

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

Thursday, June 19, 2025, 12:00 pm | 2 hours |

AGENDA

Topic		Presenter	Materials
12:00	Meeting begins		
	<ul style="list-style-type: none">Housekeeping, minutes	Judge Kelly	<ul style="list-style-type: none"><i>April 2025 – Minutes (draft)</i>
12:10	Current Topics		
	<ul style="list-style-type: none">Background Disclosure<ul style="list-style-type: none">Current planCommittee feedbackNext steps	Judge Kelly Kaye Lynn Wooton Shonna Thomas	<ul style="list-style-type: none"><i>White Paper Draft – Background Disclosure for Guardianships</i><i>CJA Rule 6-501 - Background Disclosure Draft (6.5.2025)</i>
	<ul style="list-style-type: none">Attorney shortages<ul style="list-style-type: none">Funding requestInterim actions	Shonna Thomas Keri Sargent	<ul style="list-style-type: none"><i>GSP and CYP Data (5.21.25)</i>
1:30	Other Business		
	<ul style="list-style-type: none">Guardianship Forms & OCAP sunset	Shonna Thomas	<ul style="list-style-type: none"><i>Self-Help Center Monthly Newsletter</i>
	<ul style="list-style-type: none">Guardianship Manual & Exam workgroup	Shonna Thomas	
	<ul style="list-style-type: none">WINGS Stakeholders<ul style="list-style-type: none">Medical communityUtah Legal Services	Shonna Thomas Andrew Riggle Leslie Francis	
2:00	Meeting adjourned		

Next meeting: August 21, 2025

May 15, 2025

Strengthening Oversight of Guardians and Conservators

WINGS

**Working Interdisciplinary Network of Guardianship
*Background Disclosures Subcommittee***

Introduction

A guardian plays a crucial role by ensuring the well-being and safety of individuals who are unable to care for themselves, whether due to age, disability, or other incapacitating circumstances.

Strengthening guardian oversight is crucial to protect vulnerable adults. Oversight could include implementing mandatory background checks for all individuals seeking to become guardians and/or conservators, establishing a process for courts to track guardianships and conservatorships and the protected individuals they serve, and improving the guardianship and conservatorship application processes to include more comprehensive screening and disclosure requirements. This will ensure a more thorough evaluation of potential guardians and conservators and identification of potential risks.

National Landscape

National Probate Court Standards, developed by the National College of Probate Judges through the National Center for State Courts (NCSC) and endorsed by the Borchard Foundation: Center on Law & Aging, State Justice Initiative, and ACTEC (American College of Trust and Estate Counsel) advise probate courts to request national background checks on all prospective guardians and conservators – with the exception of those who have already undergone checks – such as, professional guardians, banks, trust companies, or other financial organizations.¹ Additionally, NCSC advocates that “[e]xcept in unusual circumstances, probate courts should require for all conservators to post a surety bond in an amount equal to the liquid assets and annual income of the estate.”²

Despite the recommendations, the AARP Public Policy Institute reports that only 13 states mandate that guardians undergo independent criminal background checks before being appointed. These states include Arizona, California, Idaho, Illinois, Maryland, Massachusetts, Michigan, Nevada, New York, North Dakota, Texas, Virginia, and Wisconsin. Other states have adopted protocols, however, to safeguard protected individuals. These protocols vary by state but each are aimed at determining whether an individual applying to become a guardian has had criminal convictions, bankruptcies,

¹ Standard 3.3.12 Background Checks, National Probate Court Standards, National Center for State Courts, ISBN 9878-0-89656-284-4 College of Probate Judges. *Last viewed on May 10, 2025* (chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.txcourts.gov/media/414321/National-Probate-Court-Standards.pdf).

² *Id.* at Standard 3.3.15, pg. 67.

supported findings of abuse, neglect, or exploitation, or other events that may put a protected person at risk (*see attached*).³

Utah Overview

The State of Utah currently does not require individuals applying to become guardians to complete a background check, either nationwide or Utah specific. Petitioners are required to submit applications, but those applications do not solicit information about histories of criminal convictions, bankruptcies, or supported allegations of abuse, neglect, or exploitation. The goal of this WINGS subcommittee is to analyze options and develop recommendations for WINGS, Utah State Court governing boards and committees, including the Judicial Council, and potentially the Utah State Legislature.

