

GUARDIAN & CONSERVATOR NOMINEE SELECTION CHECKLIST
INCLUDING A CRIMINAL/CIVIL BACKGROUND CHECK and TRAINING REQUIREMENT

(UPDATED 1/2023)

- Once a need for guardianship or conservatorship arises**, seek out candidates to serve as guardian or conservator. Determine if any candidates have “red flags”: financial conflicts of interest, felony convictions, substance abuse issues, and others.
- Review the qualifications and requirements in SDCL 29A-5-110 with the candidates, as well as the relevant responsibilities in SDCL ch. 29A-5 pt. 4. In the process, you can determine whether obtaining a waiver of any of the 29A-5-110 requirements will be necessary.**
- When filing a Petition for Appointment at the Clerk’s Office, **obtain a state/ federal criminal background check packet (two fingerprint cards, pre-addressed envelope to DCI) and the background check instructions from the Clerk.** The instructions and packet contain all of the information the candidate needs to obtain the required background checks.
- OPTIONAL – If you seek to waive the criminal/civil background check requirement in SDCL 29A-5-110, you must file (simultaneous with the petition for appointment) an affidavit explaining the “good cause” for waiver.** In the meantime, you should obtain the background check instructions and packet from the Clerk when you file your Petition, in case the Court rejects your request.
- Direct the candidate to his/her nearest law enforcement office to get fingerprints on the cards—one state, one federal.** Have the candidate fill out the authorization on the back of the state fingerprint card. Once both of the cards have been completed and fingerprinted, have the candidate mail the forms and payment in the pre-addressed envelope. The processing will take five business days plus the time for mailing. **Tell the candidate to act quickly – the results must be received by the Court ten days prior to the Appointment Hearing.**
- The Petitioner will have met his/her SDCL 29A-5-110 obligation to file the criminal history report (by proxy) when the Clerk’s Office receives and files the criminal history reports in the mail from DCI.** The Clerk’s Office will then perform the public civil record search from Odyssey to comply with the civil records check component of the background check requirement.
- SDCL 29A-5-119 was amended in 2021 to now require a training class for conservators and guardians BEFORE being appointed. The State Bar of South Dakota has a link to the class on its webpage. [Guardianship & Conservatorship - State Bar of South Dakota](#) You will need to provide the court with the date of your completion of this course on your annual report.