

JOINT BUDGET COMMITTEE



INTERIM SUPPLEMENTAL BUDGET REQUEST FY 2018-19

JUDICIAL BRANCH, OFFICE OF PUBLIC GUARDIANSHIP

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

PREPARED BY:
STEVE ALLEN, JBC STAFF
SEPTEMBER 20, 2018

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INTERIM SUPPLEMENTAL REQUESTS

INTERIM SUPPL., JUDICIAL BRANCH, OFFICE OF PUBLIC GUARDIANSHIP

	REQUEST	RECOMMENDATION
TOTAL	\$657,482	\$0
FTE	0.0	0.0
General Fund	\$657,482	\$0
Cash Funds	0	0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an expenditure in excess of the amount authorized by an item of appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.]	YES
Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
Explanation:	
Interim Supplemental Criteria: JBC staff and the Department agree that this request meets the relevant interim supplemental requirements: <ul style="list-style-type: none"> • There is an existing FY 2018-19 appropriation in the Long Bill that can be over expended; • Since the General Assembly adjourned in May it has become apparent that the existing appropriation cannot support the Office of Public Guardianship; • The appropriation is necessary because implementation of the Office has already been delayed and further delay beyond the interim will make it challenging for the Office to produce the January 1, 2021 report that it must present to the General Assembly before it goes through sunset review during the 2021 session; and • A General Fund appropriation is consonant with statute. 	
JBC Supplemental Criteria: JBC staff and the Department agree that this request also meets the JBC's supplemental criteria since it results in part from data (on fund raising) that was not available when the original appropriation was made.	

DEPARTMENT REQUEST: The Public Guardianship Commission in the Judicial Branch, requests an appropriation of \$657,482 General Fund for FY 2018-19 in order to begin operation of the Office of Public Guardianship and fulfill the requirements of the Office's enabling legislation, H.B. 17-1087. In FY 2018-19, FY 2019-20, and FY 2020-21, the Office would require General Fund appropriations of \$1.7 million.

The Commission has an existing FY 2018-19 Long Bill appropriation of 14.0 FTE and \$1,718,786 cash funds, money that H.B. 17-1087 envisioned would be obtained from gifts, grants, and donations. Unfortunately, the Commission has been unable to raise the \$1.7 million from this source. The Interim Report of the Commission (reproduced in Appendix B) describes the extensive efforts the Commission has made to raise funds in recent months. Despite these efforts, only \$1,943 has been received. The Commission has concluded that a General Fund appropriation is the only viable way to ensure that the pilot program is implemented.

This request would allow the Office of Public Guardianship to hire an Executive Director, a Controller, and a Staff Assistant beginning December 1, 2018, lease suitable space, develop a case management system, and establish office procedures so that public guardians can be hired July 1, 2019 and begin to provide public guardianship services in the three pilot judicial districts as contemplated by the legislation.

STAFF RECOMMENDATION: Staff recommends that the Committee not approve this request. Staff agrees with the Commissioner's conclusion that the General Fund support is the only viable means of funding the Office of Public Guardianship, but staff believes that it is inappropriate to recommend a General Fund appropriation during the interim when the General Assembly is not in session.

When H.B. 17-1087 passed in 2017, the bill's sponsors and the fiscal note analyst all agreed that the bill would not require General Fund appropriations. The lack of a General Fund appropriation was probably an important consideration for some members who supported the bill. If the JBC approves this General Fund request, a substantial amount of General Fund will be expended by the Office before General Assembly members who are not on the JBC get an opportunity to vote on an important change to the Office's funding scheme. In addition, a director and two staff members, all supported by the General Fund, will have been hired.

STAFF ANALYSIS:

Background: The Office of Public Guardianship, which is overseen by the Public Guardianship Commission, was created by H.B. 17-1087. This legislation, which was substantially based upon a July 2014 report issued by the Public Guardianship Advisory Committee, directed the Office to run a pilot program in three judicial districts that would provide legal guardianship services to indigent and incapacitated adults who:

- Have no responsible family members or friends who are available and appropriate to serve as a guardian;
- Lack adequate resources to compensate a private guardian and pay the costs and fees associated with an appointment proceeding; and
- Are not subject to a petition for appointment of a guardian filed by a county adult protective services unit or otherwise authorized by law.

