

Committee on Children, Families, and Elder Affairs

CS/HB 635 — Guardianship

by Civil Justice Subcommittee; and Rep. Passidomo and others (CS/CS/CS/SB 634 by Appropriations Committee; Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senator Brandes)

The bill makes improvements to Florida's guardianship law as it relates to review and audit by clerks of court, requires credit history investigations and Level 2 background checks for all guardians other than corporate guardians, and adds guardians to the list of persons that would be precluded from denying or failing to acknowledge arrests covered by an expunged or sealed record.

The bill defines a guardian as a person who has been appointed by the court to act on behalf of a ward's person or property, or both. Guardians are appointed according to statutory criteria, and are deemed to be professional guardians if they manage the property of more than three wards. Professional guardians, among other requirements, must submit to a criminal background check and a credit history investigation. Every guardian of the property must file an annual guardianship report with the court, which includes the annual accounting. The accounting is subject to review by the clerk of the court and the court.

The bill requires all guardians other than a corporate guardian as described in s. 744.309(4), F.S., to submit to a credit history investigation and Level 2 background screening. An interested party or on the court's own motion, the court may waive the requirement of a credit history investigation or a Level 2 background screening, or both. A nonprofessional guardian may petition the court for reimbursement for background screening costs.

The clerk of the court may request and review records and documents that reasonably impact guardianship assets. The bill makes additional procedures available to the clerk of the court to obtain documents through the use of a non-party subpoena.

Persons seeking appointment as a guardian are added to the list of persons that may not lawfully deny or fail to acknowledge arrests covered by an expunged or sealed record.

If approved by the Governor, these provisions take effect July 1, 2014.

Vote: Senate 39-0; House 116-0