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Fiscal Note

Drafting Number:	LLS 23-0263	Date:	February 1, 2023
Prime Sponsors:	Sen. Gardner; Ginal Rep. Snyder	Bill Status:	Senate Judiciary
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Bill Topic: CONTINUE OFFICE OF PUBLIC GUARDIANSHIP

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

The bill expands the Office of Public Guardianship to provide services in all judicial districts. Starting in FY 2024-25, the bill will increase state expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required in FY 2023-24.

Fiscal Note Status: The fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under SB 23-064**

		Budget Year FY 2023-24	Out Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2026-27
Revenue		-	-	-	-
Expenditures	General Fund	-	\$1,048,395	\$1,710,272	\$2,438,436
	Centrally Appropriated.	-	\$184,735	\$337,733	\$500,163
	Total Expenditures	-	\$1,233,130	\$2,048,005	\$2,938,599
	Total FTE	-	10.2 FTE	18.7 FTE	27.8 FTE
Transfers		-	-	-	-
Other Impacts	General Fund Reserve	-	\$157,259	\$256,541	\$365,765

Summary of Legislation

The Office of Public Guardianship (“the office”), established by House Bill 17-1087, currently operates as a pilot program in three Judicial districts. This bill makes the office permanent and requires the office to operate in all Judicial districts by 2028. The bill establishes a board of directors within the Judicial Department to appoint the director of the office and develop rules for governance. The director must begin administering the office by December 31, 2023, with agreed-upon assistance from the Judicial Department. The office will hire public guardians to provide services to indigent and incapacitated adults in each judicial district.

Background and Assumptions

The office currently serves indigent and incapacitated individuals in the 2nd judicial district. The office received 316 referrals as of December 2022, and has served a total of 102 guardianships, including 83 currently active guardianships. Many referrals to the office were denied because clients were not in the 2nd judicial district. Demand for guardianship services across the state is expected to be high. A statistical analysis conducted by the office suggests an unmet statewide need of between 2,754 and 3,736 individuals requiring assistance from a guardian.

State Revenue

Beginning in FY 2024-25, revenue to the Records and Reports Cash Fund will increase to conduct additional CAPS background checks on newly hired public guardians. Based on the assumed number of new public guardians hired, the fiscal note assumes increases to the cash fund will be minimal. The current fee for a CAPS background check is \$9.00. Revenue to the CAPS Cash Fund is subject to the TABOR revenue limit.

State Expenditures

The bill increases state General Fund expenditures by about \$1.2 million in FY 2024-25, \$2.0 million in FY 2025-26, and \$2.9 million in FY 2026-27, as shown in Table 2 and described below. These costs are in the newly expanded Office of Public Guardianship and the Office of the State Court Administrator, both within the Judicial Department

**Table 2
Expenditures Under SB 23-064**

	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27
Office of Public Guardianship				
Personal Services	-	\$759,893	\$1,380,924	\$2,032,124
Legal Services	-	\$95,166	\$95,166	\$95,166
Operating Expenses	-	\$14,850	\$25,650	\$36,450
Capital Outlay Costs	-	\$73,370	\$53,360	\$60,030
Vehicle Costs	-	\$30,672	\$61,344	\$97,128
Centrally Appropriated Costs ¹	-	\$181,337	\$330,937	\$489,970
FTE – Personal Services	-	10.0 FTE	18.3 FTE	27.2 FTE
FTE – Legal Services	-	0.5 FTE	0.5 FTE	0.5 FTE
OPG Subtotal	-	\$1,155,288	\$1,947,381	\$2,810,868
Office of the State Court Administrator				
Personal Services	-	\$12,757	\$25,517	\$38,274
Court-Ordered Appointments	-	\$61,687	\$68,311	\$78,454
Centrally Appropriated Costs ¹	-	\$3,398	\$6,796	\$10,193
FTE – Personal Services	-	0.2 FTE	0.4 FTE	0.6 FTE
OSCA Subtotal	-	\$77,842	\$100,624	\$126,921
Total Costs	-	\$1,233,130	\$2,048,005	\$2,937,789
Total FTE	-	10.2 FTE	18.7 FTE	27.8 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Office of Public Guardianship

Between FY 2024-25 and FY 2026-27, the office will expand to all 23 judicial district in the state, resulting in additional staffing, legal services and operating costs, which are shown in Table 2 above and described in more detail in the following sections. Costs are assumed to come from the General Fund.