As the pilot program operates, it must gather and analyze data that will help the General Assembly determine the need for, feasibility of, and cost of a statewide office of public guardianship. In January 2021, the Office will submit a report to the General Assembly and the General Assembly will decide whether the pilot should be continued or expanded. Without continuation or expansion, the pilot repeals and the Office dissolves on June 30, 2021.

Funding sources: The fiscal note for H.B. 17-1087 and statements by the bill sponsors indicated that the Office of Public Guardianship was to be supported by gifts, grants and donations. However, the Office of Public Guardianship can legally receive General Fund appropriations. Nothing in the Office of Public Guardianship statute precludes a General Fund appropriation and Section 13-94-108 (1), C.R.S., which created the Office of Public Guardianship Cash Fund, states

that the fund may receive "any money that the Office receives from gifts, grants, or donations, as well as any other money appropriated to the fund by the General Assembly."

Was reliance on gifts, grants and donations unrealistic? It's easy to dismiss the reliance of H.B. 17-1087 on large amounts of gifts, grants and donations as unrealistic. However, supporters of this funding mechanism had solid reasons to believe that Colorado hospitals would be willing to donate substantial sums because it would save them large amounts of money. Under CMS's "Conditions of Participation" for hospitals, hospitals must establish a discharge planning process; they can only discharge a patient to a post-acute setting such as a nursing home or an assisted living center with the informed consent of the patient or the consent of someone such as a guardian who is authorized to make decisions on behalf of the patient. In addition, the commencement and cessation of various treatments must usually be approved by a competent patient or by a guardian authorized to make care decisions. For example, an incompetent patient might be admitted to a hospital with an acute condition. After the hospital delivers any emergency care, relying on the emergency care exception, there may be delays commencing, altering, and ceasing subsequent treatment if there is no authorized decision maker. Once the acute condition is resolved, there may be further delays in discharging the individual to a facility that provides a lower level of care. If the incompetent patient lacks family or friends who can take on the role of guardian, the no-longer-acute patient may linger in a now-inappropriate hospital setting with daily costs to the hospital in excess of \$2500. Medicaid and Medicare generally will not pay for a hospital stay when care is not being delivered; as a result, hospitals sometimes end up caring for incompetent patients for an extended period at substantial cost to the hospital until a guardian can be appointed. The hospital may even pay someone to become a guardian so the guardian can approve a move to a lower level of care. An Office of Public Guardianship can substantially reduce the time it takes to appoint a guardian under such circumstances and thus save the hospital many thousands of dollars, perhaps 10's or 100's of thousands of dollars. The July 2014 study by the Public Guardianship Advisory Committee contained examples. For instance, an elderly patient with dementia arrived at an emergency room with a blood infection and was admitted to the hospital. The infection was eliminated by 6 weeks of intravenous antibiotics, but the patient remained in the hospital for two more months until a guardian was appointed who could authorized transfer to a much lower cost long-term care facility.

Contrary to these expectations, hospitals have been unwilling to donate to the Office of Public Guardianship. Months of fund-raising by Public Guardianship Commissioners have raised less than \$2,000. Appendix B of this document, Interim Report of the Public Guardianship Commission, details the Commissioners' extensive fund raising activities.

A Colorado Hospital Association staff member suggested a reason for the lack of donations: hospitals view public guardianship as a public program that addresses problems that go beyond health care and should be funded accordingly by the General Assembly.

