

ENROLLED
HB 7111

2007 Legislature

1 A bill to be entitled
2 An act relating to guardianship; amending s. 744.3135,
3 F.S.; revising provisions relating to criminal history
4 record checks for professional and nonprofessional
5 guardians; granting rulemaking authority to the Statewide
6 Public Guardianship Office; revising terminology; deleting
7 obsolete language; revising language concerning
8 investigations of credit histories of professional
9 guardians and certain of their employees; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 744.3135, Florida Statutes, is amended
15 to read:

16 744.3135 Credit and criminal investigation.--

17 (1) The court may require a nonprofessional guardian and
18 shall require a professional or public guardian, and all
19 employees of a professional guardian who have a fiduciary
20 responsibility to a ward, to submit, at their own expense, to an
21 investigation of the guardian's credit history and to undergo
22 level 2 background screening as required under s. 435.04. If a
23 credit or criminal history record check is required, the court
24 must consider the results of any investigation before appointing
25 a guardian. At any time, the court may require a guardian or the
26 guardian's employees to submit to an investigation of the
27 person's credit history and complete a level 1 background
28 screening as set forth in s. 435.03. The court shall consider

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 | the results of any investigation when reappointing a guardian.
 30 | The clerk of the court shall maintain a file on each guardian
 31 | appointed by the court and retain in the file documentation of
 32 | the result of any investigation conducted under this section. A
 33 | professional guardian must pay the clerk of the court a fee of
 34 | up to \$7.50 for handling and processing professional guardian
 35 | files.

36 | (2) For nonprofessional guardians, the court and the
 37 | Statewide Public Guardianship Office shall accept the
 38 | satisfactory completion of a criminal history record check as by
 39 | any method described in this subsection. A nonprofessional
 40 | guardian satisfies the requirements of this section by
 41 | undergoing a state and national criminal history record check
 42 | using a fingerprint card. The clerk of the court shall obtain
 43 | fingerprint cards from the Federal Bureau of Investigation and
 44 | make them available to nonprofessional guardians. Any
 45 | nonprofessional guardian who is so required shall have his or
 46 | her fingerprints taken and forward the completed fingerprint
 47 | card along with the necessary fee to the Department of Law
 48 | Enforcement for processing. The results of the fingerprint card
 49 | criminal history record check shall be forwarded to the clerk of
 50 | the court, who shall maintain the results in the nonprofessional
 51 | guardian's file and make the results available to the court.

52 | (3) For professional guardians, the court and the
 53 | Statewide Public Guardianship Office shall accept the
 54 | satisfactory completion of a criminal history record check by
 55 | any method described in this subsection. A professional guardian
 56 | satisfies the requirements of this section by undergoing:

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57 (a) An electronic fingerprint criminal history record
58 check. A professional guardian may use any electronic
59 fingerprinting equipment used for criminal history record checks
60 ~~of public employees. The Statewide Public Guardianship Office~~
61 shall adopt a rule detailing the acceptable methods for
62 completing an electronic fingerprint criminal history record
63 check under this section. The professional guardian shall pay
64 the actual costs incurred by the Federal Bureau of Investigation
65 and the Department of Law Enforcement for the criminal history
66 record check. ~~The agency that operates the equipment used by the~~
67 ~~guardian may charge the guardian an additional fee, not to~~
68 ~~exceed \$10, for the use of the equipment.~~ The entity agency
69 completing the record check must immediately send the results of
70 the criminal history record check to the clerk of the court and
71 the Statewide Public Guardianship Office. The clerk of the court
72 shall maintain the results in the professional guardian's file
73 and shall make the results available to the court; or

74 (b) A criminal history record check using a fingerprint
75 card. The clerk of the court shall obtain fingerprint cards from
76 the Federal Bureau of Investigation and make them available to
77 guardians. Any guardian who is so required shall have his or her
78 fingerprints taken and forward the proper fingerprint card along
79 with the necessary fee to the Department of Law Enforcement for
80 processing. The results of the fingerprint card criminal history
81 record checks shall be forwarded to the clerk of the court, who
82 shall maintain the results in the guardian's file and make the
83 results available to the court and the Statewide Public
84 Guardianship Office.