Staff costs. BY FY 2026-27, the office will require 28.0 FTE to implement the expanded public guardianship program. The fiscal note assumes that this staff will be phased in over a 3-year period beginning in FY 2024-25. Staff costs include personal services costs, operating costs, and capital outlay costs as shown in Table 2. The fiscal note assumes a July 1 start date and the General Fund pay date shift for new staff across all three years of the expansion.

- **Public guardians.** The fiscal note assumes a public guardian can serve between 15 and 20 indigent or incapacitated adults in the judicial districts that they serve. Based on this standard, the office will hire 19 new public guardians by FY 2026-27, who will provide services to around 405 clients. The fiscal note also assumes the office will take a phased in approach by hiring 6 new guardians in FY 2024-25, 6 new guardians in FY 2025-26 and 7 new guardians in FY 2026-27.
- **Support staff.** In addition, the office will require two training coordinators to create and implement training curriculums for guardians and create an employee wellness program; one grants and research specialist to expand the office's funding resources and complete a cost-benefit analysis evaluation of the office; a staff attorney to provide in-house counsel; a staff assistant to assist the director of the office with the expansion and day-to-day operations of the office; two human resources analysts to manage personnel matters, a case management aide to assist guardians with managing cases in the 1st and 18th judicial districts; and public guardian supervisor to manage newly hired and existing public guardians. Similar to the public guardians, these support staff positions will phase in through FY 2026-27.

Legal services. As a result of the expansion, the office is expected to require additional legal services from the Department of Law. In FY 2021-22, the office used about 360 hours of legal services. Accounting for the expected growth in caseload, it is estimated that an additional 900 hours of legal services will be required annually beginning in FY 2024-25. Legal services are provided at a rate of \$105.74 per hour by the Department of Law, which will require the equivalent of 0.5 FTE for this work.

Vehicle costs. Each new public guardian will require a fleet vehicle, managed by the Department of Personnel and Administration. Vehicle leases are estimated to cost \$3,000 per vehicle and maintenance and operating for each vehicle is estimated at about \$2,100 per year based on approximately 9,100 miles of driving to serve their clients, on average. The Department of Personnel and Administration will bill the office for fleet vehicle services and reappropriated spending authority will be adjusted as necessary through the annual budget process starting in FY 2024-25.

Office of the State Court Administrator

The bill increase costs to the courts and the Office of the State Court Administrator for administrative support and additional court-ordered appointments. These costs are detailed below.

Personal services. Increasing staff, payments, and other processes in the Office of Public Guardianship will increase workload in the Judicial Department accounting section, located within the office of the State Court Administrator. Accounting staff are estimated to increase by about 0.2 FTE per year over the three-year expansion of the office.

Court-ordered appointments. Each new guardianship case can result in additional court-ordered appointments of guardians ad litem, court visitors, and legal counsel, whether required by statute or at the discretion of the court. Based on data from the pilot program, it is estimated that a guardian ad litem will attend 15 percent of guardianship hearings and an attorney will attend 29 percent of the hearings. Other hearings are attended by lay individuals working on behalf of the guardian. Costs for these appointments are shown in Table 2 above.

Department of Human Services.

Starting in FY 2024-25, workload to the Department of Human Services will increase to conduct additional CAPS background checks. The fiscal note assumes this work can be accomplished within existing appropriations.

Governor's Office

Workload will minimally increase for the Governor's Office of Boards and Commissions to make the required appointment under the bill. This work can be accomplished within existing appropriations.

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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

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.

Technical Note

The bill requires the Judicial Department to assign office space for the Office of Public Guardianship in all judicial districts. Because local courthouses are owned by the counties in which they reside, the bill as currently drafted would require the Judicial Department to acquire office space elsewhere. Based on DPA office space standards and an annual cost of \$30/square foot, leased space for 28 FTE would cost about \$185,000 per year. Remote work, hoteling, and other strategies may reduce the amount of office space required and this potential cost. At this time, costs for office space have not been included in the fiscal note, as additional clarity is needed surrounding this provision, responsibility for obtaining office space, and the office's needs and plans for using office space during the expansion.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Judicial
Human Services

Law

Office of Public Guardianship