit history and complete a level 1 background
15 screening as set forth in s. 435.03. The court shall consider
16 the results of any investigation when reappointing a guardian.
17 The clerk of the court shall maintain a file on each guardian
18 appointed by the court and retain in the file documentation of
19 the result of any investigation conducted under this section.
20 A professional guardian must pay the clerk of the court a fee
21 of up to \$7.50 for handling and processing professional
22 guardian files.

23 (2) The court and the Statewide Public Guardianship
24 Office shall accept the satisfactory completion of a criminal
25 history record check by any method described in this
26 subsection. A guardian satisfies the requirements of this
27 section by undergoing:

28 (a) An electronic fingerprint criminal history record
29 check. A guardian may use any electronic fingerprinting
30 equipment used for criminal history record checks of public
31 employees. The guardian shall pay the actual costs incurred by

1 the Federal Bureau of Investigation and the Department of Law
2 Enforcement for the criminal history record check. The agency
3 that operates the equipment used by the guardian may charge
4 the guardian an additional fee, not to exceed \$10, for the use
5 of the equipment. The agency completing the investigation must
6 immediately send the results of the criminal history record
7 check to the clerk of the court and the Statewide Public
8 Guardianship Office. The clerk of the court shall maintain the
9 results in the guardian's file and shall make the results
10 available to the court; or

11 (b) A criminal history record check using a
12 fingerprint card. The clerk of the court shall obtain
13 fingerprint cards from the Federal Bureau of Investigation and
14 make them available to guardians. Any guardian who is so
15 required shall have his or her fingerprints taken and forward
16 the proper fingerprint card along with the necessary fee to
17 the Florida Department of Law Enforcement for processing. The
18 ~~professional guardian shall pay to the clerk of the court a~~
19 ~~fee of up to \$7.50 for handling and processing professional~~
20 ~~guardian files.~~ The results of the fingerprint card criminal
21 history record checks shall be forwarded to the clerk of the
22 court who shall maintain the results in the guardian's a
23 ~~guardian~~ file and shall make the results available to the
24 court and the Statewide Public Guardianship Office. If credit
25 ~~or criminal investigations are required, the court must~~
26 ~~consider the results of the investigations before appointing a~~
27 ~~guardian. Professional guardians and all employees of a~~
28 ~~professional guardian who have a fiduciary responsibility to a~~
29 ~~ward, so appointed, must resubmit, at their own expense, to an~~
30 ~~investigation of credit history, and undergo level 1~~
31 ~~background screening as required under s. 435.03, at least~~

1 ~~every 2 years after the date of their appointment. At any~~
2 ~~time, the court may require guardians or their employees to~~
3 ~~submit to an investigation of credit history and undergo level~~
4 ~~1 background screening as required under s. 435.03. The court~~
5 ~~must consider the results of these investigations in~~
6 ~~reappointing a guardian.~~

7 (3)(a) A professional guardian, and each employee of a
8 professional guardian who has a fiduciary responsibility to a
9 ward, must complete, at his or her own expense, a level 2
10 background screening as set forth in s. 435.04 before and at
11 least once every 5 years after the date the guardian is
12 appointed. A professional guardian, and each employee of a
13 professional guardian who has a fiduciary responsibility to a
14 ward, must complete, at his or her own expense, a level 1
15 background screening as set forth in s. 435.03 at least once
16 every 2 years after the date the guardian is appointed.
17 However, a person is not required to resubmit fingerprints for
18 a criminal history record check if he or she has been screened
19 using electronic fingerprinting equipment and the fingerprints
20 are retained by the Department of Law Enforcement in order to
21 notify the clerk of the court of any crime charged against the
22 person in the State of Florida or elsewhere as appropriate.

23 (b) Effective December 15, 2006, all fingerprints
24 electronically submitted to the Department of Law Enforcement
25 under this section shall be retained by the Department of Law
26 Enforcement in a manner provided by rule and entered in the
27 statewide automated fingerprint identification system
28 authorized by s. 943.05(2)(b). The fingerprints shall
29 thereafter be available for all purposes and uses authorized
30 for arrest fingerprint cards entered in the statewide
31 automated fingerprint identification system under s. 943.051.

1 (c) Effective December 15, 2006, the Department of Law
2 Enforcement shall search all arrest fingerprint cards received
3 under s. 943.051 against the fingerprints retained in the
4 statewide automated fingerprint identification system under
5 paragraph (b). Any arrest record that is identified with the
6 fingerprints of a person described in this paragraph must be
7 reported as soon as possible to the clerk of court. The clerk
8 of court must forward any arrest record received for a
9 professional guardian to the Statewide Public Guardianship
10 Office within 5 days. Each guardian who elects to submit
11 fingerprint information electronically shall participate in
12 this search process by paying an annual fee to the clerk of
13 court and by informing the clerk of court of any change in the
14 status of his or her guardianship appointment. The amount of
15 the annual fee to be imposed upon each clerk of court for
16 performing these searches and the procedures for the retention
17 of guardian fingerprints and the dissemination of search
18 results shall be established by rule of the Department of Law
19 Enforcement. The fee may be borne by the clerk of court or the
20 guardian, but may not exceed \$10.

21 (4)(a) A professional guardian, and each employee of a
22 professional guardian who has a fiduciary responsibility to a
23 ward, must complete, at his or her own expense, an
24 investigation of the credit history of the person before and
25 at least once every 2 years after the date of the guardian's
26 appointment.

27 (b) The Statewide Public Guardianship Office shall
28 adopt a rule detailing the acceptable methods for completing a
29 credit investigation under this section. If appropriate, the
30 Statewide Public Guardianship Office may administer credit
31 investigations. If the office chooses to administer the credit

1 investigation, the office may adopt a rule setting a fee, not
2 to exceed \$25, to reimburse the costs associated with the
3 administration of a credit investigation.

4 (5) The Statewide Public Guardianship Office may
5 inspect at any time the results of any credit or criminal
6 investigation of a public or professional guardian conducted
7 under this section. The office shall maintain copies of the
8 credit or criminal history record results in the guardian's
9 registration file. If the results of a credit or criminal
10 investigation of a public or professional guardian have not
11 been forwarded to the Statewide Public Guardianship Office by
12 the investigating agency, the clerk of the court shall forward
13 copies of the results of the investigations to the office upon
14 receiving them.

15 ~~(1) Upon receiving the results of a credit or criminal~~
16 ~~investigation of any public or professional guardian, the~~
17 ~~clerk of the court shall forward copies of the results to the~~
18 ~~Statewide Public Guardianship Office in order that the results~~
19 ~~may be maintained in the guardian's registration file.~~

20 (6)(2) The requirements of this section do does not
21 apply to a professional guardian, or to the employees of a
22 professional guardian, which is a trust company, a state
23 banking corporation or state savings association authorized
24 and qualified to exercise fiduciary powers in this state, or a
25 national banking association or federal savings and loan
26 association authorized and qualified to exercise fiduciary
27 powers in this state.

28 Section 2. This act shall take effect July 1, 2006.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 476

Specifies that the guardian shall pay the actual costs incurred by the Federal Bureau of Investigation and the Department of Law Enforcement for the criminal history check on the guardian.