

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
UGCOPPA		<p>§ 117 Before accepting appointment as a guardian or conservator, a person shall disclose to the court whether the person: (1) is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding; or (2) been convicted of: (A) a felony; (B) a crime involving dishonesty, neglect, violence, or use of physical force; or (C) other crime relevant to the functions the individual would assume as guardian or conservator.</p>		
Alaska		<p>§§ 08.26.020 & 08.26.030 Department shall issue an individual private professional guardian/conservator license if ... criminal history record shows has not been convicted of a crime within 10 years of the application that would affect ability to provide services competently and safely</p> <p>§ 08.26.070(a) Department shall request Dept. Public Safety to submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record information check; perform a state criminal history record information check</p>		
Arkansas	<p>§ 28-65-203(a) Convicted or unpardoned felon</p>			

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Arizona		<p>§ 14-5106 In petition, under oath, must disclose, whether proposed appointee has been convicted of a felony in any jurisdiction and, if so, the nature of the offense, the name and address of the sentencing court, the case number, the date of conviction, the terms of the sentence, the name and telephone number of any current probation or parole officer and the reasons why the conviction should not disqualify the proposed appointee.</p> <p>§ 14-5657(B) As condition of licensing, fiduciary must submit to full set of fingerprints to obtain state and federal criminal records check</p> <p>§ 14-5304(E) Court may require each person who seeks appointment as a guardian to furnish a full set of fingerprints to enable the court to conduct a criminal background investigation. The court shall submit the person's completed fingerprint card to the dep't of public safety. The person shall bear the cost Does not apply to a fiduciary who is licensed or an employee of a financial institution.</p>		

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California	Busi. & Prof. § 6536 Convicted of crime substantially related to the qualifications, function or duties of the professional fiduciary	Busi. & Prof. § 6533.5 To obtain a license as professional fiduciary shall submit fingerprints to obtain criminal offender record of state and federal arrests and convictions. DOJ prepares report of fitness		Judicial discretion re criminal history and nature of crime, nature of petition, case dynamics, whether can be bonded, ties to conservatee, alternative to conservator
Colorado	§ 15-14-310(4) Owner/operator where receiving long term care	<p>§ 15-14-110(1) Statement with acceptance of office as to whether been convicted of, pled nolo contendere to, or received deferred sentence for a felony or misdemeanor; whether temporary or permanent civil protection or restraining order in any state; whether civil judgment entered; relieved of any court-appointed responsibilities</p> <p>§ 15-14-1102(2) Attach name-based criminal history record check through CO Bureau of Investigation</p> <p>§ 15-14-11(4) Does not apply to public administrator; bank, trust company or other financial institution; state or county agency; parent residing with his or her child; and any other person or entity for whom the court, for good cause shown, determines requirements not apply</p>	§ 15-14-110(2) Attach credit report	

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District of Columbia	<p>§ 21-2043(a-1)(1) Provides substantial services; creditor of the incapacitated individual; or employed by any person or entity that provides services.</p>	<p>§ 21-2043(d-1)(1) Court shall not appoint a guardian until the person has submitted signed and sworn statement whether has been convicted of, has pleaded nolo contendere to, is on probation before judgment or placement of a case upon a stet docket for, or has been found not guilty by reason of insanity of lifetime registration offense; registration offense, any offense set forth in Chapters 8, 8A, 9A, 10, 11, 14, 15, and 32 of Title 22, or its equivalent in any other state or territory, dangerous crime, or crime of violence. Shall submit results of a criminal-history check from the Metropolitan Police Department and FBI. Emergency guardians, health-care guardians, and provisional guardians are exempt. § 21-2043(d-2)(1) Presumed not to be in best interest of individual subject to guardianship to appoint a guardian who has been convicted of listed offenses.</p>		
Florida	<p>§ 744.309(3) Convicted of a felony, or from any incapacity or illness, is incapable of discharging the duties of a guardian, or is otherwise unsuitable to perform the duties of a guardian</p>	<p>§ 744.3135(1) Court shall require a guardian and all employees of a professional guardian who have a fiduciary responsibility to a ward, to submit, at their own expense, to undergo level 2 background screening. Court must consider the results of any investigation before appointing a guardian. § 744.3135(2) Nonprofessional undergoes state and national criminal history record check using fingerprints. Results filed by clerk.</p>	<p>§ 744.3135(5a) A professional guardian, and each employee of a professional guardian who has a fiduciary responsibility to a ward, must complete, at his or her own expense, 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.</p>	<p>§ 744.3135 (7) Requirements not apply to a professional guardian, or to the employees of a professional guardian, that is a trust company, state banking corporation or state savings association authorized and qualified to exercise fiduciary powers in this state, or national banking association or federal savings and loan association.</p>

