

PCB HCC 07-06a

ORIGINAL

YEAR

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; revising terminology; deleting obsolete  
 6           language; revising language concerning investigations of  
 7           credit histories of professional guardians and certain of  
 8           their employees; providing an effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1. Section 744.3135, Florida Statutes, is amended  
 13 to read:

14           744.3135 Credit and criminal investigation.--

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

PCB HCC 07-06a

ORIGINAL

YEAR

30 | the result of any investigation conducted under this section. A  
 31 | professional guardian must pay the clerk of the court a fee of up  
 32 | to \$7.50 for handling and processing professional guardian files.

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

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

54 |       (a) An electronic fingerprint criminal history record  
 55 | check. A professional guardian may use any electronic  
 56 | fingerprinting equipment used for criminal history record checks  
 57 | of public employees. The professional guardian shall pay the  
 58 | actual costs incurred by the Federal Bureau of Investigation and

PCB HCC 07-06a

ORIGINAL

YEAR

59 | the Department of Law Enforcement for the criminal history record  
 60 | check. The agency that operates the equipment used by the  
 61 | professional guardian may charge the professional guardian an  
 62 | additional fee, not to exceed \$10, for the use of the equipment.  
 63 | The agency completing the record check must immediately send the  
 64 | results of the criminal history record check to the clerk of the  
 65 | court and the Statewide Public Guardianship Office. The clerk of  
 66 | the court shall maintain the results in the professional  
 67 | guardian's file and shall make the results available to the  
 68 | court; or

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

80 |       (4)~~(3)~~(a) A professional guardian, and each employee of a  
 81 | professional guardian who has a fiduciary responsibility to a  
 82 | ward, must complete, at his or her own expense, a level 2  
 83 | background screening as set forth in s. 435.04 before and at  
 84 | least once every 5 years after the date the guardian is  
 85 | registered ~~appointed~~. A professional guardian, and each employee  
 86 | of a professional guardian who has a fiduciary responsibility to  
 87 | a ward, must complete, at his or her own expense, a level 1

PCB HCC 07-06a

ORIGINAL

YEAR

88 background screening as set forth in s. 435.03 at least once  
 89 every 2 years after the date the guardian is registered  
 90 appointed. However, a professional guardian ~~person~~ is not  
 91 required to resubmit fingerprints for a criminal history record  
 92 check if he or she has been screened using electronic  
 93 fingerprinting equipment and the fingerprints are retained by the  
 94 Department of Law Enforcement in order to notify the clerk of the  
 95 court of any crime charged against the person in this state or  
 96 elsewhere, as appropriate.

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

106 (c) ~~Effective December 15, 2006,~~ The Department of Law  
 107 Enforcement shall search all arrest fingerprint cards received  
 108 under s. 943.051 against the fingerprints retained in the  
 109 statewide automated fingerprint identification system under  
 110 paragraph (b). Any arrest record that is identified with the  
 111 fingerprints of a person described in this paragraph must be  
 112 reported to the clerk of court. The clerk of court must forward  
 113 any arrest record received for a professional guardian to the  
 114 Statewide Public Guardianship Office within 5 days. Each  
 115 professional guardian who elects to submit fingerprint  
 116 information electronically shall participate in this search

PCB HCC 07-06a

ORIGINAL

YEAR

117 process by paying an annual fee to the Statewide Public  
 118 Guardianship Office of the Department of Elderly Affairs and by  
 119 informing the clerk of court and the Statewide Public  
 120 Guardianship Office of any change in the status of his or her  
 121 guardianship appointment. The amount of the annual fee to be  
 122 imposed for performing these searches and the procedures for the  
 123 retention of professional guardian fingerprints and the  
 124 dissemination of search results shall be established by rule of  
 125 the Department of Law Enforcement. At least once every 5 years,  
 126 the Statewide Public Guardianship Office must request that the  
 127 Department of Law Enforcement forward the fingerprints maintained  
 128 under this section to the Federal Bureau of Investigation.

129 (5)~~(4)~~(a) A professional guardian, and each employee of a  
 130 professional guardian who has a fiduciary responsibility to a  
 131 ward, must complete, at his or her own expense, an investigation  
 132 of his or her credit history before and at least once every 2  
 133 years after the date of the guardian's registration with the  
 134 Statewide Public Guardianship Office ~~appointment~~.

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

143 (6)~~(5)~~ The Statewide Public Guardianship Office may inspect  
 144 at any time the results of any credit or criminal history record  
 145 check of a public or professional guardian conducted under this

PCB HCC 07-06a

ORIGINAL

YEAR

146 section. The office shall maintain copies of the credit or  
147 criminal history record check results in the guardian's  
148 registration file. If the results of a credit or criminal  
149 investigation of a public or professional guardian have not been  
150 forwarded to the Statewide Public Guardianship Office by the  
151 investigating agency, the clerk of the court shall forward copies  
152 of the results of the investigations to the office upon receiving  
153 them.

154 (7)~~(6)~~ The requirements of this section do not apply to a  
155 professional guardian, or to the employees of a professional  
156 guardian, that is a trust company, a state banking corporation or  
157 state savings association authorized and qualified to exercise  
158 fiduciary powers in this state, or a national banking association  
159 or federal savings and loan association authorized and qualified  
160 to exercise fiduciary powers in this state.

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