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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2247 Session of  
2018

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INTRODUCED BY GILLEN, HENNESSEY, MILLARD, KNOWLES, PASHINSKI,  
BIZZARRO, B. MILLER, RYAN, BERNSTINE, MURT, READSHAW, HILL-  
EVANS, DAVIS, TOOHL, WATSON, DeLUCA, WARREN, WARD, COX,  
NEILSON, M. QUINN AND CONKLIN, APRIL 9, 2018

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REFERRED TO COMMITTEE ON JUDICIARY, APRIL 9, 2018

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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]

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

15 (i) a qualified individual[,];

16 (ii) a corporate fiduciary[,];

17 (iii) a nonprofit corporation[,];

18 (iv) a guardianship support agency under Subchapter

1 F (relating to guardianship support);i or

2 (v) a county agency.

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

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

16 (iii) The court shall disqualify a guardian or  
17 prospective guardian convicted of an offense classified  
18 as a felony under the laws of this Commonwealth or a  
19 substantially similar offense under the laws of another  
20 jurisdiction.

21 (iv) If appropriate, the court shall give preference  
22 to a nominee of the incapacitated person.

23 (g) Court-appointed guardian background check.--

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

26 (i) A report of Federal criminal history record  
27 information.

28 (ii) A report of criminal history record information  
29 from the Pennsylvania State Police as provided under 18  
30 Pa.C.S. Ch. 91 (relating to criminal history record

1 information) or a statement from the Pennsylvania State  
2 Police that the Pennsylvania State Police central  
3 repository contains no information relating to the  
4 individual. The criminal history record information shall  
5 be limited to that which is disseminated under 18 Pa.C.S.  
6 § 9121(b)(2) (relating to general regulations).

7 (iii) Validation of the guardian's or prospective  
8 guardian's eligibility to legally work in the United  
9 States.

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

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

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

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

1 paragraph (1).

2 (6) A court-appointed guardian under subsection (f)  
3 shall reapply under subsection (g) within three years from  
4 the original appointment date.

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

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