

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 23-0263.01 Conrad Imel x2313

SENATE BILL 23-064

SENATE SPONSORSHIP

Gardner and Ginal, Bridges, Coleman, Hansen, Mullica

HOUSE SPONSORSHIP

Snyder and Armagost, Bird, Brown, Gonzales-Gutierrez, Lindsay, Marshall, Valdez, Young

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Appropriations

HOUSE
3rd Reading Unamended
May 7, 2023

A BILL FOR AN ACT

101 **CONCERNING THE OFFICE OF PUBLIC GUARDIANSHIP.**

HOUSE
2nd Reading Unamended
May 6, 2023

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

SENATE
3rd Reading Unamended
April 24, 2023

Under existing law, the office of public guardianship (office) is authorized to serve indigent and incapacitated adults (incapacitated adults) in need of guardianship in 3 judicial districts and is scheduled to repeal on June 30, 2024. The bill extends the office indefinitely and requires the office to operate in every judicial district in the state by December 31, 2027.

The bill establishes a board of directors (board) to oversee the office. The board consists of 7 members: 3 members who are attorneys

SENATE
Amended 2nd Reading
April 21, 2023

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

appointed by the chief justice of the Colorado supreme court and 4 non-attorney members appointed by the governor. The existing public guardianship commission that oversees the office is repealed, effective August 31, 2023.

The bill clarifies the office's duties. The office's director administers the office pursuant to a memorandum of understanding with the judicial department. The bill clarifies what must be included in the memorandum of understanding.

The office is required to employ guardians to provide guardianship services to the office's clients. A guardian must be certified as a guardian or become certified within 2 years after being hired by the office. The office shall provide training to guardians in specified subjects.

The bill requires a court to waive filing fees for petitions for guardianship filed by the office in cases that involve an incapacitated adult who is eligible for guardianship services from the office. A court is prohibited from requiring the office or a guardian employed by the office to post a bond as a condition for appointment as a guardian.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 13-94-102, **amend**
3 (2)(a)(I)(C); and **repeal** (2)(a)(II) and (2)(b) as follows:

4 **13-94-102. Legislative declaration.** (2) In establishing the office
5 of public guardianship, the general assembly intends:

6 (a) That the office will:

7 (I) Provide guardianship services to indigent and incapacitated
8 adults who:

9 (C) Are not subject to a petition for appointment of guardian filed
10 by a county adult protective services unit or otherwise authorized by
11 section 26-3.1-104. ~~and~~

12 ~~(II) Gather data to help the general assembly determine the need~~
13 ~~for, and the feasibility of, a statewide office of public guardianship; and~~

14 ~~(b) That the office is a pilot program, to be evaluated and then~~
15 ~~continued, discontinued, or expanded at the discretion of the general~~
16 ~~assembly in 2023.~~

1 **SECTION 2.** In Colorado Revised Statutes, 13-94-103, **amend**
2 (2)(a), (2)(c), (2)(d), and (2)(e); and **add** (2)(a.5) as follows:

3 **13-94-103. Definitions.** (2) As used in this article 94, unless the
4 context otherwise requires:

5 (a) ~~"Commission"~~ "BOARD" means the BOARD OF DIRECTORS FOR
6 THE OFFICE OF public guardianship ~~commission~~ created pursuant to
7 ~~section 13-94-104~~ SECTION 13-94-104.1.

8 (a.5) "CLIENT" MEANS A PERSON RECEIVING GUARDIANSHIP
9 SERVICES FROM THE OFFICE.

10 (c) "Director" means the director of the office, appointed by the
11 ~~commission~~ BOARD pursuant to ~~section 13-94-104~~ SECTION 13-94-104.1.

12 (d) "Guardian" or ~~"guardian-designee"~~ means an individual
13 employed by the office to provide guardianship services on behalf of the
14 office to one or more adults.

15 (e) "Office" means the office of public guardianship created in
16 ~~section 13-94-104~~ SECTION 13-94-105.

17 **SECTION 3.** In Colorado Revised Statutes, 13-94-104, **amend**
18 (2); **repeal** (3) and (4); and **add** (5) as follows:

19 **13-94-104. Public guardianship commission created - repeal.**

20 (2) Each member of the commission serves at the pleasure of ~~his or her~~
21 THE MEMBER'S appointing authority; except that each member's term of
22 service concludes with the repeal of this ~~article 94~~ SECTION pursuant to
23 ~~section 13-94-111~~ SUBSECTION (5) OF THIS SECTION.