Potential Recommendations

1. Require a State of Utah background check through the Utah Bureau of Criminal Identification (BCI). The cost of a BCI background check is \$15.00 as of May 16, 2025, and is a simple process which can be completed in person at BCI in one day, or through the mail, if an applicant prefers to obtain fingerprints from a local law enforcement agency and mail the results to BCI.
2. Consider whether a national background check would provide additional protection. National background checks are conducted by the Federal Bureau of Investigations (FBI) through the Criminal Justice Information Services Division, or CJIS. The FBI offers two ways to request records or to prove that no records exist.
 - a. *You may get a copy of your record by submitting a written request to the CJIS Division. The request must include proof of identity. This proof must include your name, date and place of birth, and a set of **rolled-inked fingerprints** (which can usually be obtained at your local police department). If there is no criminal record, they provide a report reflecting this fact. The FBI will not provide copies of other people's arrest records to you. See www.FBI.gov for current processing fees and more information. See also [Identification Record Request](#) and [Guide for Obtaining Your FBI Identification Record](#). Lastly, see [Submitting an Identification Record Request to the FBI](#).*

³ ABA Commission on Law and Aging, www.americanbar.org/aging, as of December 31, 2015.

- b. *You may also submit a request through an FBI-approved channeler. A channeler is a private business that has contracted with the FBI. They receive your fingerprint submissions and data. They also collect any fees. Then they send the submissions and information to the FBI. The FBI will give them the background check results, and they will give them to you. See www.FBI.gov for the list of FBI-approved channelers.*

The FBI's website states that national background checks from the FBI cost approximately \$25 - \$50, but this option has not been thoroughly researched. The FBI estimates that this process can take up to 30 days.⁴

3. Revise application forms provided on the Utah State Courts website to include questions about prior convictions, convictions in other states, and supported cases involving Adult Protective Services.
4. Consider legislative initiatives, if needed, for new requirements.
 - a. Study the language in Utah Code §78B-6-128 (Preplacement Adoptive Evaluations) related to the criminal history background checks required for prospective adoptive parents.

⁴ FBI.gov. <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/identity-history-summary-checks>, Last viewed on May 16, 2025.

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:</p> <p>(1) is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding; or</p> <p>(2) been convicted of:</p> <p>(A) a felony;</p> <p>(B) a crime involving dishonesty, neglect, violence, or use of physical force; or</p> <p>(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	§ 28-65-203(a) Convicted or unpardoned felon			

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
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>		

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
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	§ 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 § 15-14-1102(2) Attach name-based criminal history record check through CO Bureau of Investigation § 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	§ 15-14-110(2) Attach credit report	

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
District of Columbia	§ 21-2043(a-1)(1) Provides substantial services; creditor of the incapacitated individual; or employed by any person or entity that provides services.	§ 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.		
Florida	§ 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	§ 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.	§ 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.	§ 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.

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
Georgia	§ 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.	§ 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	§ 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	
Idaho	§ 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.	§ 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.	§ 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.	

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
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			

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
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 dishonesty, 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.		

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
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.

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
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		

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
North Dakota		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		
Ohio		§ 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. 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.		No instruction to court on what if proposed guardian has criminal record. Some courts are fingerprinting
Oklahoma	§ 3-104(A) Owner operator employee of facility where residing	§ 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.	§ 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	

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
Oregon	§ 125.205 Incapacitated, financially incapable, minor, health care provider	<p>§ 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.</p> <p>§ 125.240 Professional fiduciary must have criminal background check paid for by fiduciary</p>		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	<p>§ 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.</p>		

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
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>		

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
Vermont	14 § 3072(a)(2) Operates care facility where resides or receiving care 14 § 3072(a)(2) Served as guardian ad litem in same proceeding	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.		
Washington	§ 11.88.020 Under 18; of unsound mind; convicted of felony or misdemeanor involving moral turpitude; court finds unsuitable	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.	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.	
West Virginia	§ 44A-1-8(a) Individual employed by or affiliated with any public agency, entity or facility providing substantial services or financial assistance; creditor	§ 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		

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
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.	