Details of the requested appropriation:

Public Guardian Staff FY2019				
	Exec	Staff	Controller/	
	Director	Assistant	Budget	Total
FTE	1.00	1.00	1.00	3.00
Mo Salary	\$10,645	\$4,447	\$9,396	
No. of Months	6	6	6	
Annual Salary	63,870	26,682	56,376	146,928
PERA (10.15%)	6,483	2,708	5,722	14,913
Medicare (1.45%)	926	387	817	2,130
TOTAL PS	71,279	29,777	62,916	163,972
Operating	950	950	950	2,850
Case Mgt System				300,000
IT Consultant				60,000
Lease Space				77,828
Capital Outlay	4,703	4,703	4,703	14,109
Subtotal				\$618,759
Benefits (Non-Add)				
Health/Life/Dental	7,927	7,927	7,927	23,781
Short-Term Disability	109	45	96	250
AED/SAED	6,387	2,668	5,638	14,693
Total Benefits	14,423	10,641	13,660	\$38,724
Total Cost				\$657,482

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Appropriation	FY 2018-19 Suppl Request	FY 2018-19 Recommendation	FY 2017-18 Recommended Total
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Interim Suppl., Judicial Branch, Office of Public Guardianship

(7) Office of Public Guardianship

Program Costs	<u>\$0</u>	<u>\$0</u>	<u>\$657,482</u>	<u>\$0</u>	<u>\$0</u>
FTE		14.0	0.0	0.0	14.0
General Fund	0	0	657,482	0	0
Cash Funds	0	1,718,786	0	0	1,718,786
Total for Office of Public Guardianship	<u>\$0</u>	<u>\$1,718,786</u>	<u>\$657,482</u>	<u>\$0</u>	<u>\$1,718,786</u>
General Fund	0	0	657,482	0	0
Cash Funds	0	1,718,786	0	0	1,718,786

Colorado Office of Public Guardianship

Commissioners

Shari Caton, Chair
Deb Bennett Woods, Vice Chair
Marco Chayet
Kelsey Lesco
Karen Kelley



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**INTERIM REPORT OF THE OFFICE OF PUBLIC GUARDIANSHIP
COMMISSION**

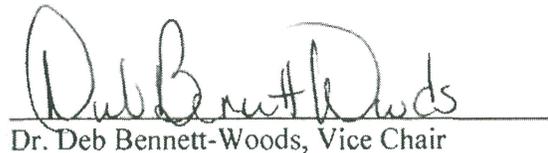
September 7, 2018

**To: Members of the Joint Judiciary Committee and
Members of the Joint Budget Committee**

Submitted herewith is an Interim Report of the Office of Public Guardianship Commission that is intended to apprise the Judiciary and Joint Budget Committees of Commission activities and challenges since appointment in October 2017.



Shari D. Caton, Esq. Chair



Dr. Deb Bennett-Woods, Vice Chair



Marco Chayet, Esq., Commissioner



Karen Kelley, Commissioner



Kelsey Lesco, Esq., Commissioner

EXHIBIT

A

EXECUTIVE SUMMARY

This interim report is submitted to the General Assembly for the following purposes: (1) to provide information about the Office of Public Guardianship Commission's activities from October 2017 to present; (2) to highlight the challenges and inability to obtain funding as contemplated by the enabling legislation to implement the pilot program established by HB17-1087; (3) to request general appropriation funding for the current fiscal year to begin implementation of the pilot program; and (4) to recommend that given the funding challenges, that general appropriation funding be provided for the remainder of the pilot program.

In 2017, the General Assembly determined that there was a need for public guardianship services for certain indigent and incapacitated adults. This need was based on intensive review by committees and task forces charged with looking at the issues surrounding guardianship. As a result, the General Assembly passed HB17-1087 that was signed by Governor Hickenlooper in June 2017 to establish the Office of Public Guardianship Pilot Program ("Office"). The enabling legislation for the pilot program contemplates funding for the Office through the receipt of gifts, grants, and donations. The five-member Office of Public Guardianship Commission ("Commission"), established as part of the enabling legislation, is charged with raising at least \$1.7 million from gifts, grants or donations for appointment of the Director to oversee the Office. The Director, in turn, is charged with hiring the necessary public guardians and other staff for the Office to provide guardianship services in three target judicial districts to indigent and incapacitated adults. Additional fundraising would be necessary by the Director and Commission members from the receipt of gifts, grants, and donations to maintain the pilot program through 2021.