24 (3) ~~The commission shall appoint a director to establish, develop,~~
25 ~~and administer the office of public guardianship, which office is hereby~~
26 ~~created within the judicial department. The director serves at the pleasure~~
27 ~~of the commission.~~

1 (4) ~~The office and the judicial department shall operate pursuant~~
2 ~~to a memorandum of understanding between the two entities. The~~
3 ~~memorandum of understanding must contain, at a minimum:~~

4 ~~(a) A requirement that the office has its own personnel rules;~~

5 ~~(b) A requirement that the director has independent hiring and~~
6 ~~termination authority over office employees;~~

7 ~~(c) A requirement that the office must follow judicial fiscal rules;~~
8 ~~and~~

9 ~~(d) Any other provisions regarding administrative support that will~~
10 ~~help maintain the independence of the office.~~

11 (5) THIS SECTION IS REPEALED, EFFECTIVE AUGUST 31, 2023.

12 **SECTION 4.** In Colorado Revised Statutes, **add** 13-94-104.1 as
13 follows:

14 **13-94-104.1. Office of public guardianship board - members**
15 **- duties - appointment of director - repeal.** (1) (a) ON SEPTEMBER 1,
16 2023, THE BOARD OF DIRECTORS FOR THE OFFICE OF PUBLIC GUARDIANSHIP
17 IS CREATED WITHIN THE JUDICIAL DEPARTMENT. THE BOARD INCLUDES
18 SEVEN MEMBERS, APPOINTED AS FOLLOWS:

19 (I) THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT SHALL
20 APPOINT THREE MEMBERS WHO ARE ATTORNEYS ADMITTED TO PRACTICE
21 LAW IN THIS STATE; AND

22 (II) THE GOVERNOR SHALL APPOINT FOUR NON-ATTORNEY
23 MEMBERS AS FOLLOWS:

24 (A) THREE MEMBERS WHO HAVE LIVED EXPERIENCE WITH A
25 FAMILY MEMBER WHO IS AN AT-RISK ADULT OR WHO HAVE EXPERTISE AND
26 EXPERIENCE IN ADVOCATING FOR THE AT-RISK ADULT POPULATION,
27 INCLUDING ADVOCACY AND REPRESENTATION IN THE AREAS OF AGING,

1 MENTAL HEALTH, SUBSTANCE USE DISORDERS, HOMELESSNESS, VETERANS
2 ISSUES, INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, HEALTH CARE,
3 AND LAW ENFORCEMENT AND CRIMINAL JUSTICE. AT LEAST ONE OF THE
4 MEMBERS APPOINTED PURSUANT TO THIS SUBSECTION (1)(a)(II)(A) MUST
5 BE A PERSON WITH LIVED EXPERIENCE WITH A FAMILY MEMBER WHO IS AN
6 AT-RISK ADULT.

7 (B) ONE MEMBER WHO HAS NOT SERVED DIRECTLY IN AN
8 ADVOCACY ROLE FOR AT-RISK ADULTS.

9 (b) (I) EACH OF THE MEMBERS APPOINTED BY THE CHIEF JUSTICE
10 MUST RESIDE IN A DIFFERENT CONGRESSIONAL DISTRICT, AND NO MORE
11 THAN TWO MEMBERS APPOINTED BY THE CHIEF JUSTICE MAY BE FROM THE
12 SAME POLITICAL PARTY.

13 (II) EACH OF THE MEMBERS APPOINTED BY THE GOVERNOR MUST
14 RESIDE IN A DIFFERENT CONGRESSIONAL DISTRICT, AND NO MORE THAN
15 THREE MEMBERS APPOINTED BY THE GOVERNOR MAY BE FROM THE SAME
16 POLITICAL PARTY.

17 (c) IN MAKING APPOINTMENTS TO THE BOARD, THE CHIEF JUSTICE
18 AND THE GOVERNOR SHALL CONSIDER PLACE OF RESIDENCE, INCLUDING
19 RURAL OR URBAN RESIDENCY; DISABILITY; SEX; RACE; AND ETHNIC
20 BACKGROUND.