Criminal and Credit Background Checks for Guardians

As of August 2020

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
Center for Guardianship Certification	<p>Rules and Regulations II.A.5-9</p> <p>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-certificiant is eligible to serve as a guardian under state law.</p> <p>6. submit to a criminal background check.</p> <p>7. agree to comply with the NGA Ethical Principles and the NGA Standards of Practice.</p> <p>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.</p> <p>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</p> <p>Submit to a criminal background check</p>		

1 **Rule 6-501. Testing and reporting requirements for guardians and conservators.**

2 **Intent:**

3 To set forth the testing requirements for guardians and conservators and to establish
4 standards and procedures for inventories, reports, and accountings that guardians and
5 conservators are required to file under the Utah Uniform Probate Code.

6 **Applicability:**

7 This rule applies to individuals seeking appointment as guardians and conservators and
8 individuals who are appointed by the court as guardians and conservators.

9 **Statement of the Rule:**

10 **(1) Definitions.**

11 (1)(A) "Accounting" means the annual accounting required by Utah Code Section 75-5-312
12 and Section 75-5-417 and the final accounting required by Utah Code Section 75-5-419.

13 (1)(B) "Interested person" means the respondent, if he or she is not a minor, the
14 respondent's guardian and conservator, the respondent's spouse, adult children, parents
15 and siblings, and any other person interested in the welfare, estate, or affairs of the
16 respondent who requests notice under Utah Code Section 75-5-406. If no person is an
17 interested person as previously defined, then interested person includes at least one of the
18 respondent's closest adult relatives, if any can be found. For purposes of minor
19 guardianship, interested persons include the persons listed in Utah Code Section 75-5-
20 207.

21 (1)(C) "Inventory" means the inventory required by Utah Code Section 75-5-418.

22 (1)(D) "Serve" means any manner of service permitted by Utah Rule of Civil Procedure 5.

23 (1)(E) "Protected person" means a minor or an incapacitated person for whom the court
24 appoints a guardian or an individual for whom the court appoints a conservator.

25 (1)(F) "Report" means the inventory, accounting, or annual report on the status of the
26 protected person under Utah Code Sections 75-5-209 and 75-5-312, and the final
27 accounting under Sections 75-5-210 and 75-5-419

28 (1)(G) "Respondent" means a person who is alleged to be incapacitated and for whom the
29 appointment of a guardian or conservator is sought.

30 **(2) Exceptions.**

31 (2)(A) Paragraph (3) does not apply to the following:

(2)(A)(i) a guardian certified under Utah Code Section 75-5-311(1)(a);

(2)(A)(ii) the Office of Public Guardian; or

(2)(A)(iii) a conservator issued a permit under Utah Code Section 7-5-2.

(2)(B) Paragraphs (6), (7), (8), (9), and (10) do not apply if the guardian or conservator is a parent of the protected person.

(2)(C) Paragraph (7)(C) does not apply to the guardian of a minor if the minor's estate consists of funds that are deposited in a restricted account, which requires judicial approval for withdrawal, or if there is no estate.

(2)(D) Paragraph (9) does not apply to a conservator who is appointed for the purpose of receiving a personal injury settlement for a minor if 1) no funds are to be distributed until the minor reaches the age of majority, or 2) no structured settlement payments are to be made until the minor reaches the age of majority.

(3) **Examination, ~~and~~ private information record, ~~and~~ background check.**

(3)(A) Before the court enters an order appointing a guardian or conservator, the proposed guardian or conservator must file:

(3)(A)(i) a verified statement showing satisfactory completion of a court-approved examination on the responsibilities of a guardian or conservator; ~~and~~

(3)(A)(ii) a completed and verified Private Information Record form provided by the Administrative Office of the Courts; ~~and~~:-

~~(3)(A)(iii) a completed and verified criminal history background check for each proposed guardian or conservator, based on fingerprint identification, from the Federal Bureau of Investigation, the Utah Bureau of Criminal Identification, or the Utah Department of Health and Human Services~~

(3)(B) ~~The provisions in Subsection (3)(A)(iii) do not apply if all of the following conditions are met:~~

~~(3)(B)(i) the allegedly incapacitated person is the biological or adopted child of the proposed guardian or conservator; and~~

~~(3)(B)(ii) the value of the allegedly incapacitated person's entire estate does not exceed \$20,000.~~

~~(3)(C) The guardian or conservator must continue to keep the court apprised of any changes to the guardian or conservator's criminal background history.~~

Commented [ST1]: This is the language used in the step parent adoption petition. We can tweak this to only include the type of background check we are seeking.

