

Bill No. SB 2040

Barcode 965628

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Fasano) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

744.3135 Credit and criminal investigation.--

(1) The court may require a nonprofessional guardian and shall require a professional or public guardian, and all employees of a professional guardian who have a fiduciary responsibility to a ward, to submit, at their own expense, to an investigation of the guardian's credit history and to undergo level 2 background screening as required under s. 435.04. If a credit or criminal history record check is required, the court must consider the results of any investigation before appointing a guardian. At any time, the court may require a guardian or the guardian's employees to submit to an investigation of the person's credit history and

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1 complete a level 1 background screening as set forth in s.
 2 435.03. The court shall consider the results of any
 3 investigation when reappointing a guardian. The clerk of the
 4 court shall maintain a file on each guardian appointed by the
 5 court and retain in the file documentation of the result of
 6 any investigation conducted under this section. A professional
 7 guardian must pay the clerk of the court a fee of up to \$7.50
 8 for handling and processing professional guardian files.

9 (2) For nonprofessional guardians, the court and the
 10 Statewide Public Guardianship Office shall accept the
 11 satisfactory completion of a criminal history record check as
 12 by any method described in this subsection. A nonprofessional
 13 guardian satisfies the requirements of this section by
 14 undergoing a state and national criminal history record check
 15 using a fingerprint card. The clerk of the court shall obtain
 16 fingerprint cards from the Federal Bureau of Investigation and
 17 make them available to nonprofessional guardians. Any
 18 nonprofessional guardian who is so required shall have his or
 19 her fingerprints taken and forward the completed fingerprint
 20 card along with the necessary fee to the Department of Law
 21 Enforcement for processing. The results of the fingerprint
 22 card criminal history record check shall be forwarded to the
 23 clerk of the court, who shall maintain the results in the
 24 nonprofessional guardian's file and make the results available
 25 to the court.

26 (3) For professional guardians, the court and the
 27 Statewide Public Guardianship Office shall accept the
 28 satisfactory completion of a criminal history record check by
 29 any method described in this subsection. A professional
 30 guardian satisfies the requirements of this section by
 31 undergoing:

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1 (a) An electronic fingerprint criminal history record
2 check. A professional guardian may use any electronic
3 fingerprinting equipment used for criminal history record
4 checks ~~of public employees. The Statewide Public Guardianship~~
5 Office shall adopt a rule detailing the acceptable methods for
6 completing an electronic fingerprint criminal history record
7 check under this section. The professional guardian shall pay
8 the actual costs incurred by the Federal Bureau of
9 Investigation and the Department of Law Enforcement for the
10 criminal history record check. ~~The agency that operates the~~
11 ~~equipment used by the guardian may charge the guardian an~~
12 ~~additional fee, not to exceed \$10, for the use of the~~
13 ~~equipment.~~ The entity ~~agency~~ completing the record check must
14 immediately send the results of the criminal history record
15 check to the clerk of the court and the Statewide Public
16 Guardianship Office. The clerk of the court shall maintain the
17 results in the professional guardian's file and shall make the
18 results available to the court; or

19 (b) A criminal history record check using a
20 fingerprint card. The clerk of the court shall obtain
21 fingerprint cards from the Federal Bureau of Investigation and
22 make them available to guardians. Any guardian who is so
23 required shall have his or her fingerprints taken and forward
24 the proper fingerprint card along with the necessary fee to
25 the Department of Law Enforcement for processing. The results
26 of the fingerprint card criminal history record checks shall
27 be forwarded to the clerk of the court, who shall maintain the
28 results in the guardian's file and make the results available
29 to the court and the Statewide Public Guardianship Office.

