

By Senator Storms

10-1440A-07

1                                   A bill to be entitled  
2           An act relating to criminal history record  
3           checks for guardians; amending s. 744.3135,  
4           F.S.; providing requirements for criminal  
5           history record checks for nonprofessional  
6           guardians; providing requirements for criminal  
7           history record checks for professional  
8           guardians; requiring professional guardians to  
9           complete a level 2 background screening before  
10          and at least once every 5 years after the date  
11          the guardian is registered; providing that a  
12          professional guardian is not required to  
13          resubmit fingerprints for a criminal history  
14          record check if he or she has been screened  
15          using electronic equipment and the fingerprints  
16          are retained by the Department of Law  
17          Enforcement in order to notify the clerk of any  
18          crime charged against the person; requiring  
19          each professional guardian who elects to submit  
20          fingerprint information electronically to pay  
21          an annual fee to the Statewide Public  
22          Guardianship Office of the Department of  
23          Elderly Affairs and to inform the clerk of  
24          court and the Statewide Public Guardianship  
25          Office of any change in the status of his or  
26          her guardianship appointment; authorizing the  
27          Department of Law Enforcement to establish by  
28          rule the amount of the annual fee; requiring  
29          that a professional guardian complete an  
30          investigation of his or her credit history  
31          before and at least once every 2 years after

1           the date of the guardian's registration with  
2           the Statewide Public Guardianship Office;  
3           providing an effective date.  
4

5 Be It Enacted by the Legislature of the State of Florida:  
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7           Section 1. Section 744.3135, Florida Statutes, is  
8 amended to read:

9           744.3135 Credit and criminal investigation.--

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

29           (2) For nonprofessional guardians, the court shall  
30 accept the satisfactory completion of a criminal history  
31 record check by any method described in this subsection. A

1 nonprofessional guardian satisfies the requirements of this  
2 section by undergoing a criminal history record check using a  
3 fingerprint card. The clerk of the court shall obtain  
4 fingerprint cards from the Federal Bureau of Investigation and  
5 make them available to guardians. Any nonprofessional guardian  
6 shall have his or her fingerprints taken and forward the  
7 proper fingerprint card along with the necessary fee to the  
8 Department of Law Enforcement for processing. The results of  
9 the fingerprint card criminal history record checks shall be  
10 forwarded to the clerk of the court who shall maintain the  
11 results in the nonprofessional guardian's file and make the  
12 results available to the court.

13 ~~(3)(2)~~ For professional guardians, the court and the  
14 Statewide Public Guardianship Office shall accept the  
15 satisfactory completion of a criminal history record check by  
16 any method described in this subsection. A professional  
17 guardian satisfies the requirements of this section by  
18 undergoing:

19 (a) An electronic fingerprint criminal history record  
20 check. A professional guardian may use any electronic  
21 fingerprinting equipment used for criminal history record  
22 checks of public employees. The professional guardian shall  
23 pay the actual costs incurred by the Federal Bureau of  
24 Investigation and the Department of Law Enforcement for the  
25 criminal history record check. The agency that operates the  
26 equipment used by the professional guardian may charge the  
27 professional guardian an additional fee, not to exceed \$10,  
28 for the use of the equipment. The agency completing the record  
29 check must immediately send the results of the criminal  
30 history record check to the clerk of the court and the  
31 Statewide Public Guardianship Office. The clerk of the court

1 shall maintain the results in the professional guardian's file  
2 and shall make the results available to the court; or

3 (b) A criminal history record check using a  
4 fingerprint card. The clerk of the court shall obtain  
5 fingerprint cards from the Federal Bureau of Investigation and  
6 make them available to guardians. Any guardian who is so  
7 required shall have his or her fingerprints taken and forward  
8 the proper fingerprint card along with the necessary fee to  
9 the Department of Law Enforcement for processing. The results  
10 of the fingerprint card criminal history record checks shall  
11 be forwarded to the clerk of the court who shall maintain the  
12 results in the guardian's file and make the results available  
13 to the court and the Statewide Public Guardianship Office.