Commented [ST2]: Is this clear enough to indicate that a non-parent co-guardian would still need to complete a background check, even if the other co-guardian is the parent?

Commented [ST3]: Referencing that this will be a question added to annual reports. Perhaps there is a better way to word this though...

(3)(DB) The guardian or conservator must continue to keep the court apprised of any changes to the guardian or conservator's contact information.

(4) **Recordkeeping.** The guardian must keep contemporaneous records of significant events in the life of the protected person and produce them if requested by the court. The conservator must keep contemporaneous receipts, vouchers or other evidence of income and expenses and produce them if requested by the court. The guardian and conservator must maintain the records until the appointment is terminated and then deliver them to the successor guardian or conservator, to the protected person if there is no successor guardian or conservator, or to the personal representative of the protected person's estate.

(5) Filing and service of required reports and proposed Order on Review

(5)(A) The guardian or conservator shall file with the court the reports required by Paragraphs 6, 7, 8, 9, and/or 10 using the appropriate Council-approved form or a form that substantially conforms to the format and content of the Council form.

(5)(A)(i) A corporate fiduciary shall attach its internal report or accounting, if any, as an exhibit to the Council form.

(5)(A)(ii) If the protected person's estate is limited to a federal or state program requiring an annual accounting, the guardian may file a copy of that accounting instead of the Council form.

(5)(B) The annual status report and annual accounting must contain sufficient information to put interested persons on notice of all significant events and transactions during the reporting period.

(5)(C) Along with the required report, the guardian or conservator shall also file the Council-approved Order on Review of Guardian or Conservator Report ("Order on Review") as a proposed document.

(5)(D) The guardian or conservator must serve a copy of the required report on all interested persons in accordance with Rule 5 of the Utah Rules of Civil Procedure. The required report must include the following language at the top right corner of the first page, in bold type: **You have the right to object to this report within 28 days of service. If you do not object within that time, your objection may be waived.**

(6) Inventory.

(6)(A) Within 90 days after the appointment, the conservator must file with the appointing court the inventory required by Utah Code Section 75-5-418 in accordance with Paragraph 5. The inventory must be in substantially the same form as the inventory form approved by

the Council, including the required attachments. The court may extend the time for filing the inventory for good cause.

(6)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the inventory is in order, the judge must approve it by signing the Order on Review.

(6)(C) If there is no conservator, the guardian must file the inventory required of a conservator under Utah Code Section 75-5-312.

(7) Annual status reports.

(7)(A) The guardian must file with the appointing court a report on the status of the protected person no later than 60 days after the anniversary of the appointment in accordance with Paragraph 5.

(7)(A)(i) The status report must be in substantially the same form as the status report form approved by the Council, including the required attachments.

(7)(A)(ii) The guardian must file the report with the court that appointed the guardian unless that court orders a change in venue under Utah Code Section 75-5-313.

(7)(A)(iii) The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the guardian. The guardian may not file the report before the close of the reporting period. For good cause the court may extend the time for filing the report, but a late filing does not change the reporting period.

(7)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the report is in order, the judge must approve it by signing the Order on Review

(8) Annual accounting.

(8)(A) The conservator must file with the appointing court an accounting of the estate of the protected person no later than 60 days after the anniversary of the appointment in accordance with Paragraph 5.

(8)(A)(i) The accounting must be in substantially the same form as the accounting form approved by the Council, including the required attachments.

(8)(A)(ii) The conservator must file the accounting with the court that appointed the conservator unless that court orders a change in venue under Utah Code Section 75-5-403.

(8)(A)(iii) The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the conservator. The conservator may not file the accounting before the close of the reporting period. For good cause the court may extend the time for filing the accounting, but a late filing does not change the reporting period.

(8)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the accounting is in order, the judge must approve it by signing the Order on Review.

(8)(C) If there is no conservator, the guardian must file the accounting required of a conservator under Utah Code Section 75-5-312.

(9) Final accounting.

(9)(A) The conservator must file with the court a final accounting of the estate of the protected person with the motion to terminate the appointment in accordance with Paragraph 5.

