



**Legislative Council Staff**  
*Nonpartisan Services for Colorado's Legislature*

**Fiscal Note**

<b>Drafting Number:</b>	LLS 24-0435	<b>Date:</b>	March 25, 2024
<b>Prime Sponsors:</b>	Sen. Gardner	<b>Bill Status:</b>	Senate Judiciary
		<b>Fiscal Analyst:</b>	John Armstrong   303-866-6289 john.armstrong@coleg.gov

**Bill Topic: UNIFORM GUARDIANSHIP & CONSERVATORSHIP ACT**

<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill makes several changes to guardianship and conservatorship procedures by enacting the "Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act." The bill will increase state expenditures beginning in FY 2024-25.

**Appropriation Summary:** For FY 2024-25, the bill requires an appropriation of \$2.5 million to the multiple state agencies.

**Fiscal Note Status:** The fiscal note reflects the introduced bill, which was recommended by the Colorado Commission on Uniform State Laws.

**Table 1**  
**State Fiscal Impacts Under SB 24-136**

		<b>Budget Year FY 2024-25</b>	<b>Out Year FY 2025-26</b>
<b>Revenue</b>	Cash Funds	\$54,178	\$54,178
	<b>Total Revenue</b>	<b>\$54,178</b>	<b>\$54,178</b>
<b>Expenditures</b>	General Fund	\$2,548,335	\$2,178,444
	Centrally Appropriated	\$356,380	\$425,287
	<b>Total Expenditures</b>	<b>\$2,904,715</b>	<b>\$2,603,731</b>
	<b>Total FTE</b>	<b>17.1 FTE</b>	<b>20.4 FTE</b>
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>	TABOR Impact	\$54,178	\$54,178
	General Fund Reserve	\$382,250	\$326,767

## **Summary of Legislation**

The bill repeals the “Uniform Guardianship and Protective Proceedings Act” and replaces it with the “Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act” (UGCOPAA). Several changes are made to guardianship, conservatorship and protective arrangements through this bill.

**Terminology.** The bill changes several terms used in current law and replaces them with “person subject to guardianship or conservatorship”.

**Court jurisdiction and powers.** The bill clarifies when the court has jurisdiction over guardianship and conservatorship cases. The court may transfer jurisdiction over a guardianship, conservatorship, or protective arrangement to another court within the state or in another state if it is in the best interest of the person subject to guardianship or conservatorship. The court may limit powers conferred over a guardian or conservator and may appoint a co-guardian or co-conservator in any case. These co-guardians and co-conservators must make decisions jointly. Attorney fees in guardianship, conservatorship and protective arrangement cases must be approved by the court. Courts have expanded powers and duties to monitor the fiduciary duties of guardians and conservators.

**Grievances against guardians and conservators.** Persons who are under the care of a guardian or conservator, or who act in the interest of those under their care, may file a grievance with the court. The court must then determine if any action, including termination of the guardianship or conservatorship, is warranted based on the grievance.

**Protective arrangements.** Under current law, protective arrangements, which are a less restrictive alternative to guardianship, were only permitted as an alternative to a conservatorship. The bill allows for a protective arrangement to be enacted, where appropriate, as an alternative to guardianship in addition to conservatorships. The bill encourages protective arrangements and provides protections for persons who are considered for guardianship and conservatorship by requiring the courts to ensure that the necessary arrangement is the least restrictive.

**Rights of those under care of a guardian or conservator.** Courts must provide to persons who are assigned a guardian or conservator a plain-language notice of their rights, including the right to an attorney, visitation and communication with third parties and notice of certain events. The bill also expands the number of persons who must receive notice of hearings and other proceedings when a major event occurs for the individual needing care.

**Minors needing guardianship and conservatorship.** The age of involvement for a minor in a guardianship or conservatorship proceeding is lowered from 14 to 12. In addition, guardians must consider the minor’s views when making certain decisions on their behalf and minors have a right to have an attorney present in certain proceedings.

## **Background**

In 1997, the Uniform Law Commission drafted the “Uniform Guardianship and Protective Proceedings Act,” (UGPPA) which Colorado enacted in 2000 through HB 00-137. This bill enacts the “Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act” (UGCOPAA), an update and replacement to UGPPA. UGCOPAA has been enacted in Maine and Washington, and is currently under consideration in Hawaii and Idaho. A brief summary of the fiscal impacts identified in other states is as follows:

- **Hawaii** – The bill was introduced in 2023, and was [deferred](#) to the 2024 legislative session upon request of the state’s Judicial department, who sought more time to analyze impacts. Hawaii is the only state like Colorado which had previously enacted the Uniform Guardianship and Protective Proceedings Act and is currently considering UGCOPAA.
- **Idaho** – The bill is under consideration and the fiscal analysis identified no appropriation. Idaho has not previously enacted UGPPA.
- **Maine** – The bill was enacted and contained no appropriation. Maine had not previously enacted UGPPA.
- **Washington** – The bill was enacted and included an [estimated](#) general fund impact of \$3.6 million in the first year of implementation, with additional out-year costs. Washington had not previously enacted UGPPA.

## **State Revenue**

An estimated 363 additional cases will be filed annually with the courts to seek protective arrangements for persons needing care. Of these, 272 will be assessed a fee and the remaining 91 will not be assessed a fee due to indigency. The filing fee is \$199 for these cases, resulting in \$54,178 in state revenue annually through additional court fees. Court fees are subject to TABOR.

## **State Expenditures**

The bill will increase state expenditures in the Judicial Department and the Office of Public Guardianship by \$2.9 million in FY 2024-25 and \$2.6 million in FY 2025-26 and ongoing. Expenditures are detailed in Table 2 and explained below.

