

**DIVISION OF CHILDREN AND FAMILY SERVICES
ADMINISTRATIVE MEMO #8-2012**

To: All Children and Family Services Staff

From: Christine M. Hanus, Child Welfare Administrator 
Division of Children and Family Services
Department of Health and Human Services

Approved By: Thomas D. Pristow, Director 
Division of Children and Family Services
Department of Health and Human Services

Date: March 21, 2012

RE: Requirements for a credit check report to be included as part of the background check when establishing guardianship and/or conservatorship for children and adults.

Effective Date: Immediately

Duration: Until revised

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Purpose: Provide guidance to staff about the role of DHHS to obtain a credit check as part of the background checks required by the court for the purposes of establishing a guardianship/conservatorship in probate court

New legislation which became effective on January 1, 2012, created several changes to the guardianship and conservatorship statutes. The changes will provide the probate court with a greater level of oversight of guardianships and conservatorships to prevent abuse, neglect, or exploitation of a ward or protected person.

The Administrative Office of the Courts & Probation established the criteria for a background check of prospective guardians in probate court. The four reports required by the court to complete a background check include a credit check, a NE State Patrol criminal history check, a sex offender registry check, and a check of the Adult and Child Abuse and Neglect Registry/Register. In order for the Probate Court to appoint a person as a guardian/conservator, the statute requires the potential guardian/conservator to submit the four reports to the Court at

least 10 days prior to the hearing, unless waived or in a temporary/emergency guardianship/conservatorship.

Adult Protective Services:

For Adult Protective Service cases, the Case Manager will advise a potential guardian to obtain the required background check reports. The potential guardian is responsible for obtaining and submitting the four background check reports to the court.

DHHS is not responsible for payment for a credit check report, because the potential guardian may obtain a free credit check report. DHHS will not mandate what a credit rating needs to be in order to qualify to be a guardian.

Establishing Guardianships for Department Wards:

When the permanency goal of guardianship for a child is determined, the Case Manager must gather information to assure that the potential guardian(s) can provide stability and continuity to the child entering into a guardianship. The Case Manager shall use the guidelines outlined in 390 NAC 6-004 to arrive at a decision. The Case Manager must also consider background checks and gather financial information to ensure that the potential guardian(s) can provide for the safety and stability for child on a long-term basis.

Guardianships for children can be heard in Probate Court or the Separate Juvenile Court. Juvenile Court is the appropriate forum for guardianships for children already adjudicated under the Juvenile Code. If the guardianship is to be done in Probate Court, the requirements set forth in the Uniform County Court Rules of Practice and Procedure; § 6-1449 - Background checks on guardians or conservators; appointment of guardian ad litem must be followed. If the guardianship is heard in a Separate Juvenile Court, the Case Manager shall follow the direction of the Judge regarding whether the Probate Court required checks are required or not.

Changes in the statute also require DHHS to provide a credit check of the prospective guardian to the court. This report shall be provided to the attorney who is filing the guardianship petition, as part of the guardianship packet. It will be the responsibility of the guardian to obtain the credit history check and provide a copy to the case manager. DHHS will not pay for a credit check report of a potential guardian of a child. If for some reason the guardian is unable to obtain his or her own credit history check, the Case Manager can run the check with the following provisions:

1. The guardian has signed a release of information form specifically for the credit history check; and
2. The guardian is aware that the credit check being done will be the "free" one.

If the guardian has already utilized the free credit history check for the year, the guardian will be responsible to obtain a copy of that credit history check or apply for another credit history check and pay the cost. The Case Manager can assist the guardian with problem-solving on how to obtain the credit history check.

A copy of the credit check will be placed in the appendix to the child's file.

The Department of Health and Human Services will not mandate what a credit check rate needs to be in order to qualify to be a guardian for a child. However, this information can be used for the assessment purposes to ensure that the guardian has stability to provide for the long term commitment for a child.

In most cases, when legal guardianship is the plan for a child, the potential guardian of a child will have completed the background check process of foster or potential adoptive parents. For Child Protective Services cases, guidance to staff to complete the background checks is found at 390 NAC 7-001.06 (Assessment of Families Interested in becoming Foster or Adoptive Parents) and 7-004.02 (Approval of Unlicensed Homes – Non-emergency Situations); 474 NAC 6-003.25B (Background checks); and Title 390 Program Memo #4-2007 (check of information in another state's Child Abuse and Neglect Registry). DHHS background checks include a fingerprint-based National Criminal History Check, a check of the Adult and Child Abuse and Neglect Registry/Register, and a check of the state's child abuse and neglect registry in which a prospective foster parent, adoptive parent, or other adult in the home has resided in the preceding five years. This information will be included in the guardianship packet that is provided to the attorney who will be filing the guardianship.

Ordering the Credit Report: There are three ways to order a copy of the credit report; visit the website at www.annualcreditreport.com, call 1-877-322-8228, or complete the Annual Credit Report Request Form and mailing the completed form to: Annual Credit Report Request Service, P.O. Box 105281, Atlanta, GA 30348-5291.