(9)(B) The court may conduct a hearing even though no objection is filed. If the court finds that the accounting is in order, the court must approve it by signing the Order on Review.

(10) Objections.

(10)(A) If an interested person objects to a report, the person must file a written objection with the court and serve a copy on all interested persons within 28 days from the date of service of the report. A request to submit must be included with the objection. The court may for good cause, including in order to accommodate a person with a disability, waive the requirement of a writing and document the objection and request to submit in the court record.

(10)(B) The objection must specify in writing the entries to which the person objects and state the reasons for the objection.

(10)(C) An objection to a report may not contain a request to remove or substitute the guardian or conservator. Any request for removal or substitution of the guardian or conservator must be filed as a separate petition consistent with Utah Code Section 75-5-307 or 75-5-415.

(10)(D) If an objection is filed, the court must conduct a hearing unless the court determines that a hearing is not necessary. If the court determines that a hearing is not necessary, the court must issue a minute entry or order stating why a hearing is not necessary.

(10)(E) At the hearing, the court may require the guardian or conservator to supplement or amend the report if the court determines there is good cause for the objection.

(10)(F) If the court determines that the objection is unfounded or is filed in bad faith, the court may deny the objection and approve the report.

(11) **Waiver.** If an interested person does not object to a report within 28 days of service, the interested person waives any objection unless:

(11)(A) the objection relates to matters not fairly disclosed by the report; or

(11)(B) the time for objection is extended by the court under Rule 6 of the Utah Rules of Civil Procedure. If the request for an extension is made before the time has run, the court may extend the time for good cause. If the request is made after the time has run, the court may extend for excusable neglect.

(12) **Report approval.**

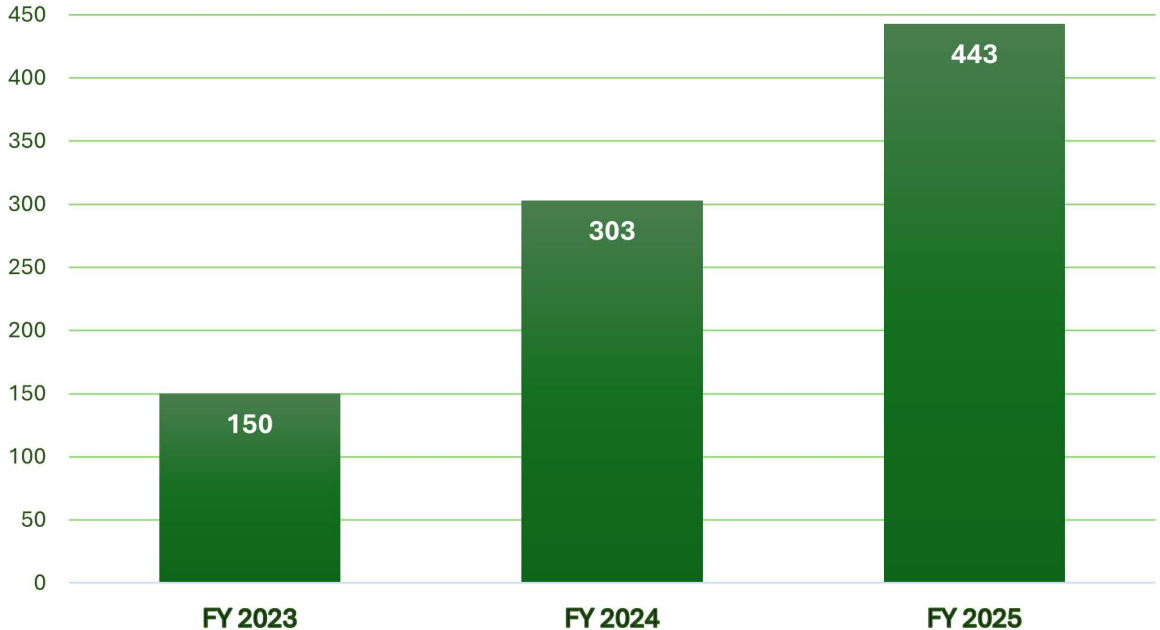
(12)(A) **Approval.** The court must examine and approve the report as required by Utah Code sections 75-5-312 and 75-5-417. Approving a report means the judge has reviewed it, to the court's knowledge notice has been given to every person entitled to notice, no objection has been received, the report meets the requirements set forth by the report form, and the court has not requested additional information or scheduled a hearing. Such approval does not foreclose a valid claim permitted under paragraphs (11)(A) or (11)(B), nor does it start an appeal time.

