



**Colorado
Legislative
Council
Staff**

SB16-026

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0475

Date: January 19, 2016

Prime Sponsor(s): Sen. Woods

Bill Status: Senate Judiciary

Fiscal Analyst: Chris Creighton (303-866-5834)

BILL TOPIC: PERSONAL RIGHTS OF PROTECTED PERSONS

| Fiscal Impact Summary | FY 2016-2017 | FY 2017-2018 |
|---|------------------|------------------|
| State Revenue | | |
| State Expenditures | \$589,125 | \$539,135 |
| General Fund | \$520,677 | \$464,266 |
| Centrally Appropriated Costs | \$68,448 | \$74,869 |
| FTE Position Change | 4.8 FTE | 5.6 FTE |
| Appropriation Required: \$520,677- Judicial Department (FY 2016-17). | | |
| Future Year Impacts: Ongoing state expenditure increase. | | |

Summary of Legislation

This bill establishes that a guardian or conservator of a protected person shall not restrict a protected person's right of communication, visitation or interaction with other persons unless restrictions are authorized by court order. With good cause, a guardian or conservator may request the court to restrict a person's ability to interact with a protected person. Any person, including the protected person, may file a motion seeking a court order, if it is believed that the guardian or conservator has restricted a protected persons right of interaction with other persons.

This bill sets forth considerations and actions that the court can take in determining a request to limit a persons ability to interact with a protected person. Under this bill the court can:

- grant a person access to the protected person;
- restrict or further restrict a person's access to the protected person;
- modify the guardian or conservator's duties; or
- remove the conservator or guardian.

The court is required to schedule a hearing within 63 days of a motion being filed. An emergency hearing can be requested if the protected person's health so requires, in which case it must occur as soon as possible and no later than seven days after the motion is filed. The court may order mediation prior to a hearing.

The court may award costs and reasonable attorney's fees to the prevailing party. If a guardian or conservator is found to have knowingly isolated a protected person the court may impose a monetary sanction in addition to the payment of costs and reasonable attorney's fees. Any award may not be paid from a protected person's estate.

Background

A protected person is a minor or other individual, such as an incapacitated adult, for whom a guardian or conservator has been appointed because the protected person is unable to effectively evaluate information, make decisions or communicate on their own behalf.

State Expenditures

This bill increases General Fund costs in the Judicial Department by \$589,125 and 4.8 FTE in FY 2016-17 and \$539,135 and 5.6 FTE in FY 2017-18. These costs are summarized in the Table 1 and discussed below.

| Table 1. Expenditures Under SB16-026 | | |
|---|-------------------|-------------------|
| Cost Components | FY 2016-17 | FY 2017-18 |
| Personal Services | \$379,031 | \$452,596 |
| FTE | 4.8 FTE | 5.6 FTE |
| Operating Expenses and Capital Outlay Costs | \$141,646 | \$11,670 |
| Centrally Appropriated Costs* | \$68,448 | \$74,869 |
| TOTAL | \$589,125 | \$539,135 |

* Centrally appropriated costs are not included in the bill's appropriation.

Data and assumptions. The costs of this bill are calculated using the following data and assumptions:

- during 2015, 2,797 initial guardianship or conservatorship hearings were held and the same number is estimated in 2016 and beyond;
- at each initial guardian or conservator hearing, the court will spend five minutes explaining that a guardian or conservator shall not restrict a protected persons ability to interact with others;
- the courts monitors 16,000 cases where a guardian or conservator has been appointed;
- it is estimated that motions will be filed regarding restrictions on a protected person's ability to interact with others in 10 percent (1,600) of these cases;
- a judicial officer will spend five minutes per case to review these motions and schedule the hearing;
- of the 1,600 motions filed, it is assumed that 80 percent (1,280) will proceed to hearing; and
- hearings will last two hours on average.

Judicial officers and support staff. Based on the assumptions above, an additional 2,900 hours of judicial officer time will be required to handle case duties and hearings under the bill. This results in the need for 1.4 FTE for magistrates and 4.2 FTE for court support staff, which includes a court judicial assistant, law clerk, and court reporter (5.6 FTE in total). Therefore, personal services costs in the Judicial Department will increase by \$379,031 and 4.8 FTE in FY 2016-17 and \$452,596 and 5.6 FTE in FY 2017-2018. First-year costs and FTE are prorated to reflect the General Fund payday shift and the effective date of the bill. Standard court operating and capital expenses of \$141,646 in FY 2016-17 and \$11,670 in FY 2018-18 are also required.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

| Table 2. Centrally Appropriated Costs Under SB16-026 | | |
|--|-------------------|-------------------|
| Cost Components | FY 2016-17 | FY 2017-18 |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | \$35,368 | \$35,368 |
| Supplemental Employee Retirement Payments | \$645 | \$771 |
| Indirect Costs | \$32,435 | \$38,730 |
| TOTAL | \$68,448 | \$74,869 |

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2016-17 this bill requires a General Fund appropriation of \$520,667 and an allocation of 4.8 FTE to the Judicial Department.

State and Local Government Contacts

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|-------------------------------|----------------------------------|
| Counties | Human Services |
| Judicial | Law |
| Legal Services | Office of Information Technology |
| Public Health and Environment | |