INSTRUCTIONS FOR OBTAINING A FINGERPRINT-BASED STATE/FEDERAL CRIMINAL BACKGROUND CHECK

FOR GUARDIAN AND CONSERVATOR NOMINEES PER SDCL 29A-5-110

SDCL 29A-5-110 (2016) requires that any individual seeking appointment as a guardian or conservator must obtain a DCI & FBI background check prior to their appointment by the court. The Clerk of Court Office will provide individuals seeking appointment with a packet containing a DCI fingerprint card with authorization form, FBI fingerprint card, and an envelope pre-addressed to DCI. DCI & FBI background checks will be conducted respectively, and the results will be filed with the Clerk of Court where the guardianship and/or conservatorship case is venued.

South Dakota Requirements for Background Checks:

Electronic Submission – Preferred method

1. Prior to being fingerprinted, create an account online at **South Dakota Attorney General (sd.gov)**, enter the required information and pay the fee.
2. A receipt will be provided to you, which you will need to bring with you to a local livescan agency to capture your fingerprints. Your local livescan agency is typically the local sheriff's office.
3. The fingerprints will then be electronically submitted, and the results will be sent out via US Mail to the authorized agency based on the request.
4. You will be able to access the receipt for 10 days and also check the status of the background check during that time.
5. If you live out of state or are unable to pay online, you will need to submit payment and fingerprints through the mail.

Mailing Physical Fingerprint Card – If unable to electronically submit

1. A state applicant fingerprint card must be obtained from the Clerk of Court's Office.
2. This fingerprint card must be completed to include the individual's name, date of birth, gender and social security number as the minimum requirements for demographic information.
3. The authorization and release form printed on the back of the card must be completely filled out and signed. Be sure to include the correct address of the County Clerk of Court's Office where the guardianship/conservatorship is venued, to which the response will be sent and filed. [Go to https://ujs.sd.gov/media/odyssey/eCourts_Clerk_of_Court_Contact.pdf to find a list of addresses for all state Clerk of Court Offices in South Dakota.]
4. The fingerprint card must also include a fully rolled set of fingerprints per SDCL 23-5-12, which requires "fingerprint identification".
5. The individual must take the fingerprint card to his/her local law enforcement agency (Police Department or Sheriff's Office) to be fingerprinted. There may be an additional charge by these agencies to cover the cost of fingerprinting.
6. The DCI requires a $30 fee for each request to cover the cost of processing the background check. (The FBI charges a separate fee of $20.) The fees should be combined into one payment of $50 to the DCI in the form of a check or money order.
7. Upon receipt of all necessary information, fingerprints and fee, DCI will conduct a state search and supply a copy of any criminal history that is found or a letter stating that there is no criminal history. These results do not include federal charges, juvenile offenses, sealed records, minor traffic violations or out of state information. Fingerprint cards will be destroyed and will not be returned with the responses.

Federal Bureau of Investigation (FBI) Background Checks:

1. A special FBI applicant fingerprint card (provided by the FBI) must be obtained from the Clerk of Court's Office. This fingerprint card will have the preprinted ORI, which has been assigned by the FBI and will be found in the contributor block on the card. The reason for fingerprinting should indicate that the search is for "volunteering".
2. This fingerprint card must be taken to the individual's local law enforcement agency to be printed. The FBI requires fingerprint-based searches for all individuals seeking job and volunteer clearance.
3. All necessary information including name, date of birth, gender and social security number must be

provided on the fingerprint card as minimum requirements. Incomplete requests will be rejected.

4. The FBI charges a $20 fee for this search. Payment and submission of information must be channeled through the SD DCI as the central repository and single source to the FBI. Again, as noted above, total payment of $50 to cover the costs of both the state and federal background checks should be included with each request.
5. Upon receipt of all necessary information, fingerprints and the required fee, the DCI will forward the request to the FBI. If no record is found based on the fingerprint search, a response sheet will be sent to the county Clerk of Court's Office whose address you provide on the authorization and release form mentioned above. If the search reveals a match with an arrest record in the FBI files, a computer record print out will be sent. Fingerprint cards will be destroyed.

FBI/DCI CRIMINAL HISTORY USE & RETENTION PROCEDURES:

1. FBI Criminal History Record Information (CHRI) must be kept in a locked, fire proof file cabinet accessible to authorized personnel only. The FBI CHRI must be kept as long as the subject of the CHRI serves as a guardian and/or conservator. The subject may have a copy of the CHRI upon request per 42 U.S.C. § 5119a(b)(2)(A) and SDCL 23-5-12. Note: The Clerk of Court office will scan any response sheets and computer record print outs into the related Odyssey Guardianship and/or Conservatorship record, verify the electronic image, and will shred the respond sheets and computer record print outs in 30 days, as they do with other paper filings.

2. The FBI CHRI cannot be shared with unauthorized personnel or other SD entities.

3. It is against FBI policy and procedures to disseminate or distribute the CHRI to any persons or institutions, including the person seeking appointment and their attorney.

4. Should the individual's results include any FBI rejected cards/rejection notice, or notice of no name check conducted, the FBI could not read the fingerprint images submitted. The individual will have to submit a new application. To avoid having to pay the background check fees again, the individual will receive by mail the original (rejected) FBI fingerprint card along with the FBI's rejection notice and a new FBI fingerprint card from the Clerk. The individual must then get fingerprinted on the new card and mail all three documents (original and new fingerprint card, rejection notice) to DCI again at:

   South Dakota Division of Criminal Investigation George
   S. Mickelson Building
   1302 East Highway 14, Suite 5 Pierre,
   South Dakota57501-8505

5. The subject of a CHRI may, per 28 C.F.R. § 16.34, challenge the accuracy or completeness of his/her CHRI with the DCI or with the FBI by mailing the challenge to:

   FBI, Criminal Justice Information Services Division, Attn: SCU, Mod.D-2, 1000 Custer Hollow Road
   Clarksburg, WV 26306

A copy of this document can be obtained from the UJS Law Help website:
https://ujslawhelp.sd.gov/GuardConservForms.aspx