21 (d) EACH MEMBER OF THE BOARD SERVES WITHOUT
22 COMPENSATION BUT IS ENTITLED TO RECEIVE REIMBURSEMENT FROM THE
23 OFFICE OF PUBLIC GUARDIANSHIP CASH FUND CREATED IN SECTION
24 13-94-108 FOR ACTUAL AND NECESSARY EXPENSES THE MEMBER INCURS
25 IN THE PERFORMANCE OF THE MEMBER'S DUTIES.

26 (2) (a) EACH MEMBER OF THE BOARD SERVES AT THE PLEASURE OF
27 THE MEMBER'S APPOINTING AUTHORITY. EXCEPT FOR THE INITIAL

1 APPOINTMENTS MADE PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION,
2 EACH MEMBER'S TERM OF APPOINTMENT IS FOUR YEARS. A MEMBER SHALL
3 NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

4 (b) (I) THE CHIEF JUSTICE AND GOVERNOR SHALL MAKE INITIAL
5 APPOINTMENTS TO THE BOARD NO LATER THAN AUGUST 1, 2023, AS
6 FOLLOWS:

7 (A) THE CHIEF JUSTICE AND GOVERNOR SHALL EACH APPOINT ONE
8 MEMBER TO A TERM OF FOUR YEARS FROM AMONG THE MEMBERSHIP OF
9 THE PUBLIC GUARDIANSHIP COMMISSION CREATED IN SECTION 13-94-104
10 AS IT EXISTS ON THE EFFECTIVE DATE OF THIS SUBSECTION (2)(b);

11 (B) THE CHIEF JUSTICE AND GOVERNOR SHALL EACH APPOINT ONE
12 MEMBER TO A TERM OF TWO YEARS;

13 (C) THE CHIEF JUSTICE AND GOVERNOR SHALL EACH APPOINT ONE
14 MEMBER TO A TERM OF THREE YEARS; AND

15 (D) THE GOVERNOR SHALL APPOINT ONE MEMBER TO A TERM OF
16 FOUR YEARS.

17 (II) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE DECEMBER
18 31, 2027.

19 (3) THE BOARD SHALL:

20 (a) APPOINT THE DIRECTOR OF THE OFFICE OF PUBLIC
21 GUARDIANSHIP, WHO SERVES AT THE PLEASURE OF THE BOARD;

22 (b) ESTABLISH BYLAWS AND OPERATING POLICIES FOR THE BOARD;
23 AND

24 (c) WORK COLLABORATIVELY WITH THE DIRECTOR TO PROVIDE
25 GOVERNANCE OF THE OFFICE, FISCAL OVERSIGHT OF THE GENERAL
26 OPERATING BUDGET OF THE OFFICE, AND PROGRAMMATIC OVERSIGHT, AS
27 ESTABLISHED IN THE BYLAWS AND OPERATING PROCEDURES OF THE

1 BOARD.

2 (4) (a) THE BOARD SHALL MAKE ITS INITIAL APPOINTMENT OF A
3 DIRECTOR PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION NO LATER
4 THAN DECEMBER 31, 2023.

5 (b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JUNE 30, 2024.

6 **SECTION 5.** In Colorado Revised Statutes, 13-94-105, **amend**
7 (1), (2) introductory portion, (2)(c), (2)(e), (2)(f), (2)(j), (2)(k), (3), (4),
8 and (5); repeal (6); and add (1.5), (4.5), (6.5), (6.7), and (7) as follows:

9 **13-94-105. Office of public guardianship - director - duties -**
10 **memorandum of understanding - annual report - repeal.** (1) (a) THE
11 OFFICE OF PUBLIC GUARDIANSHIP IS CREATED WITHIN THE JUDICIAL
12 DEPARTMENT TO SERVE INDIGENT AND INCAPACITATED ADULTS IN NEED
13 OF GUARDIANSHIP IN EVERY JUDICIAL DISTRICT IN THE STATE NO LATER
14 THAN DECEMBER 31, 2030.

15 (b) The director shall ~~establish, develop, and~~ administer the office
16 ~~to serve indigent and incapacitated adults in need of guardianship in the~~
17 ~~second, seventh, and sixteenth judicial districts~~ and shall coordinate its
18 THE OFFICE'S efforts with county departments of human ~~services~~ and
19 ~~county departments of~~ social services within ~~those districts~~ EACH
20 JUDICIAL DISTRICT IN WHICH THE OFFICE PROVIDES SERVICES TO CLIENTS.