As of August 2018, after extensive fundraising efforts and community outreach by the Commission members, the Office has raised only \$1,943.00 of the \$1.7 million initial target amount. The funding sources contacted by the Commission generally support the concept of public guardianship services, but believe such services should be publicly funded. Other fundraising challenges include, but are not limited to, the lack of professional grant or fundraising expertise and the failure to meet criteria for specific grant or nonprofit programs. The pilot program's implementation is already delayed from the timetable contemplated by the enabling legislation and fiscal note due to lack of funding from gifts, grants, and donations. Without the receipt of general appropriations, it is unlikely the Commission will raise the necessary funds to implement the public guardianship pilot program. Thus, a general appropriation request for the current fiscal year and future general appropriations are recommended for the remainder of the pilot program.

I. BACKGROUND PRECEEDING HB17-1087

Colorado courts and legal experts in the areas of probate and guardianship have extensively studied and analyzed the need in our state for public guardianship services. This extensive review resulted in the issuance of three reports, including the Final Report of the Elder Abuse Task Force (2013) and two reports by the Office of Public Guardianship Advisory Committee (2014). The need for public guardianship services nationwide is established and the scope of the need only increases. As of 2018, at least 45 states have statutory provisions for public guardianship services, with the majority of those programs employing the model of a state-funded office serving the entire state. This is a 10-state increase from just 2016, when the American Bar Association reported 35 states having statutory provisions offering public guardianship services.¹

Based on the experience of other state programs, it is anticipated that Colorado will realize cost/benefit savings in areas including Medicaid, Adult Protective Services, and law enforcement. As a result of these expert reports, legislation was passed by the Colorado General Assembly in 2017 – HB17-1087 – establishing a public guardianship pilot program. While the legislation authorized for a Commission and Office to begin providing public guardianship services in three target judicial districts, funding to implement the pilot program and begin providing services currently depends solely on the receipt of gifts, grants, or donations.

II. OVERVIEW OF HB17-1087

On June 5, 2017, Governor Hickenlooper signed HB17-1087, creating the Office of Public Guardianship Pilot Program. This Office, once funded, will provide guardianship services to indigent and incapacitated adults who meet at least two criteria:

- The adults have no responsible family members or friends who are available and appropriate to serve as a guardian; and
- The adults lack adequate resources to compensate a private guardian and pay the costs and fees associated with an appointment proceeding.

The pilot will provide guardianship services for incapacitated and indigent adults in the Second, Seventh, and Sixteenth Judicial Districts. At the end of the three-year pilot, the Office will also issue a report to the legislature quantifying Colorado's unmet need for public guardianship services and the average annual cost of providing these services to Coloradoans. The Office's report will also include the net cost or benefit to the state that may result from providing these needed services. Ultimately, the Office will assess whether an independent statewide office of public guardianship is needed.

In order to implement the pilot, \$1.7 million in gifts, grants and donations must be raised. The Commission, despite best efforts, has been unable to secure the funds necessary to carry out its

¹ The ABA Chart listing the states with public guardianship statutes as of 2016 is available at https://www.americanbar.org/content/dam/aba/administrative/law_aging/CHARTStatePublicGuardianshipStatutes.authcheckdam.pdf (last accessed September 4, 2018)

charge. As a result, the Commission submits this *Interim Report* with a budget request to advise the General Assembly as to the Commission’s administrative activities, fundraising activities, and funding challenges. The Commission seeks general appropriations to establish and fully fund the Office of Public Guardianship Pilot Program.

III. FUNDRAISING REQUIRED TO APPOINT DIRECTOR

The Commission was created pursuant to § 13-94-104(1), C.R.S. As required by statute, the Colorado Supreme Court appointed three Commissioners and the Governor appointed two Commissioners. Members of the Commission serve at the pleasure of his or her appointing authority and are not compensated for services.

