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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1890 Session of  
2021

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INTRODUCED BY GILLEN, ZABEL, KULIK, STAATS, JAMES, NEILSON,  
RYAN, CIRESI AND JOZWIAK, SEPTEMBER 21, 2021

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REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,  
SEPTEMBER 21, 2021

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AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the  
2 Pennsylvania Consolidated Statutes, in incapacitated persons,  
3 further providing for petition and hearing and independent  
4 evaluation.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 5511(f) of Title 20 of the Pennsylvania  
8 Consolidated Statutes is amended and the section is amended by  
9 adding a subsection to read:

10 § 5511. Petition and hearing; independent evaluation.

11 \* \* \*

12 (f) Who may be appointed guardian.--~~[The]~~ A court may  
13 appoint a guardian as follows:

14 (1) Subject to the provisions of paragraph (2), the  
15 court may appoint as guardian any of the following persons:

16 (i) a qualified individual[,];

17 (ii) a corporate fiduciary[,];

18 (iii) a nonprofit corporation[,];

1           (iv) a guardianship support agency under Subchapter  
2 F (relating to guardianship support); or

3           (v) a county agency.

4           (2) (i) In the case of residents of State facilities,  
5 the court may also appoint, only as guardian of the  
6 estate, the guardian office at the appropriate State  
7 facility.

8           (ii) The court shall not appoint a person or entity  
9 providing residential services for a fee to the  
10 incapacitated person or any other person whose interests  
11 conflict with those of the incapacitated person except  
12 where it is clearly demonstrated that no guardianship  
13 support agency or other alternative exists. Any family  
14 relationship to such individual shall not, by itself, be  
15 considered as an interest adverse to the alleged  
16 incapacitated person.

17           (iii) If appropriate, the court shall give  
18 preference to a nominee of the incapacitated person.

19           (g) Court-appointed guardian background check.--The  
20 following shall apply:

21           (1) A guardian or prospective guardian under subsection  
22 (f) shall submit all of the following to the court:

23           (i) A report of Federal criminal history record  
24 information.

25           (ii) A report of criminal history record information  
26 from the Pennsylvania State Police as provided under 18  
27 Pa.C.S. Ch. 91 (relating to criminal history record  
28 information) or a statement from the Pennsylvania State  
29 Police that the Pennsylvania State Police central  
30 repository contains no information relating to the

1 individual. The criminal history record information shall  
2 be limited to information which is disseminated under 18  
3 Pa.C.S. § 9121(b) (2) (relating to general regulations).

4 (iii) Validation of the guardian's or prospective  
5 guardian's eligibility to legally work in the United  
6 States.

7 (2) For the purpose of complying with paragraph (1), a  
8 guardian or prospective guardian shall provide fingerprints  
9 to the Pennsylvania State Police, its agent or an agent  
10 approved for fingerprinting by the Federal Government. The  
11 fingerprints may be used by the Pennsylvania State Police to  
12 conduct a criminal background check and shall be forwarded to  
13 the Federal Bureau of Investigation for a national criminal  
14 background check.

15 (3) Information relating to a guardian or prospective  
16 guardian submitted to or obtained by a court under paragraph  
17 (1) shall be interpreted and used only to determine the  
18 guardian's or prospective guardian's qualifications under  
19 subsection (f) (2).

20 (4) The court may receive and retain information under  
21 this section that is otherwise protected under 18 Pa.C.S. Ch.  
22 91, subject to any requirements related to redaction as  
23 specified under 18 Pa.C.S. § 9121(b) (2).

24 (5) If the guardian or prospective guardian under  
25 paragraph (1) is an attorney, the court may accept a  
26 certificate of good standing with disciplinary information  
27 issued by the Supreme Court of Pennsylvania in place of the  
28 requirements of paragraph (1).

29 (6) A court-appointed guardian under subsection (f)  
30 shall resubmit the background check information required

1 under paragraph (1) every three years.

2 (7) A guardian or prospective guardian under subsection  
3 (f) shall pay for the costs associated with the requirements  
4 of paragraph (1).

5 Section 2. This act shall take effect in 60 days.