21 (c) (I) THE OFFICE SHALL MAINTAIN OPERATIONS IN EACH JUDICIAL
22 DISTRICT IN WHICH IT IS OPERATING ON THE EFFECTIVE DATE OF THIS
23 SUBSECTION (1)(c); SHALL BEGIN TO OPERATE IN OTHER JUDICIAL
24 DISTRICTS BEGINNING JULY 1, 2025; AND SHALL OPERATE IN EVERY
25 JUDICIAL DISTRICT IN THE STATE NO LATER THAN DECEMBER 31, 2030.

26 (II) THIS SUBSECTION (1)(c) IS REPEALED, EFFECTIVE JUNE 30,
27 2031.

1 (d) The director shall administer the office in accordance with the
2 memorandum of understanding WITH THE JUDICIAL DEPARTMENT
3 described in ~~section 13-94-104 (4)~~. Notwithstanding any other provision
4 of this section, upon receiving funding sufficient to begin operations in
5 the second judicial district, the office must begin operations in that
6 judicial district prior to operating in any other district == THIS SECTION.
7 THE JUDICIAL DEPARTMENT SHALL PROVIDE TECHNICAL AND
8 ADMINISTRATIVE SUPPORT TO ASSIST THE OFFICE.

9 (1.5) IN ADDITION TO ANY OTHER DUTIES OR RESPONSIBILITIES SET
10 FORTH IN THIS ARTICLE 94, THE OFFICE:

11 (a) MAY:

12 (I) INITIATE PETITIONS FOR GUARDIANSHIP; AND

13 (II) TAKE ANY ACTION ON BEHALF OF AN INDIGENT AND
14 INCAPACITATED PERSON THAT A PRIVATE GUARDIAN MAY TAKE, EXCEPT
15 AS OTHERWISE LIMITED BY LAW OR COURT ORDER; AND

16 (b) SHALL USE THE ELIGIBILITY CRITERIA AND PRIORITIZATION
17 DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION TO SERVE INDIVIDUALS
18 WITH THE GREATEST NEEDS WHEN THE NUMBER OF CASES IN WHICH
19 SERVICES HAVE BEEN REQUESTED EXCEEDS THE NUMBER OF CASES IN
20 WHICH PUBLIC GUARDIANSHIP CAN PROVIDE SERVICES.

21 (2) In addition to carrying out any duties assigned by the
22 ~~commission~~ BOARD, the director shall ensure that the office provides, at
23 a minimum, the following services to ~~the designated judicial districts~~
24 EACH JUDICIAL DISTRICT IN WHICH THE OFFICE OPERATES:

25 (c) Appointment and post-appointment public guardianship
26 services of a ~~guardian-designee~~ GUARDIAN for each indigent and
27 incapacitated adult in need of public guardianship;

1 (e) Recruitment, training, and oversight of ~~guardian-designees~~
2 GUARDIANS;

3 (f) ~~Development of~~ MAINTAINING a process for receipt and
4 consideration of, and response to, complaints against the office, ~~to include~~
5 INCLUDING investigation in cases in which investigation appears
6 warranted in the judgment of the director;

7 (j) Identification and establishment of relationships with local,
8 state, and federal governmental agencies so that guardians ~~and~~
9 ~~guardian-designees~~ may apply for public benefits on behalf of wards to
10 obtain funding and service support, if needed; and

11 (k) Public education and outreach regarding the role of the office.
12 ~~and guardian-designees.~~

13 (3) (a) (I) THE OFFICE SHALL EMPLOY GUARDIANS TO PROVIDE
14 GUARDIANSHIP SERVICES TO THE OFFICE'S CLIENTS. EXCEPT AS PROVIDED
15 IN SUBSECTION (3)(b)(II) OF THIS SECTION, A GUARDIAN MUST BE
16 CERTIFIED BY A STATE OR NATIONAL ORGANIZATION THAT CERTIFIES
17 GUARDIANS. THE DIRECTOR SHALL INCLUDE IN THE RULES DEVELOPED
18 PURSUANT TO SECTION 13-94-107 A LIST OF THE ORGANIZATIONS WHOSE
19 CERTIFICATIONS THE OFFICE RECOGNIZES.