The Commission is charged with appointing an Office of Public Guardianship (“Office”) Director to establish, develop, and administer a pilot program that will provide legal guardianship services for incapacitated and indigent adults in the Second, Seventh and Sixteenth judicial districts.

The pilot program received no general appropriations, and is currently solely dependent upon the receipt of gifts, grants and donations. Appointment of the Director must occur not more than one month after the Office receives at least \$1.7 million in gift, grants, and donations. Not more than five months after receiving at least \$1.7 million, the Director shall administer the pilot program.² But until funding is obtained, the Office and services to the targeted judicial districts cannot occur.

IV. COMMISSION FUNDING CHALLENGES

As of the monthly report from the August 29, 2018 Commission meeting, the Office holds a balance of 1,877.00. Gifts and donations have totaled \$1,943.00, and of which these funds were received from a mere five donors. Office funds have been used to cover the basic expenses associated with direct mailings to stakeholders and potential funding sources. Commission members have personally covered expenses associated with reproduction of educational and informational materials and refreshments for fundraising events. With the minimal funds available, the Commission is unable to hire a professional grant writer or fundraiser to seek additional funding. Without the necessary operational funds, the Commission is unable to hire a Director to establish, develop, and administer the OPG pilot program (“OPG”).

Numerous fundraising challenges have been encountered. The lack of seed funding for basic supplies or to contract with a professional fundraiser and grant writer is mentioned above. In addition, major grant sources, such as the Colorado Health Foundation, advised the Commission that the project does not align with their current funding priorities and/or technical eligibility criteria. For example, many grants have very specific restrictions regarding use of grant funds for capital expenditures or salaries, disallow funding of state agencies, or require an established track record of services before funding new initiatives. Community stakeholders, while uniformly in support of the project, have consistently expressed the strong opinion that public

² The duties of the Director, once appointed, are discussed in the Appendix.

guardianship services are a public need and should be publicly funded. Finally, requesting non-refundable donations from individual private donors for a program that may fail to meet necessary funding targets, and as a result may never be enacted, presents a particularly difficult sell to potential donors.

To demonstrate Commissioners efforts to educate and solicit funds for the project, the Commission provides the following list of activities that members have engaged in since appointment in October 2017 to present:

- The Commission contacted eighty-seven statewide entities / individuals by direct mailing, provided informational materials regarding the pilot, and asked for financial support. The extensive recipient list compiled for this direct mailing and invitation included stakeholders supportive of the OPG legislation, a large cross-section of the Colorado health care community, professional fiduciaries, non-profits, and bar associations.
- The Commission held an informational and fundraising meeting for stakeholders at the Colorado Bar Association. Attendees included representatives from hospitals, bar associations, and non-profits.
- The Commission prepared and submitted a grant request to the NextFifty Initiative, an independent, Colorado-based, non-profit organization, dedicated to funding mission-driven initiatives that improve community services for the elderly population and caregivers. The grant request was denied for failing to meet technical criteria. The Commission submitted another grant request to this organization on August 31, 2018.
- Commissioner Caton presented an educational seminar for the Colorado Guardianship Association and requested financial support. Attendees of this seminar included guardians, conservators, care-managers, and fiduciaries serving the State. Members of this non-profit organization are acutely aware of issues faced by indigent and incapacitated individuals who have no appropriate family to serve as guardian.
- Commissioner Caton established a meaningful dialogue with representatives of the Colorado Department of Human Services regarding the status of the OPG and its funding challenges.
- Commissioner Caton established a meaningful dialogue with a representative of the Colorado Strategic Action Planning Group on Aging. The Colorado General Assembly and Governor formed this group to develop a long-term strategic plan and one of its recommendations was establishing an OPG.
- Commissioners Caton, Lesco, and Chayet established a meaningful dialogue with the Elder Law Section of the Colorado Bar Association. The Section is supportive of OPG efforts, and made a nominal donation.

