

HOUSE RESEARCH

Bill Summary

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Authors: Hilstrom

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Analyst: Mary Mullen

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Overview

This bill increases the frequency of background checks from every five years to two years and expands the reporting requirements for guardians and conservators relating to their civil, criminal, and financial histories. It requires disclosure of the following incidents: being removed from serving as a guardian or conservator; negative action related to a professional license; civil actions against them include fraud, misrepresentation, harassment restraining orders, and orders for protection; bankruptcy; civil judgments; and criminal activity. It also allows increased access to licensing information on proposed and current guardians and conservators to the courts.

Section

- 1 **Fee for background study.** Increases the maximum background study fee from \$20 per study to \$22.
- 2 **Frequency of background study.** Increases the frequency for a background study on a guardian or conservator from once every five years to once every two years.
Background study requirements. The following background study requirements are added and expanded:
 - *Residency requirement.* Requiring criminal history from the National Criminal Records Repository for proposed guardians or conservator who have not resided in Minnesota for the previous ten years instead of five years.
 - *State licensing.* State licensing agency data must be included in the background check when there is negative reporting information including denial of a professional license directly related to the responsibilities of a professional fiduciary or a license

Section

that was conditioned, suspended, revoked, or cancelled.

- *Timing.* The court can appoint a guardian or conservator prior to the completion of the background study however, it must be completed no later than 30 days after the appointment.

3 Procedure for state licensing data request. Provides a procedure for allowing the court to obtain licensing agency data through the Commissioner of Human Services and standards for the content of that data.

4 Petition requirements for a guardian. Expands the information required in a guardianship petition. The proposed additions to the petition include:

- Professional licenses the petitioning guardian has previously held or applied for, any disciplinary action related to those professional licenses
- Civil liability on actions involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion
- Any previous bankruptcy filing by petitioner
- Civil monetary judgments against petitioner
- Order for Protection or Harassment Restraining Orders filed against the petitioner
- Criminal Convictions against the petitioner

5 Reporting; guardian. Modifies the requirements for the annual reporting and creates a new reporting requirement for the guardian or conservator. The new requirement is that the guardian or conservator must report to the court information on whether or not the guardian has been removed for cause as a guardian or conservator and all of the actions listed in the preceding section (section 5) within 30 days of their occurrence, and must provide a copy to the ward and interested persons.

This section also adds a provision that the ward or interested party may respond to the written submission regarding any of the disciplinary or legal actions reported regarding the guardian and that if the guardian fails to comply with this section, the court can remove them or decline to appoint them.

6 Petition requirements for a conservator. Adds information that must be included in the petition including whether the petitioning conservator is a professional guardian, and all the information required in section 5 above.

7 Reporting; Conservator. Similar to the changes for the guardians listed in section 6 above, the conservator must now report within 30 days the occurrence of any of the following: removal for cause from serving as a guardian or conservator and all of the occurrences listed in section 5 above. Similar to the proposed guardian language, the new a copy must be sent to the ward and interested persons and the protected person or interested person may submit a response to the report. The court may decline to appoint or remove a conservator for failing to comply with the reporting requirements in this section.