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Georgia	<p>§ 29-4-2(b) Is a minor, a ward, or a protected person; have a conflict of interest; or owner, operator, or employee of a long-term care or other caregiving institution or facility at which the adult is receiving care, unless related to the adult by blood, marriage, or adoption.</p>	<p>§ 29-10-3(a)(2) Public guardian must submit to a criminal background check with satisfactory results as prescribed by the Division of Aging Services of the Department of Human Resources; submit to an investigation of the individual's credit history as prescribed by Aging Services, Dep't Human Resources</p>	<p>§ 29-10-3(a)(3) Public guardian must submit to an investigation of the individual's credit history as prescribed by Aging Services, Dep't of Human Resources</p>	
Idaho	<p>§ 15-5-311(4) No convicted felon, or person whose residence is the incapacitated person's proposed residence or will be frequented by the incapacitated person and is frequented by a convicted felon, shall be appointed as a guardian of an incapacitated person unless the court finds by clear and convincing evidence that such appointment is in the best interests of the incapacitated person.</p>	<p>§ 15-5-311(5) Proposed guardian must submit to and paid for criminal history and background check; If ordered by the court, any individual who resides in the incapacitated person's proposed residence has submitted, at the proposed guardian's expense, to a criminal history and background check conducted. The findings of criminal history and background checks are made available to the visitor and guardian ad litem.</p>	<p>§ 15-5-311(5) The proposed guardian provides report of his or her civil judgments and bankruptcies to the visitor, the guardian ad litem and all others entitled to notice.</p>	

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Illinois	755/5/11a-5(5) Convicted of a felony, unless the court finds appointment to be in the disabled person's best interests; as part of the best interest determination, the court has considered the nature of the offense, the date of offense, and the evidence of the proposed guardian's rehabilitation. No person shall be appointed who has been convicted of a felony involving harm or threat to a minor or an elderly or disabled person, including a felony sexual offense.	Public Guardians must be CGC certified which requires background check		
Iowa		§ 633.564 Court must request criminal records check, check of child abuse, dependent adult abuse, sexual offender registries for all proposed guardians and conservators.		
Kentucky		§ 387.025(4) Verified application for appointment must state whether ever been convicted of a crime		
Louisiana	Art. 4561(B)(2) Except for good cause shown, convicted felon; person in debt to adult; adverse party in pending law suit			

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Minnesota	§ 524.5-309(c) Individual or agency providing residence, custodial, medical, employment training, other care or services	§ 524.5-118(1) Background study once every 2 years; criminal history data from Bureau of Criminal Apprehension,; from National Criminal Records Repository if not been resident of MN for 10 years or info from BCA indicates a multistate offender or multistate offender status undetermined; state licensing agency if ever been licensed as professional in related field; perpetrators of substantiated maltreatment of vulnerable adult or minor. Professional guardian must pay fees; if in forma pauperis by county; if estate, by estate; or court may order fee paid by G, by C or by court; not apply to state agency or county; parent or guardian of person with developmental disability if raised in family home; background study must be done on all employees responsible for exercising guardian powers and duties; may make appointment pending results of study		
Mississippi		§ 93-20-117 Anyone considered for guardian or conservator must disclose to the court whether debtor in bankruptcy, convicted of a felony, crime involving dishonest, neglect, violence, or use of physical force.		
Missouri		§ 43.548.1 Courts and department of social services may require fingerprinting of guardians and conservators for the purpose of positive identification and criminal history to determine ability and fitness to serve.		

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Nebraska	§§ 30-2627; 30-2639 Agency, owner providing residential care	§ 30-2602.02 A person, except for a financial institution nominated for appointment as a guardian or conservator shall obtain a national criminal history record check and file such report with the court at least ten days prior to the appointment hearing date, unless waived or modified by the court. No report or national criminal history record check required for an emergency temporary guardianship or conservatorship. Court may waive for good cause.		
Nevada	§ 159.059 Incompetent; minor; convicted of felony unless court determines conviction not disqualify; suspended for misconduct or disbarred from law, accounting, other provision involving money, investment, securities, real property; nonresident without registered agent and not petitioner; judicially determined by clear and convincing evidence to have committed abuse, neglect, exploitation of child, spouse, parent, adult, unless court finds best interest	§ 159,059(3) Private professional guardian shall, at his or her own cost and expense, undergo a background investigation which requires the submission of complete set of fingerprints to the Central Repository for Nevada Records of Criminal History and to the FBI; present to court upon request. Each natural person who acts in any capacity within a private professional guardian company must submit such fingerprints not less than once every five years.	§ 159.044(t) Petition must state whether proposed guardian has filed for or received protection in bankruptcy court.	§159.1852 After appointment, a guardian must immediately inform the court of: convictions of a gross misdemeanor or felony; a bankruptcy filing; suspension, revocation or cancelling of a driver's license for nonpayment of child support; a disbarment from the practice of law, accounting, or other profession requiring a license and involving financial management; or a judgment for misappropriation of funds. The court may remove the guardian and appoint a successor unless the court finds it is in the person's best interest to allow the guardian to continue serving.