- Commissioner Caton spoke with a representative of COPIC, a medical professional liability insurance provider and leader in patient safety and risk management. The representative collaborated regarding solutions and recommended contacts for possible grant-writing support.
- Commissioners Caton and Chayet presented at the 10th Annual Rocky Mountain Regional Elder Law Retreat in August 2018. This program was co-sponsored by the Colorado Bar Association and the Colorado Chapter of the National Academy of Elder Law Attorneys.
- Commissioners Caton and Lesco have communicated with the Chief Medical Officer at Montrose Memorial Hospital (“MMH”) and chair of the Ethics Committee, in the 7th Judicial District, to share pilot program information. MMH has offered to assist with communication as a regional champion of the pilot.
- Commissioners Caton and Chayet were interviewed for a *Law Week Colorado* article regarding the OPG and its funding challenges.
- Commissioner Kelley presented to the Otero County Commissioners and a feature article was printed in the *La Junta Tribune* about her presentation.
- Commissioner Caton responds to public requests for information made through direct website or telephonic contact with the OPG.
- Commissioner Bennett-Woods accepted an invitation to present the pilot project at the Ethics Committee of Vivage, a large provider of senior care services and living facilities.
- Commissioner Bennett-Woods made a formal presentation and request for support at the annual meeting of the Colorado Healthcare Ethics Forum (CHEF). Attendees of this conference comprised a representation of a wide range of healthcare providers in Colorado, including the major hospital systems, long-term care and hospice facilities, public health, and individual providers. Members are intimately aware of issues related to the lack of guardianship in this vulnerable population as it relates to health care and healthcare decision-making.
- Commissioner Bennett-Woods spoke with a representative of the Colorado Health Foundation. While sympathetic and helpful, the representative did not believe that the OPG was a fit for any of the current funding priorities.
- Commissioner Bennett-Woods spoke with a representative of the Rose Foundation. While sympathetic and helpful, the representative stated that the OPG was not a fit for any of their current funding targets.
- Commissioner Bennett-Woods met with a Vice President and Chief Strategy Officer for the Colorado Hospital Association and discussed financial support from the

hospitals and data gathering. Although supportive, the Colorado Hospital Association is not able to provide financial support and does not see a path to funding from individual health care systems or other health care services providers.

- Commissioner Bennett-Woods conducted a phone conference with three representatives of the local Veteran's Administration hospital, who offered to attempt to locate contacts, both locally and nationally, that might be of assistance in securing funding.
- Commissioner Bennett-Woods has maintained a meaningful dialogue with Representative Dave Young regarding the status and challenges that the OPG experiences.
- Commissioner Bennett-Woods has engaged in outreach with the Center for Improving Value in Health Care to discuss OPG and the net cost-benefit for Colorado.
- Commissioner Kelley spoke with local area aging offices regarding grant-writing assistance.
- Commissioner Kelley, in cooperation with the local Human Services office, coordinated a town meeting to educate stakeholders in the 16th Judicial District.
- Commissioner Kelley spoke with several stakeholder groups in the 16th Judicial District and delivered written OPG materials to these organizations in an effort to raise awareness and generate funds.
- Commissioner Kelley contacted a member of the judiciary in the 16th Judicial District to coordinate a stakeholder meeting.
- Commissioner Kelley is preparing presentations for the Bent and Crowley County Commissioners.
- Commissioner Lesco researched and made inquiries regarding funding through Robert Wood Johnson Foundation, Kaiser Permanente Colorado, The Colorado Health Foundation, and Rose Community Foundation. The OPG does not appear to be a fit at any of these foundations.
- Commissioner Lesco researched funding opportunities through numerous Colorado foundations including Caring for Colorado Foundation, the Anschutz Foundation, and others. For a variety of reasons including the grant makers' priorities and the OPG status, the OPG is either ineligible or a poor fit to receive funding from these foundations.
- Commissioner Lesco researched funding opportunities from the federal government through repeatedly and regularly exploring posted funding opportunities from the

Administration of Community Living and the Centers for Medicare and Medicaid Services, and searched for grant opportunities on grants.gov. An applicable funding opportunity has not been located.