(12)(B) **Notice to interested persons.** When a court approves a report, the court must sign and enter the Order on Review. When a court does not approve a report, the court must indicate on the Order on Review, or in another minute entry or order, the reasons for non-approval, any additional actions required, and serve it on all interested persons entitled to notice.

(13) **Report on a minor.** Under Utah Code Section 75-5-209, a person interested in the welfare of a minor may petition the court for a report from the guardian on the minor's welfare or the minor's estate. If the court orders a status report from the guardian, the status report must be in substantially the same form as the status report form for guardianships of adults approved by the Council, including the required attachments.

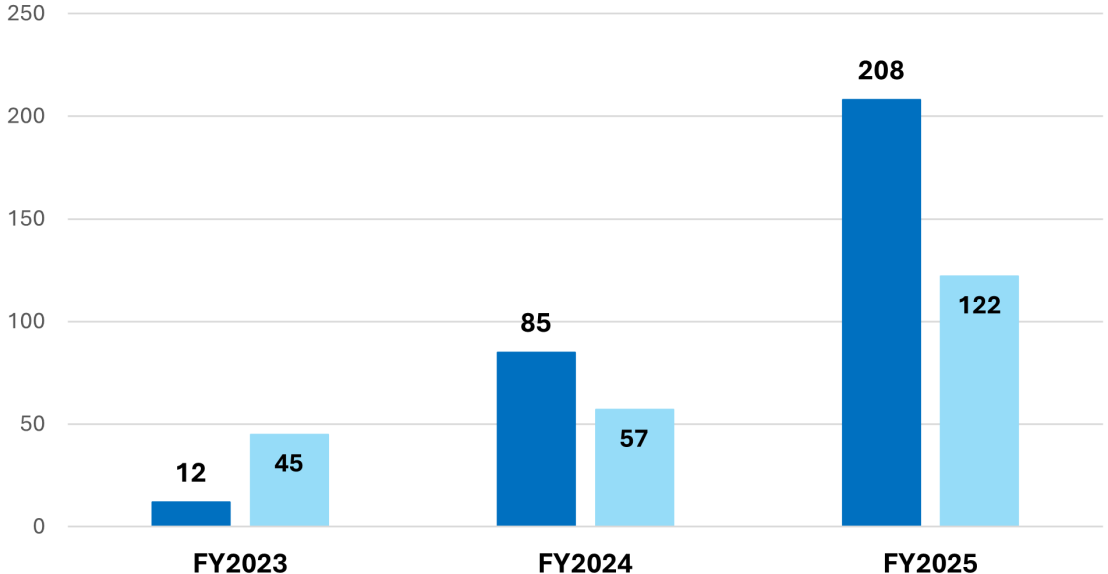
Effective: 11/1/2023

GSP Attorney Requests



CVP - Attorney Waiver Cases

■ Requests ■ Days to Assign



Self-Help Center Monthly Newsletter

Essential news on My Court Case, Forms, and Website.

1. OCAP Update

- **OCAP will be removed from service on July 11th, 2025.**
 - After July 31st, we will have no access to user records, answer files, or interviews in OCAP.
 - **MyPaperwork is the court's replacement for OCAP. We strongly encourage OCAP divorce and parentage users to re-create their paperwork in MyPaperwork while they still have access to both systems.** We appreciate your patience and apologize for the inconvenience.
 - The following OCAP interviews must be rebuilt in MyPaperwork **after** OCAP is taken down. After July 11th, filers will be directed to the following self-help webpages for forms (in fillable and PDF formats) and information:
 - **Guardianship reporting, guardianship of a minor, guardianship of an adult, and guardianship of an adult child**
 - See our [Self-Help Resources page on Guardianship](#) for information and forms (in fillable and PDF formats). The updated pages and forms will be available on the website after July 11th.
 - Evictions for landlords
 - See our [Eviction for Landlords](#) page for information and forms (in fillable and PDF formats).
 - Evictions for tenants
 - See our [Eviction for Tenants](#) page for information and forms (in fillable and PDF formats).
 - Small claims
 - See our [Small Claims](#) page for information and forms (in fillable and PDF formats).
 - Employer's Answers to Garnishment Interrogatories.
 - See our [Responsibilities of Garnishees](#) page for information and forms (in fillable and PDF formats).
 - We thank you for your patience and apologize for the inconvenience.