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85 (4)~~(3)~~(a) A professional guardian, and each employee of a
86 professional guardian who has a fiduciary responsibility to a
87 ward, must complete, at his or her own expense, a level 2
88 background screening as set forth in s. 435.04 before and at
89 least once every 5 years after the date the guardian is
90 registered ~~appointed~~. A professional guardian, and each employee
91 of a professional guardian who has a fiduciary responsibility to
92 a ward, must complete, at his or her own expense, a level 1
93 background screening as set forth in s. 435.03 at least once
94 every 2 years after the date the guardian is registered
95 ~~appointed~~. However, a professional guardian person is not
96 required to resubmit fingerprints for a criminal history record
97 check if he or she has been screened using electronic
98 fingerprinting equipment and the fingerprints are retained by
99 the Department of Law Enforcement in order to notify the clerk
100 of the court of any crime charged against the person in this
101 state or elsewhere, as appropriate.

102 (b) ~~Effective December 15, 2006,~~ All fingerprints
103 electronically submitted to the Department of Law Enforcement
104 under this section shall be retained by the Department of Law
105 Enforcement in a manner provided by rule and entered in the
106 statewide automated fingerprint identification system authorized
107 by s. 943.05(2)(b). The fingerprints shall thereafter be
108 available for all purposes and uses authorized for arrest
109 fingerprint cards entered in the Criminal Justice Information
110 Program under s. 943.051.

111 (c) ~~Effective December 15, 2006,~~ The Department of Law
112 Enforcement shall search all arrest fingerprint cards received

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113 | under s. 943.051 against the fingerprints retained in the
 114 | statewide automated fingerprint identification system under
 115 | paragraph (b). Any arrest record that is identified with the
 116 | fingerprints of a person described in this paragraph must be
 117 | reported to the clerk of court. The clerk of court must forward
 118 | any arrest record received for a professional guardian to the
 119 | Statewide Public Guardianship Office within 5 days. Each
 120 | professional guardian who elects to submit fingerprint
 121 | information electronically shall participate in this search
 122 | process by paying an annual fee to the Statewide Public
 123 | Guardianship Office of the Department of Elderly Affairs and by
 124 | informing the clerk of court and the Statewide Public
 125 | Guardianship Office of any change in the status of his or her
 126 | guardianship appointment. The amount of the annual fee to be
 127 | imposed for performing these searches and the procedures for the
 128 | retention of professional guardian fingerprints and the
 129 | dissemination of search results shall be established by rule of
 130 | the Department of Law Enforcement. At least once every 5 years,
 131 | the Statewide Public Guardianship Office must request that the
 132 | Department of Law Enforcement forward the fingerprints
 133 | maintained under this section to the Federal Bureau of
 134 | Investigation.

135 | ~~(5)-(4)~~(a) A professional guardian, and each employee of a
 136 | professional guardian who has a fiduciary responsibility to a
 137 | ward, must complete, at his or her own expense, an investigation
 138 | of his or her credit history before and at least once every 2
 139 | years after the date of the guardian's registration with the
 140 | Statewide Public Guardianship Office ~~appointment~~.

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141 (b) The Statewide Public Guardianship Office shall adopt a
142 rule detailing the acceptable methods for completing a credit
143 investigation under this section. If appropriate, the Statewide
144 Public Guardianship Office may administer credit investigations.
145 If the office chooses to administer the credit investigation,
146 the office may adopt a rule setting a fee, not to exceed \$25, to
147 reimburse the costs associated with the administration of a
148 credit investigation.

149 (6)~~(5)~~ The Statewide Public Guardianship Office may
150 inspect at any time the results of any credit or criminal
151 history record check of a public or professional guardian
152 conducted under this section. The office shall maintain copies
153 of the credit or criminal history record check results in the
154 guardian's registration file. If the results of a credit or
155 criminal investigation of a public or professional guardian have
156 not been forwarded to the Statewide Public Guardianship Office
157 by the investigating agency, the clerk of the court shall
158 forward copies of the results of the investigations to the
159 office upon receiving them.

160 (7)~~(6)~~ The requirements of this section do not apply to a
161 professional guardian, or to the employees of a professional
162 guardian, that is a trust company, a state banking corporation
163 or state savings association authorized and qualified to
164 exercise fiduciary powers in this state, or a national banking
165 association or federal savings and loan association authorized
166 and qualified to exercise fiduciary powers in this state.

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