- Commissioner Lesco reached out to the Colorado Trust Foundation for a meeting with the Executive Director.
- Commissioner Lesco approached Zim Consulting, a development, fundraising and grant writing consulting firm for additional ideas on fundraising. An in-person meeting with the founder of Zim Consulting has been scheduled.
- Commissioner Lesco has spoken to the Executive Director of Disability Law Colorado who has thirty-five years of fundraising experience, as well as an experienced grant writer and experienced development director for additional fundraising ideas, foundations, or other avenues to pursue to raise gifts, grants and donations. These professionals do not have any additional thoughts or direction for fundraising.
- Commissioner Lesco attended the Jefferson County Senior Law Day, an elder law public education event attended by nearly 500 members of the public. She distributed approximately 40 OPG fact sheets and spoke to 15 to 20 individuals. Donations forms were also available, but only three were taken and no donations were made. Outreach at the Jefferson County Senior Law Day was primarily aimed at increasing awareness of the Office and fundraising was a secondary consideration. However, it should be noted that while many members of the public expressed support for the Office, none indicated a willingness to financially contribute in support of the office.
- Commissioner Lesco has conducted outreach in the 7th Judicial District, made a presentation to the Montrose Memorial Hospital Ethics Committee on the history, goals, future operations and needs of the OPG Pilot program. This presentation was effective at increasing awareness of the OPG in the 7th Judicial District.
- Commissioner Lesco presented on the OPG at the Colorado Senior Lobby Board Meeting and the Colorado Senior Lobby Legislative meeting. Colorado Senior Lobby is a nonpartisan senior advocacy organization. In total, the Commissioner estimates presenting to 75 individuals on the OPG. Colorado Senior Lobby is highly supportive of the OPG and will make supporting the OPG one of their top legislative and public policy priorities for the coming year.
- Commissioner Lesco is presenting at an outreach event in the 7th Judicial District.
- Commissioner Lesco spoke to a member of the judiciary in the 7th Judicial District to pursue additional outreach efforts.

- Commissioner Chayet marshaled and reviewed his personal list of contacts for potential communications and outreach for funding from public and private sources from his personal sphere of influence.
- Commissioner Chayet attended Colorado Bar Association events and discussed the OPG and need for funding.
- Commissioner Chayet attended networking events and discussed OPG and funding needs with various stakeholders in the community.
- Commissioner Chayet met with a member of the 2nd Judicial District judiciary to discuss OPG and funding possibilities with stakeholders known to the judiciary member of the 2nd Judicial District.
- Commissioner Chayet participated in meetings or conversations with judges, lawyers, Adult Protection Services workers, community advocates outside of the 2nd Judicial District to convey the message of OPG and need for funding.
- Commissioner Chayet presents educational seminars on estate planning and guardianship throughout Colorado and has integrated OPG into his presentations.
- Commissioner Chayet drafted educational materials on guardianship to the commission for use in networking and fundraising.
- Commissioner Chayet attends many meetings on behalf of OPG at community wide stakeholder meeting to review the proposed Uniform Guardianship Act.
- Commissioner Chayet met with stakeholders providing guardianship services about potential collaboration and inquiries on funding sources.
- Commissioner Chayet spoke with several private citizens about OPG with zero to little interest in giving “private money” to a perceived public or governmental entity.

V. COMMISSION ACTIVITIES SINCE PASSAGE OF HB17-1087

The Commission has not just been attempting to secure funds, but also has worked to build the legal foundation for the Office. Since appointment in late October 2017, the Commission has held thirteen public meetings and created the following governing instruments:

- Office of Public Guardianship Memorandum of Understanding with the Judicial Department;
- Commission Guardianship Bylaws;
- Commission Document Retention Policy;

- Commission Public Comment Policy; and
- Commission Fundraising Guidelines and Materials.

