

Senate Bill 18-165
Legislation Resulting from the Public Administrator's Performance Audit
Concerning Requirements for Public Administrators
Recommendation Nos. 1, 2, and 3, Pages 26, 37, and 46

What Would This Bill Do?

This Bill would amend Sections 15-12-619, 621, and 623, C.R.S. to:

- Increase the amount of the required public administrator general bond from \$25,000 to \$100,000 and require public administrators to file the bonds annually with the Secretary of State's Office.
- Clarify that deputy public administrators are subject to all of the same statutory requirements as public administrators, including the bond requirement.
- Require that public administrators provide copies of all fee statements reflecting all fees and costs with the statement of account that is required to be filed with the court when a small estate is closed.
- Require that public administrators complete an annual report using a standard report form directed by the Chief Justice, and include any additional information required by the appointing court.

What Did The Audit Find?

The August 2017 Performance Audit of *Public Administrators* found the following problems that relate to the attached bill draft:

BONDS. The audit identified the following issues related to bonds.

- Some deputy public administrators do not maintain or file bonds with the Secretary of State's Office. Of the 18 deputy public administrators appointed at the time of our audit, four did not provide evidence of an active bond and for 13, there was no record of an active bond with the Secretary of State's Office. Statute is not clear as to whether all of the requirements for public administrators, including bond requirements, are applicable to deputy public administrators or how often public administrators and deputies should update the status of their bonds with the Secretary of State's Office.

- The \$25,000 general bond required for public administrators may not adequately protect decedents' estates and conservatorships. The overall average value of the estates and conservatorships in our samples was about \$207,000, with the highest value being about \$1.7 million. Statute sets the bond amount at \$25,000 for all public administrators, the amount is not based on the value of the cases.

Recommendation No. 3 was that the Judicial Branch (1) clarify that anyone appointed to act in the capacity of public administrator, including deputy public administrators, must comply with the statutory bond requirements and ensure that public administrators appropriately file bonds with the Secretary of State's Office, and (2) assess the level of bond that would sufficiently cover the activities of public administrators.

SMALL ESTATES. Public administrators do not always provide the courts with sufficient information to determine the reasonableness of fees and costs charged to the estates. For three of the 11 small estate cases reviewed, the public administrators did not provide details on the types of services provided to justify the fees charged to the estates. Neither statute nor the Judicial Branch provide guidance on what information should be included related to fees and costs in the statement of account that is required when a small estate is closed.

Recommendation No. 1 was that the Judicial Branch provide guidance on the information that should be included in the small estate statement of account.

ANNUAL REPORTS. The Judicial Branch and the courts do not collect and maintain the fundamental data needed to oversee the public administrator function and assess public administrator performance, such as comprehensive data on total public administrator caseload, or the total assets overseen by or fees charged by public administrators. Statute does not clearly define the purpose of and the information required in the annual reports that public administrators are required to submit to their appointing court each year. These annual reports are the Judicial Branch's and courts' primary mechanism for obtaining information on the public administrator function and performance.

Recommendation No. 2 was that the Judicial Branch standardize the format and content of public administrator annual reports and ensure they include key elements to assess public administrator performance.

Comments: The Judicial Branch supports this Bill.