30 ~~(4)(3)~~(a) A professional guardian, and each employee
31 of a professional guardian who has a fiduciary responsibility

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

16 (b) ~~Effective December 15, 2006,~~ All fingerprints
 17 electronically submitted to the Department of Law Enforcement
 18 under this section shall be retained by the Department of Law
 19 Enforcement in a manner provided by rule and entered in the
 20 statewide automated fingerprint identification system
 21 authorized by s. 943.05(2)(b). The fingerprints shall
 22 thereafter be available for all purposes and uses authorized
 23 for arrest fingerprint cards entered in the Criminal Justice
 24 Information Program under s. 943.051.

25 (c) ~~Effective December 15, 2006,~~ The Department of Law
 26 Enforcement shall search all arrest fingerprint cards received
 27 under s. 943.051 against the fingerprints retained in the
 28 statewide automated fingerprint identification system under
 29 paragraph (b). Any arrest record that is identified with the
 30 fingerprints of a person described in this paragraph must be
 31 reported to the clerk of court. The clerk of court must

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1 forward any arrest record received for a professional guardian
 2 to the Statewide Public Guardianship Office within 5 days.
 3 Each professional guardian who elects to submit fingerprint
 4 information electronically shall participate in this search
 5 process by paying an annual fee to the Statewide Public
 6 Guardianship Office of the Department of Elderly Affairs and
 7 by informing the clerk of court and the Statewide Public
 8 Guardianship Office of any change in the status of his or her
 9 guardianship appointment. The amount of the annual fee to be
 10 imposed for performing these searches and the procedures for
 11 the retention of professional guardian fingerprints and the
 12 dissemination of search results shall be established by rule
 13 of the Department of Law Enforcement. At least once every 5
 14 years, the Statewide Public Guardianship Office must request
 15 that the Department of Law Enforcement forward the
 16 fingerprints maintained under this section to the Federal
 17 Bureau of Investigation.

18 ~~(5)(4)~~(a) A professional guardian, and each employee
 19 of a professional guardian who has a fiduciary responsibility
 20 to a ward, must complete, at his or her own expense, an
 21 investigation of his or her credit history before and at least
 22 once every 2 years after the date of the guardian's
 23 registration with the Statewide Public Guardianship Office
 24 appointment.

25 (b) The Statewide Public Guardianship Office shall
 26 adopt a rule detailing the acceptable methods for completing a
 27 credit investigation under this section. If appropriate, the
 28 Statewide Public Guardianship Office may administer credit
 29 investigations. If the office chooses to administer the credit
 30 investigation, the office may adopt a rule setting a fee, not
 31 to exceed \$25, to reimburse the costs associated with the

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1 administration of a credit investigation.

2 ~~(6)~~(5) The Statewide Public Guardianship Office may
3 inspect at any time the results of any credit or criminal
4 history record check of a public or professional guardian
5 conducted under this section. The office shall maintain copies
6 of the credit or criminal history record check results in the
7 guardian's registration file. If the results of a credit or
8 criminal investigation of a public or professional guardian
9 have not been forwarded to the Statewide Public Guardianship
10 Office by the investigating agency, the clerk of the court
11 shall forward copies of the results of the investigations to
12 the office upon receiving them.

13 ~~(7)~~(6) The requirements of this section do not apply
14 to a professional guardian, or to the employees of a
15 professional guardian, that is a trust company, a state
16 banking corporation or state savings association authorized
17 and qualified to exercise fiduciary powers in this state, or a
18 national banking association or federal savings and loan
19 association authorized and qualified to exercise fiduciary
20 powers in this state.

21 Section 2. This act shall take effect July 1, 2007.

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

25 And the title is amended as follows:

26 Delete everything before the enacting clause

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28 and insert:

29 A bill to be entitled

30 An act relating to guardianship; amending s.

31 744.3135, F.S.; revising provisions relating to

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1 criminal history record checks for professional
2 and nonprofessional guardians; requiring the
3 Statewide Public Guardianship Office to adopt
4 rules; revising terminology; deleting obsolete
5 language; revising language concerning
6 investigations of credit histories of
7 professional guardians and certain of their
8 employees; providing an effective date.

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