The Commission has also completed the following administrative tasks:

- Worked with the State Court Administrators Office (“SCAO”) to create letterhead, telephone access with voice messaging, e-mail address, and a website;
- Worked with SCAO to submit a supplemental budget request and obtain spending authority;
- Obtained a tax identification number and tax-exempt status from the Internal Revenue Service;
- Registered with the Colorado Secretary of State as a charitable entity;
- Participated in stakeholder, community, non-profit, and public agency outreach and fundraising;
- Worked with SCAO to develop procedures to create job descriptions / qualifications, compensation ranges, and recruitment of Office Director and staff; and
- Developed a protocol for maintaining a donor list.

In an effort to assist and educate the pilot districts, Commission members agreed to serve as representatives in specific regions. Specifically, Commissioner Chayet assists in the Second, Commissioner Lesco assists in the Seventh, and Commissioner Kelley assists in the Sixteenth. The Chair and Vice Chair provide support for the Commissioners and oversee statewide efforts.

VI. COMMISSION REQUEST FOR APPROPRIATIONS

Because the Commission has been unable to raise the \$1.7 million initial amount from gifts, grants, or donations as required by the legislation, and potential funding sources do not appear to be available, the only viable means of funding the Office pilot is through a General Fund appropriation. Accordingly, the Commission is submitting a *Supplemental Funding Request* seeking \$657,482 general funding for FY 2019, to establish the Office of Public Guardianship and fulfill the requirements of the enabling legislation. To ensure successful completion of the pilot project, the Commission further recommends full funding for the duration of the pilot program, as well as an extension of one year for the pilot program due to the delay experienced from the lack of funding to initiate the pilot in 2018 as assumed in the enabling legislation. The Commission understands that legislation will need to be enacted to extend the length of the pilot program beyond 2021, but HB17-1087 contemplates the potential that the Office’s cash fund may receive general appropriation funding.

APPENDIX

Once funded and pursuant to HB17-1087, the Director shall ensure that the Office will provide the following services in the designated judicial districts:

- Review of referrals to the OPG;
- Adoption of eligibility criteria and prioritization of individuals with the greatest need;
- Appointment and post-appointment of public guardianship services of a guardian-designee for each indigent and incapacitated adult in need of public guardianship;
- Support for modification or termination of public guardianship services;
- Recruitment, training and oversight of guardian-designees;
- Development of a process for receipt and consideration of, and response to, complaints against the OPG;
- Implementation and maintenance of a public guardianship data;
- Management, financial planning, and budgeting for the OPG;
- Identification and establishment of relationships with stakeholder agencies, nonprofit organizations, companies, individual care managers, and direct care providers necessary to provide services;
- Identification and establishment of relationships with local, state and federal agencies to apply for public benefits on behalf of wards; and
- Public education and outreach regarding the role of the OPG and Guardian-Designees.

On or before January 2021, the Director shall submit to the Judiciary Committees of the Senate and House of Representatives, a report concerning the activities of the Office. The report, at a minimum, must:

- Quantify, to the extent possible, Colorado's unmet need for public guardianship services for indigent and incapacitated adults;
- Quantify, to the extent possible, the average annual cost of providing guardianship services to indigent and incapacitated adults;
- Quantify, to the extent possible, the net cost or benefit, if any, to the state that may result from the provision of guardianship services to each indigent and incapacitated adult in each judicial district of the state

- Identify any notable efficiencies and obstacles that the office incurred in providing public guardianship services;
- Assess whether an independent statewide office of public guardianship or a non-profit agency is preferable and feasible;
- Analyze costs and off-setting savings to the state from the delivery of public guardianship services;
- Provide uniform and consistent data elements regarding service delivery in an aggregate format that does not include any personal identifying information of any person; and
- Assess funding models and viable funding sources for an independent office of public guardianship or a nonprofit agency, including the possibility of funding with a statewide increase in probate court filing fees.

After reviewing the report submitted by the Director, the General Assembly shall consider whether to enact legislation to continue, discontinue, or expand the Office.

The enabling legislation is repealed effective June 20, 2021.