20 (II) THE OFFICE MAY HIRE AS A GUARDIAN A PERSON WHO IS NOT
21 CERTIFIED. IF THE OFFICE HIRES A PERSON WHO IS NOT CERTIFIED, THE
22 PERSON SHALL OBTAIN CERTIFICATION WITHIN TWO YEARS AFTER BEING
23 HIRED.

24 (b) The director shall adopt professional standards of practice and
25 a code of ethics for guardians, ~~and guardian-designees~~, including a policy
26 concerning conflicts of interest. THE DIRECTOR MAY ADOPT PROFESSIONAL
27 STANDARDS OF PRACTICE AND A CODE OF ETHICS DEVELOPED BY A

1 NATIONAL ASSOCIATION OF GUARDIANS.

2 (c) THE OFFICE SHALL PROVIDE TRAINING TO ALL GUARDIANS THAT
3 INCLUDES, AT A MINIMUM, INSTRUCTION IN THE FOLLOWING AREAS:

4 (I) THE PROFESSIONAL STANDARDS OF PRACTICE AND CODE OF
5 ETHICS ADOPTED BY THE DIRECTOR;

6 (II) STANDARDS FOR AGENCIES AND PROGRAMS PROVIDING
7 GUARDIANSHIP SERVICES DEVELOPED BY A NATIONAL ASSOCIATION OF
8 GUARDIANS AND APPROVED BY THE DIRECTOR;

9 (III) FEDERAL AND STATE LAWS APPLICABLE TO PROVIDING
10 GUARDIANSHIP SERVICES;

11 (IV) CHARACTERISTICS OF THE POPULATIONS SERVED BY THE
12 OFFICE AND APPROPRIATE TERMINOLOGY TO BE USED WHEN WORKING
13 WITH THE POPULATIONS SERVED BY THE OFFICE;

14 (V) STATE AND LOCAL SOCIAL SERVICES AND RESOURCES;

15 (VI) ACTIVE LISTENING SKILLS;

16 (VII) BEST PRACTICES IN CONFIDENTIALITY, DECISION-MAKING,
17 ETHICS, AND MEDICAL DECISION-MAKING; AND

18 (VIII) PLANNING SUPPORTS THAT INCLUDE LESS RESTRICTIVE
19 ALTERNATIVES SUCH AS LIMITED GUARDIANSHIPS AND SUPPORTIVE
20 DECISION-MAKING.

21 (d) PRIOR TO EMPLOYING A PERSON, THE OFFICE OF PUBLIC
22 GUARDIANSHIP SHALL SUBMIT THE NAME OF THE PERSON TO BE HIRED, AS
23 WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, TO THE
24 DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO
25 ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION
26 26-3.1-111 TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF
27 MISTREATMENT OF AN AT-RISK ADULT.

1 (4) On or before ~~January 1, 2023~~, JANUARY 1 OF EACH YEAR, the
2 director shall submit to the judiciary committees of the senate and the
3 house of representatives, or to any successor committees, a report
4 concerning the activities of the office. The report, at a minimum, must
5 SUMMARIZE THE OFFICE'S WORK OVER THE PRIOR STATE FISCAL YEAR IN
6 PROVIDING GUARDIANSHIP SERVICES FOR INDIGENT AND INCAPACITATED
7 ADULTS AND IDENTIFY ANY NOTABLE EFFICIENCIES AND OBSTACLES THAT
8 THE OFFICE INCURRED IN PROVIDING GUARDIANSHIP SERVICES DURING THE
9 PRIOR STATE FISCAL YEAR. THE OFFICE SHALL NOT INCLUDE ANY
10 PERSONAL IDENTIFYING INFORMATION ABOUT ANY CLIENT IN ITS ANNUAL
11 REPORT. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE ANNUAL
12 REPORT REQUIRED IN THIS SUBSECTION (4) CONTINUES INDEFINITELY.