2. MyPaperwork: New Interviews and Updates

Jonathan Mark, MyPaperwork Program Manager

- We launched “My Identity Change” (Name and Gender Marker Change) as a new guided interview. This interview is new to OCAP (now MyPaperwork), and was built to support a low-impact rollout for case-initiation automation.

- Case-initiation via MyPaperwork is on track to be delivered at the end of June, and will be enabled for the “My Identity Change” guided interview. This technically involves two CORIS case types, which we have referred to interchangeably and apologize for any confusion:
 - Name Change for Adults
 - Name Change and Gender Marker Change for Adults
- Document wait times are greatly reduced, meeting targets
 - Emergent case types (e.g. Cohabitant Protective Orders) now get priority if there is a queue of users waiting for document generation.
 - Emergent case type (i.e. protective orders) are experiencing wait times of 90 seconds or less.
 - Large case types (e.g. divorce) are experiencing wait times 15 minutes or less.
- We have improved our ability to visualize demand in MyPaperwork to better plan for future scaling.
- We met with Clerks of Court to discuss the present schedule for Guided interviews development in MyPaperwork. A finished guided interview is required before case-initiation can be enabled for a given case type. The outstanding interviews to be delivered by the end of calendar 2025 are:
 - Guardianship reporting
 - Guardianship of a Minor
 - Sexual Violence POs
 - Dating Violence POs
- New download icons
 - Users now see:
 - a download icon when documents are ready,
 - an hourglass when their documents are being prepared, and
 - an exclamation point when their download does not reflect recent changes the user made to their interview.
- Bug fixes
 - The following have been fixed. Filers might need to re-generate their paperwork to see the change.
 - The Safe At Home, Notice of Actual Address form was generating in error with stalking injunction requests.
 - The issue where Civil Stalking Injunctions were not populating names correctly.
 - The petition was missing the paragraph about the parties being married.
 - "credit card debt" section the text was overlapping
 - Request to safeguard form did not generate for some users
 - Child support was incorrect for some split custody users
 - Summit County Juvenile court address changed
 - Added child support worksheets for step 1 (petition and counterpetition) (divorce and parentage)
 - Users were being given a summons and proof of completed service with their divorce counterpetition
 - "Child support additional provisions" added by user did not show up in the documents

3. ODR (Online Dispute Resolution) Updates

Chantel Julander, ODR Program Manager

- ODR will use guided interviews to support document automation by the end of July. This will enable us to be more iterative with settlement agreements generated by the ODR program, and the related user interface.
- New-user onboarding will also be supported by Forms Engine guided interviews. This allows the program to be more iterative in orientating users to the ODR program and, for defendants, guide them through their initial response to plaintiff's settlement proposal.

4. Court Forms Updates

Kaden Taylor, State Law Librarian

- In order to better assist groups who help court patrons with protective order forms, all protective order forms that are currently built in our form engine now provide a PDF, fillable form, or Microsoft Word version of the form on our website. Forms that have not yet been built out in the form engine still provide PDF and Microsoft Word versions of the form.

5. Website Updates

Janine Liebert, Director, Self-Help Center and Utah State Law Library

- The [motions page](#) has been completely redesigned. Highlights include:
 - Users are now more clearly prompted to choose between motions decided by a judge and motions decided by a commissioner.
 - Links to commonly used motions (in Word and PDF formats) and general instruction
 - Step-by-step instructions on filing a motion and responding to a motion
 - Table of commonly used motions in civil cases
 -

6. Education Hours Requirement Opportunity

Janine Liebert, Director, Self-Help Center and Utah State Law Library

- The Self-Help Center has developed a training to help court staff understand the needs of self-represented litigants and the resources available to help them. The training is displayed in the LMS under the Self Help Center - Helping Self-Represented Parties in Utah Courts. The units are self-paced. Once you register for an individual unit, you will select the assessment button and review the assigned materials. Upon completion of each unit, you have the opportunity to schedule a one-hour "testing" session with a Self-Help Center staff attorney.