14 ~~(4)(3)~~(a) A professional guardian, and each employee  
15 of a professional guardian who has a fiduciary responsibility  
16 to a ward, must complete, at his or her own expense, a level 2  
17 background screening as set forth in s. 435.04 before and at  
18 least once every 5 years after the date the guardian is  
19 registered ~~appointed~~. A professional guardian, and each  
20 employee of a professional guardian who has a fiduciary  
21 responsibility to a ward, must complete, at his or her own  
22 expense, a level 1 background screening as set forth in s.  
23 435.03 at least once every 2 years after the date the guardian  
24 is registered ~~appointed~~. However, a professional guardian  
25 ~~person~~ is not required to resubmit fingerprints for a criminal  
26 history record check if he or she has been screened using  
27 electronic fingerprinting equipment and the fingerprints are  
28 retained by the Department of Law Enforcement in order to  
29 notify the clerk of the court of any crime charged against the  
30 person in this state or elsewhere, as appropriate.

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1           (b) Effective December 15, 2006, all fingerprints  
2 electronically submitted to the Department of Law Enforcement  
3 under this section shall be retained by the Department of Law  
4 Enforcement in a manner provided by rule and entered in the  
5 statewide automated fingerprint identification system  
6 authorized by s. 943.05(2)(b). The fingerprints shall  
7 thereafter be available for all purposes and uses authorized  
8 for arrest fingerprint cards entered in the Criminal Justice  
9 Information Program under s. 943.051.

10           (c) Effective December 15, 2006, the Department of Law  
11 Enforcement shall search all arrest fingerprint cards received  
12 under s. 943.051 against the fingerprints retained in the  
13 statewide automated fingerprint identification system under  
14 paragraph (b). Any arrest record that is identified with the  
15 fingerprints of a person described in this paragraph must be  
16 reported to the clerk of court. The clerk of court must  
17 forward any arrest record received for a professional guardian  
18 to the Statewide Public Guardianship Office within 5 days.  
19 Each professional guardian who elects to submit fingerprint  
20 information electronically shall participate in this search  
21 process by paying an annual fee to the Statewide Public  
22 Guardianship Office of the Department of Elderly Affairs and  
23 by informing the clerk of court and the Statewide Public  
24 Guardianship Office of any change in the status of his or her  
25 guardianship appointment. The amount of the annual fee to be  
26 imposed for performing these searches and the procedures for  
27 the retention of professional guardian fingerprints and the  
28 dissemination of search results shall be established by rule  
29 of the Department of Law Enforcement. At least once every 5  
30 years, the Statewide Public Guardianship Office must request  
31 that the Department of Law Enforcement forward the

1 fingerprints maintained under this section to the Federal  
2 Bureau of Investigation.

3 ~~(5)(4)~~(a) A professional guardian, and each employee  
4 of a professional guardian who has a fiduciary responsibility  
5 to a ward, must complete, at his or her own expense, an  
6 investigation of his or her credit history before and at least  
7 once every 2 years after the date of the guardian's  
8 registration with the Statewide Public Guardianship Office  
9 ~~appointment.~~

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

18 ~~(6)(5)~~ The Statewide Public Guardianship Office may  
19 inspect at any time the results of any credit or criminal  
20 history record check of a public or professional guardian  
21 conducted under this section. The office shall maintain copies  
22 of the credit or criminal history record check results in the  
23 guardian's registration file. If the results of a credit or  
24 criminal investigation of a public or professional guardian  
25 have not been forwarded to the Statewide Public Guardianship  
26 Office by the investigating agency, the clerk of the court  
27 shall forward copies of the results of the investigations to  
28 the office upon receiving them.

29 ~~(7)(6)~~ The requirements of this section do not apply  
30 to a professional guardian, or to the employees of a  
31 professional guardian, that is a trust company, a state

1 banking corporation or state savings association authorized  
2 and qualified to exercise fiduciary powers in this state, or a  
3 national banking association or federal savings and loan  
4 association authorized and qualified to exercise fiduciary  
5 powers in this state.

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

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SENATE SUMMARY

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Provides requirements for criminal history record checks for nonprofessional guardians. Provides requirements for criminal history record checks for professional guardians. Requires professional guardians to complete a level 2 background screening before and at least once every 5 years after the date the guardian is registered. Provides that a professional guardian is not required to resubmit fingerprints for a criminal history record check if he or she has been screened using electronic equipment and the fingerprints are retained by the Department of Law Enforcement in order to notify the clerk of any crime charged against the person. Requires each professional guardian who elects to submit fingerprint information electronically to pay an annual fee to the Statewide Public Guardianship Office of the Department of Elderly Affairs and to inform the clerk of court and the Statewide Public Guardianship Office of any change in the status of his or her guardianship appointment. Permits the Department of Law Enforcement to establish by rule the amount of the annual fee. Provides that a professional guardian must complete an investigation of his or her credit history before and at least once every 2 years after the date of the guardian's registration with the Statewide Public Guardianship Office.