13 ~~(a) Quantify, to the extent possible, Colorado's unmet need for
14 public guardianship services for indigent and incapacitated adults;~~

15 ~~(b) Quantify, to the extent possible, the average annual cost of
16 providing guardianship services to indigent and incapacitated adults;~~

17 ~~(c) Quantify, to the extent possible, the net cost or benefit, if any,
18 to the state that may result from the provision of guardianship services to
19 each indigent and incapacitated adult in each judicial district of the state;~~

20 ~~(d) Identify any notable efficiencies and obstacles that the office
21 incurred in providing public guardianship services pursuant to this article
22 94;~~

23 ~~(e) Assess whether an independent statewide office of public
24 guardianship or a nonprofit agency is preferable and feasible;~~

25 ~~(f) Analyze costs and off-setting savings to the state from the
26 delivery of public guardianship services;~~

27 ~~(g) Provide uniform and consistent data elements regarding~~

1 service delivery in an aggregate format that does not include any personal
2 identifying information of any adult; and

3 ~~(h) Assess funding models and viable funding sources for an~~
4 ~~independent office of public guardianship or a nonprofit agency,~~
5 ~~including the possibility of funding with a statewide increase in probate~~
6 ~~court filing fees.~~

7 (4.5) NO LATER THAN JUNE 30, 2030, BUT NO EARLIER THAN JULY
8 1, 2027, THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE
9 CONDUCTED A PERFORMANCE AUDIT OF THE OFFICE.

10 (5) In addition to performing the duties described in this section,
11 the director, in consultation with the ~~commission~~ BOARD, shall develop,
12 PERIODICALLY EVALUATE, AND, IF THE DIRECTOR AND BOARD DETERMINE
13 IT IS NECESSARY, UPDATE a strategy for the ~~discontinuation of the office~~
14 TO WIND UP THE OFFICE'S AFFAIRS in the event that the ~~general assembly~~
15 ~~declines to continue or expand the office after 2023~~ OFFICE IS
16 DISCONTINUED. The strategy must include consideration of how to meet
17 the guardianship needs of adults who will no longer be able to receive
18 guardianship services from the office.

19 (6) ~~___ Prior to employment, the office of public guardianship,~~
20 ~~pursuant to section 25-1.5-103 (1)(a)(I)(A), shall submit the name of a~~
21 ~~person hired as a guardian or guardian's designee, as well as any other~~
22 ~~required identifying information, to the department of human services for~~
23 ~~a check of the Colorado adult protective services data system pursuant to~~
24 ~~section 26-3.1-111 to determine if the person is substantiated in a case of~~
25 ~~mistreatment of an at-risk adult.~~

26 (6.5) (a) THE OFFICE AND THE JUDICIAL DEPARTMENT SHALL
27 OPERATE PURSUANT TO A MEMORANDUM OF UNDERSTANDING BETWEEN

1 THE TWO ENTITIES. THE OFFICE AND JUDICIAL DEPARTMENT SHALL ENTER
2 INTO A MEMORANDUM OF UNDERSTANDING THAT COMPLIES WITH THIS
3 SUBSECTION (6.5)(a) NO LATER THAN DECEMBER 31, 2023. THE
4 MEMORANDUM OF UNDERSTANDING MUST CONTAIN, AT A MINIMUM:

5 (I) A REQUIREMENT THAT THE OFFICE HAVE ITS OWN PERSONNEL
6 RULES;

7 (II) A REQUIREMENT THAT THE DIRECTOR HAVE INDEPENDENT
8 HIRING AND TERMINATION AUTHORITY OVER OFFICE EMPLOYEES;

9 (III) A REQUIREMENT THAT THE OFFICE FOLLOW JUDICIAL FISCAL
10 RULES;

11 (IV) A REQUIREMENT THAT THE JUDICIAL DEPARTMENT PROVIDE
12 HUMAN RESOURCES, BUDGET MANAGEMENT, ACCOUNTING, INFORMATION
13 TECHNOLOGY SUPPORT, LEGAL SERVICES, AND ADMINISTRATIVE STAFF
14 SERVICES AT LOW OR NO COST TO THE OFFICE, AND A REQUIREMENT THAT
15 THE JUDICIAL DEPARTMENT PROVIDE THE OFFICE WITH A DIRECT CONTACT
16 FOR EACH SERVICE;

17 (V) A PROCESS FOR ASSIGNING OFFICE SPACE FOR THE OFFICE'S
18 MAIN OFFICE, WHICH MUST BE LOCATED IN DENVER, AND OTHER OFFICE
19 SPACE IN EACH JUDICIAL DISTRICT; AND

20 (VI) ANY OTHER PROVISIONS REGARDING ADMINISTRATIVE
21 SUPPORT TO HELP MAINTAIN THE INDEPENDENCE OF THE OFFICE.