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New Hampshire	§ 464-A:10(III) An institution or agency providing care and custody of the incapacitated person, unless no one else can be found to serve	§ 464-A:4(v) Court shall review the proposed guardian’s record of criminal convictions maintained by the New Hampshire division of state police. Court may, in its discretion, request a search of the abuse and neglect registry maintained by the dep’t of health and human services. Court Rule 16 requires professional guardians to undergo criminal background check without fingerprints		
New Jersey	§ 52:27G-34(3)(a) Has criminal conviction or found to be civilly liable for any matter involving moral turpitude, abuse, neglect, fraud, misappropriation, misrepresentation, theft, conversion; lacks financial responsibility; committed abuse, neglect or exploitation; engages in persistent or repeated violations of court order or any impropriety involving dishonesty, fraud, deceit, misrepresentation	§ 52:27G-33(2)(d)(4) Professional guardian satisfactory criminal history record background, child abuse registry, domestic violence central registry; not subject to outstanding arrest warrants	§ 52:27G-33(2)(d)(4) Professional guardian submit credit check to OPGEA from one national credit reporting agency issued within 1 month of application	
New Mexico		§ 45-5-303(A)(4) Petition shall state G qualification, including whether convicted of felony		
New York		§ 81.19(g)(1) Allows but not requires court to obtain and consider, and court evaluator to review, proposed guardian’s criminal history, sex offender registry, statewide central register of child abuse, statewide registry of orders of protection. Upon considering the information, court may appoint, refuse to appoint or revoke the appointment		

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North Dakota		<p>N.D. Sup. Ct. Admin. R. 59(B)(2) Requires professional and non-professional guardians to provide criminal history record check report to the appointing court before the hearing on the petition to appoint a guardian. (C) provide to the appointing court before the hearing on the petition to appoint the guardian an affidavit stating whether the proposed guardian has been investigated for offenses related to theft, fraud, or the abuse, neglect, or exploitation of an adult or child and shall provide a release authorizing access to any record information maintained by an agency in this or another state or a federal agency</p>		
Ohio		<p>§ 2111.03(A) Petition must state whether applicant ever been charged with or convicted of any crime involving theft, physical violence, sexual, alcohol or substance abuse.</p> <p>Ohio Sup. R. 66.05(A). Requires criminal background check for all guardians, including family guardians. For an attorney, court may accept a Supreme Court certificate of good standing.</p>		<p>No instruction to court on what if proposed guardian has criminal record. Some courts are fingerprinting</p>
Oklahoma	<p>§ 3-104(A) Owner operator employee of facility where residing</p>	<p>§ 3-101(c) Court may receive investigation and report on background and home of prospective G. When required, include petitioner and each adult member of household to establish no record of criminal conviction, protective order, pending criminal charge. Include OK Bureau of Investigation name-based check.</p>	<p>§ 3-101(c) Petitioner disclose case name and status of any civil or criminal matter in state or federal court, including bankruptcy involving petitioner or any adult household member</p>	

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Oregon	§ 125.205 Incapacitated, financially incapable, minor, health care provider	§ 125.210(1) Person nominated must inform court of circumstances before appointed or provide in petition if convicted of crime, filed for bankruptcy, had required professional license revoked or cancelled. After appointment must immediately inform the court. Court may decline to appoint or may remove if fails to comply. § 125.240 Professional fiduciary must have criminal background check paid for by fiduciary		Courts require credit check on periodic basis along with updated criminal background check for professional fiduciaries
Rhode Island	§ 33-15-6(a) Agency, public or private, or representative of, that financially benefits from providing housing, medical, social services	§ 33-15-6(b) Shall find that individual or agency has no criminal background which bears on suitability to serve as guardian, has capacity to manage the financial resources involved; has ability to meet unique needs of adult; has ability to meet requirements of law		
South Dakota	§ 29A-5-110 Felon unless court finds appointment in best interest considering nature, date of offense and rehabilitation, employee of public agency, entity, or facility providing substantial services or financial assistance; creditor	§ 29A-5-110 A person, except for a financial institution or its officers, directors, employees, or agents, or a trust company, who has been nominated for appointment as a guardian or conservator, shall obtain an Interstate Identification Index criminal history record check and a record check of South Dakota state court civil judgments for abuse, neglect, or exploitation of an elder or adult with a disability. Nominee files the results of these record checks with the court at least ten days prior to hearing. Judge may not sign appointment until record check results filed and reviewed by the judge. Not apply to temporary appointments. Court may waive the record check for good cause.		