**Table 2  
 Expenditures Under SB 24-136**

	<b>FY 2024-25</b>	<b>FY 2025-26</b>
<b>Judicial Department</b>		
Personal Services	\$1,266,574	\$1,511,605
Operating Expenses	\$23,747	\$28,332
Capital Outlay Costs	\$340,638	\$6,000
Computer Programming	\$312,120	-
Court Appointment and Mailing Costs	\$262,018	\$262,018
Centrally Appropriated Costs <sup>1</sup>	\$276,477	\$330,017
FTE – Personal Services	12.9 FTE	15.4 FTE
<b>Judicial Subtotal</b>	<b>\$2,481,574</b>	<b>\$2,137,972</b>
<b>Office of Public Guardianship (OPG)</b>		
Personal Services	\$304,512	\$364,089
Operating Expenses	\$5,376	\$6,400
Capital Outlay Costs	\$33,350	-
Centrally Appropriated Costs <sup>1</sup>	\$79,903	\$95,270
FTE – Personal Services	4.2 FTE	5.0 FTE
<b>OPG Subtotal</b>	<b>\$423,141</b>	<b>\$465,759</b>
<b>Total</b>	<b>\$2,904,715</b>	<b>\$2,603,731</b>
<b>Total FTE</b>	<b>17.1 FTE</b>	<b>20.4 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Judicial Department.** The Judicial Department will require \$2.5 million in FY 2024-25 and \$2.1 million ongoing to implement the bill. Costs include court staff, information technology modifications, appointed attorney fees, and mailings.

- **Staffing.** Staff required include 3.1 FTE Magistrates, 9.3 FTE Magistrate Support Staff and 3.0 FTE Court Support staff, as described below. FTE costs assume a September 1, 2024 start date.
- *Magistrate and support staff.* The bill is estimated to increase the amount of time courts spend on guardianship and conservator cases. This includes time to approve attorney fees, resolve disputes between co-guardians and co-conservators, increase financial monitoring, issue notices, respond to challenges by interested persons, and complete required reporting. The Judicial Department reports that from 2019-2023, there were on average about 3,600 guardianship or conservator cases filed per year and that courts monitor around 20,000

cases annually. The overall magistrate impact of these activities is estimated to be 6,500 hours annually, resulting in 3.1 FTE. Judicial Department common policies state that each magistrate is supported by three additional support staff, resulting in an additional 9.3 FTE.

- *State Court Administrator staff.* The Office of the State Court Administrator requires 3.0 FTE to update and maintain forms for protective proceedings, coordinate with stakeholders and train judicial officers, and provide ongoing support on the bill's new requirements. Costs are prorated for a September 2024 start date in FY 2024-25 and magistrate capital outlay and operating costs are included.
- **Computer programming.** Change to the Judicial Department's reporting system are needed to allow documentation for conservators to report items of value. Upgrading these data entry systems will require a Software Engineer, Quality Assurance Analyst, and Business Analyst to complete roughly five months of development and testing, resulting in \$312,210 in FY 2024-25 only.
- **Court appointments and mailing costs.** The courts will appoint attorneys to represent minors in guardianship and conservatorship proceedings, which are anticipated to increase under the bill due to additional protective arrangements. The fiscal note assumes approximately 150 cases will require an attorney. Additionally, the court will approve increased visitation requests and approve professional evaluations for an estimated 49 individuals who challenge their guardianship and conservatorship proceedings. Total court appointment costs are \$237,585 annually. Additionally, the financial disclosures and notice requirements under the bill will increase mailing costs by an estimated \$24,433 annually.

**Office of Public Guardianship.** The OPG will require 1.0 FTE Staff Attorney, 2.0 FTE Staff Assistant, and 2.0 FTE Case Management Aides to respond to fiduciary requests, conduct required reporting, conduct additional training for guardians and conservators, and respond to additional challenges to guardianship and conservatorship proceedings. Costs are prorated to assume a September 2024 start date and standard capital outlay and operating costs are included.

## **Other Budget Impacts**

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

**TABOR refunds.** The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is

not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

### **Effective Date**

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

### **State Appropriations**

For FY 2024-25, the bill requires General Fund appropriations totaling \$2,548,335, as follows:

- \$2,205,097 to the Judicial Department, and 12.9 FTE; and,
- \$343,238 to the Office of Public Guardianship and 4.2 FTE

### **Departmental Difference**

The Judicial Department estimates that its costs will increase by \$7.9 million and 71.4 FTE per year to implement changes to conservatorship and guardianship under the bill. These costs assume about 35,500 additional hours for the courts to review documents, evaluate and approve financial information, and issue decisions and other actions, resulting in 17.1 FTE for magistrates and 51.3 FTE in magistrate support staff. Among other things, these additional hours are based on the following:

- 60 minutes to approve private attorney fees in an estimated 8,524 cases;
- 4 hours of additional hearing time in an estimated 799 cases; and
- 45 minutes of judicial officer work to make alterations to protective arrangements in an estimated 3,253 cases.

The fiscal note differs from the Judicial Department's estimate by assuming that judges will spend 5 minutes, on average, to approve private attorney fees, and that these approvals will apply to a smaller subset of cases. Additionally, the fiscal note assumes that the additional hearing time for more complex cases will be 1 hour instead of 4 and that the additional alterations to protective arrangements will average 30 minutes of judicial officer time and apply to a smaller subset of cases. Other differences between the Judicial Department estimate and the fiscal note were a similar reduction in estimated judicial officer time to process challenges and notices.

### **State and Local Government Contacts**

Denver County Courts	District Attorneys	Judicial
Office of Public Guardianship	Public Defender	

---

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).