22 (b)(I) A MEMORANDUM OF UNDERSTANDING BETWEEN THE OFFICE
23 AND THE JUDICIAL DEPARTMENT IN EFFECT ON THE DAY BEFORE THE
24 EFFECTIVE DATE OF THIS SUBSECTION (6.5)(b) REMAINS IN EFFECT UNTIL
25 A NEW MEMORANDUM OF UNDERSTANDING IS ENTERED INTO PURSUANT TO
26 SUBSECTION (6.5)(a) OF THIS SECTION.

27 (II) THIS SUBSECTION (6.5)(b) IS REPEALED, EFFECTIVE JUNE 30,

1 2024.

2 (6.7) (a) THE OFFICE IS AN INCLUDED AGENCY FOR THE PURPOSES
3 OF ARTICLE 100 OF THIS TITLE 13 AND RECEIVES ADMINISTRATIVE AND
4 FISCAL SUPPORT SERVICES FROM THE OFFICE OF ADMINISTRATIVE SERVICES
5 FOR INDEPENDENT AGENCIES. THE OFFICE AND JUDICIAL DEPARTMENT
6 SHALL OPERATE PURSUANT TO THE MEMORANDUM OF UNDERSTANDING
7 BETWEEN THE OFFICE AND THE JUDICIAL DEPARTMENT IN EFFECT ON THE
8 DAY BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (6.7) UNTIL THE
9 OFFICE BEGINS RECEIVING ADMINISTRATIVE AND FISCAL SUPPORT
10 SERVICES FROM THE OFFICE OF ADMINISTRATIVE SERVICES FOR
11 INDEPENDENT AGENCIES. THE OFFICE AND JUDICIAL DEPARTMENT MAY
12 AMEND THE EXISTING MEMORANDUM OF UNDERSTANDING.

13 (7) (a) THE DIRECTOR OF THE OFFICE ON THE DAY BEFORE THE
14 EFFECTIVE DATE OF THIS SUBSECTION (7) SHALL CONTINUE TO CARRY OUT
15 THE DIRECTOR'S DUTIES SET FORTH IN THIS ARTICLE 94 UNTIL THE BOARD
16 APPOINTS A DIRECTOR PURSUANT TO SECTION 13-94-104.1 (3)(a).

17 (b) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE JUNE 30, 2024.

18 **SECTION 6.** In Colorado Revised Statutes, **amend** 13-94-106 as
19 follows:

20 **13-94-106. Costs - waiver of court costs and filing fees - bond**
21 **not required.** (1) The court shall waive court costs and filing fees in any
22 proceeding in which an indigent and incapacitated adult is receiving
23 public guardianship services from the office AND SHALL WAIVE FILING
24 FEES FOR PETITIONS FOR GUARDIANSHIP FILED BY THE OFFICE IN A CASE
25 THAT INVOLVES A PERSON WHO IS ELIGIBLE FOR GUARDIANSHIP SERVICES
26 FROM THE OFFICE.

27 (2) A COURT SHALL NOT REQUIRE THE OFFICE OR A GUARDIAN

1 EMPLOYED BY THE OFFICE TO POST A BOND AS A CONDITION FOR
2 APPOINTMENT AS A GUARDIAN OR TO PROVIDE SERVICES PURSUANT TO
3 THIS ARTICLE 94.

4 **SECTION 7.** In Colorado Revised Statutes, **amend** 13-94-107,
5 as follows:

6 **13-94-107. Director shall develop rules.** (1) The director shall
7 develop rules to implement this article 94. The rules, at a minimum, must
8 include policies concerning:

9 (a) Conflicts of interest for guardians ~~and guardian-designees~~
10 employed pursuant to this article 94; ~~and~~

11 (b) The solicitation and acceptance of gifts, grants, and donations
12 pursuant to section 13-94-108 (3); AND

13 (c) A LIST OF THE ORGANIZATIONS THAT CERTIFY GUARDIANS AND
14 WHOSE CERTIFICATIONS ARE RECOGNIZED BY THE OFFICE.

