

CRIMINAL HISTORY BACKGROUND REQUIREMENT

A proposed guardian or temporary guardian may not be appointed unless the criminal history background information is obtained by JBCC and provided to the Court at least 10 days prior to the hearing date.

The JBCC Criminal History Specialist will utilize the Texas Department of Public Safety's (DPS) Secure Site, which contains arrest and court disposition information for the State of Texas and nationwide for the Federal Bureau of Investigation (FBI). Digital fingerprints may be required from the applicants utilizing a DPS approved vendor, depending on the dollar value of the liquid estate. The JBCC Criminal History Specialist will utilize the DPS FACT Clearinghouse to search an applicant's criminal history. Other applicants may be searched using their name and date of birth on the DPS Secure Site.

ADHERENCE TO DPS SECURE SITE POLICY AND SAFEGUARDS

The JBCC Criminal History Specialist will maintain **CONFIDENTIALITY** on all criminal history background records and information on all applicants, at all times, by following DPS Secure Site procedures and policies.

The background check must be delivered to the court at least 10 days before the hearing on the application for guardianship – please allow sufficient time for processing before the hearing date (it could take up to two weeks).

The delivery method by the JBCC Criminal History Specialist of the Criminal History Background record will depend on each Clerk's designated method of receipt of the **CONFIDENTIAL** record. There are three Texas Department of Public Safety (DPS) approved options:

1. **E-Mail:** Criminal History Background record as an **ENCRYPTED** attachment, or **ENCRYPTING** the entire e-mail. Once the Clerk or the Clerk's designee receives the e-mail, it must be deleted by the JBCC sender and the court receiver, after it has been used for its purpose.
2. **Fax:** The designee provided the Court Clerk is called by the JBCC Criminal History Specialist to make sure they will receive the fax as it is transmitted.
3. **U.S. Mail**

JBCC RULE 10.5

- Effective June 1, 2018, JBCC will obtain a criminal history background report for each proposed guardian who submits the required registration information under Rule 10.2(a) and provide it to the clerk for the exclusive use of the Court.
- **EXCEPTIONS** – Certified guardians, provisionally certified guardians, attorneys and corporate fiduciaries are not subject to the criminal history background requirement.
- A proposed guardian or temporary guardian may not be appointed unless the criminal history background information is obtained by JBCC and provided to the Court at least 10 days prior to the hearing date.

Criminal History Background Procedures for Guardianship Registration

- Name (including former names) and date of birth search of DPS criminal history records if the estimated value of the liquid assets of the guardianship estate is \$50,000 or less.
- Fingerprint-based search of FBI criminal history records if the value of the liquid assets of the guardianship estate is more than \$50,000.
- Clerk must NOT file the criminal history background report in the court file.
- Hearing may not be held on the application until at least 10 days after the Court has received the criminal history background report.
- JBCC may not disclose the criminal history background information to any person or agency other than the clerk of the court in which the guardianship case is pending or to the court, except upon court order or consent of the proposed guardian.
- JBCC and the clerk of the court must destroy the criminal history background report after it has been used for its intended purpose.

NOTE: Unauthorized disclosure of criminal history background information is a criminal offense under Sec. 411.085, Government Code.

CRIMINAL HISTORY BACKGROUND RECORD

Any criminal history record information is confidential and will be provided only to the clerk and the court with probate jurisdiction for authorized purposes and not to be placed in the file or record of the guardianship. Criminal background histories must be shredded immediately upon the court's decision to approve or disapprove the guardianship request. It is the responsibility of the Court Clerk or the Court Clerk's designee to shred the criminal history background record.