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Tennessee		<p>§ 34-3-104(3) Requires petition to include a statement of any felony or misdemeanor convictions of petitioner and proposed guardian/conservator</p>		
Texas	<p>§ 1104.351 Minor or other incapacitated person; or because of inexperience, lack of education, or other good reason, is incapable of properly and prudently managing and controlling the ward's person or estate.</p> <p>§ 1104.353(a-b) Conduct is notoriously bad; convicted of any sexual offense, aggravated assault; injury to a child, elderly individual, or disabled individual; abandoning or endangering a child; terroristic threat; or continuous violence against the family of the ward or incapacitated person.</p> <p>§ 1104.358 Found to have committed family violence who is subject to a protective order</p>	<p>§ 698 County clerk obtains criminal history record information maintained by Dep't of Public Safety or FBI for private professional guardian; employee who has personal contact, exercise control or any duties over estate; volunteer in guardianship program; proposed guardian; including family member. May submit own information 10 days before hearing; Guardianship Certification Board conducts criminal history check before issuing or renewing certificate Court use information to determine whether to appoint, remove, or continue appointment; GCB use to determine whether to certify. Judicial Branch Certification Commission conducts criminal background check for persons (other than attorneys and private professional guardians for whom the Commission already conducts a check) seeking to become a guardian.</p>		

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Vermont	<p>14 § 3072(a)(2) Operates care facility where resides or receiving care</p> <p>14 § 3072(a)(2) Served as guardian ad litem in same proceeding</p>	<p>14 § 3067(d) Proposed guardian provide information and consent for complete background checks with available state registries, including adult abuse, child abuse, crime information center, sex offender. Court shall consider information received in determining if suitable. May waive reports, may remove based on information in report later received. If lived in VT less than 5 years or nonresident may order background from other state agencies where lives or has lived in past 5 years.</p>		
Washington	<p>§ 11.88.020 Under 18; of unsound mind; convicted of felony or misdemeanor involving moral turpitude; court finds unsuitable</p>	<p>Certified Professional Guardianship Board Regulation 101 Every person or agency desiring to be certified as a CPG must undergo a criminal history check. 103.3.4 To become certified guardian must provide a fingerprint card that has been processed at a local police department.</p>	<p>Certified Professional Guardianship Board Reg. 103.3.8 To become certified the applicant must provide a personal credit report. 103.3.9 If an individual has declared bankruptcy in the seven (7) years prior to his or her application, the applicant must provide copies of the following documents: bankruptcy petition, discharge order, and a copy of the bankruptcy case docket.</p>	
West Virginia	<p>§ 44A-1-8(a) Individual employed by or affiliated with any public agency, entity or facility providing substantial services or financial assistance; creditor</p>	<p>§ 44A-1-8(c) Any person being considered shall provide information if convicted of any crime, other than traffic offenses, court or mental hygiene commissioner may order a background check conducted by state police or county sheriff. Shall consider in determining fitness to be appointed</p>		

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Wisconsin		§ 54.15(8) Sworn and notarized statement 76 hours before hearing if charged with or convicted of crime;	§ 54.15(8) Sworn and notarized statement 76 hours before hearing if filed for and received bankruptcy protection, had professional license revoked.	

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<p>Center for Guardianship Certification</p>	<p>Rules and Regulations II.A.5-9 5. An applicant must not have been convicted of, or pled guilty or no contest to, a felony. The only two exceptions to this requirement will be court or state agency documentation of one of the following: a) expungement of the felony conviction; or b) that a court or state agency, with knowledge of the felony, has determined that the applicant or re-certificant is eligible to serve as a guardian under state law. 6. submit to a criminal background check. 7. agree to comply with the NGA Ethical Principles and the NGA Standards of Practice. 8. not have been civilly liable or criminally convicted in an action that involved fraud, misrepresentation, material omission, misappropriation, moral turpitude, theft, exploitation, abuse or conversion, turpitude, theft, exploitation, abuse or conversion. 9. not have been relieved of responsibilities as a guardian by a court, employer, or client for actions involving fraud, misrepresentation, material omission, misappropriation, theft, exploitation, abuse or conversion</p>	<p>Rules and Regulations II.A.6 Submit to a criminal background check</p>		