15 **SECTION 8.** In Colorado Revised Statutes, **amend** 13-94-108 as
16 follows:

17 **13-94-108. Office of public guardianship cash fund - created**
18 **- gifts, grants, and donations.** (1) The office of public guardianship
19 cash fund, referred to in this section as the "fund", is created in the state
20 treasury. The fund consists of any money that the office receives from
21 gifts, grants, or donations, as well as any other money appropriated to the
22 fund by the general assembly.

23 (2) The money in the fund is annually appropriated to the judicial
24 department to pay the expenses of the office. All interest and income
25 derived from the investment and deposit of money in the fund is credited
26 to the fund. Any unexpended and unencumbered money remaining in the
27 fund at the end of a fiscal year must remain in the fund and not be

1 credited or transferred to the general fund or any other fund. ~~except that~~
2 ~~any money remaining in the fund on June 30, 2024, shall be transferred~~
3 ~~to the general fund.~~

4 (3) The office may seek, and accept, AND EXPEND gifts, grants, or
5 donations from private or public sources for the purposes of this article
6 94; except that the office may not accept a gift, grant, or donation that is
7 subject to conditions that are inconsistent with this article 94 or any other
8 law of the state. ~~The office shall transmit all private and public money~~
9 ~~received through gifts, grants, or donations to the state treasurer, who~~
10 ~~shall credit the same to the fund.~~

11 **SECTION 9.** In Colorado Revised Statutes, **repeal** 13-94-111 as
12 follows:

13 **13-94-111. Repeal - wind-up.** ~~(1) This article 94 is repealed,~~
14 ~~effective June 30, 2024. Prior to such repeal, the general assembly, after~~
15 ~~reviewing the report submitted by the director pursuant to section~~
16 ~~13-94-105 (4), shall consider whether to enact legislation to continue,~~
17 ~~discontinue, or expand the office.~~

18 ~~(2) If the general assembly has adjourned the legislative session~~
19 ~~beginning in January of 2023 sine die without enacting legislation to~~
20 ~~continue or expand the office, the office shall notify the joint budget~~
21 ~~committee that the office will not be continued and that court fees may be~~
22 ~~reduced by the amount deposited to the office of public guardianship cash~~
23 ~~fund, implement its discontinuation plan developed pursuant to section~~
24 ~~13-94-105, and wind up its affairs prior to the repeal of this article 94.~~

25 **SECTION 10.** In Colorado Revised Statutes, 26-3.1-111, **amend**
26 (3)(b) and (7)(j) as follows:

27 **26-3.1-111. Access to CAPS - employment checks -**

1 **conservatorship and guardianship checks - confidentiality - fees -**
2 **rules - legislative declaration - definitions. (3) (b) Conservatorship**
3 **and guardianship CAPS checks.** Beginning January 1, 2022, the state
4 department shall provide the courts the results of a CAPS check, upon the
5 court's request and using forms approved by the state department, to
6 determine if a person who may be appointed as a conservator or guardian
7 of an at-risk adult is substantiated in a case of mistreatment of an at-risk
8 adult. This subsection (3)(b) does not apply to office of public
9 guardianship employees required to undergo a CAPS check pursuant to
10 ~~sections 13-94-105 (6)~~ SECTION 13-94-105 and ~~26-3.1-111 (7)(j)~~
11 SUBSECTION (7)(j) OF THIS SECTION, or adult protective services
12 employees required to undergo a CAPS check pursuant to section
13 26-3.1-107 (2).

14 (7) The following employers shall request a CAPS check pursuant
15 to this section:

16 (j) The office of public guardianship pursuant to section
17 13-94-105. ~~(6)~~.

18 **SECTION 11. Effective date.** (1) Except as otherwise provided
19 in this section, this act takes effect upon passage.

20 (2) Section 13-94-105 (6.5), Colorado Revised Statutes, enacted
21 in section 5 of this act, takes effect only if Senate Bill 23-228 does not
22 become law.

23 (3) Section 13-94-105 (6.7), Colorado Revised Statutes, enacted
24 in section 5 of this act, takes effect only if Senate Bill 23-228 becomes
25 law, in which case section 13-94-105 (6.7) takes effect on the effective
26 date of this act or Senate Bill 23-228, whichever is later.

27 **SECTION 12. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.