

CHAPTER 282

COURTS

SENATE BILL 23-064

BY SENATOR(S) Gardner and Ginal, Bridges, Coleman, Hansen, Mullica;
also REPRESENTATIVE(S) Snyder and Armagost, Bird, Brown, Gonzales-Gutierrez, Lindsay, Marshall, Valdez, Young.

AN ACT**CONCERNING THE OFFICE OF PUBLIC GUARDIANSHIP.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 13-94-102, **amend** (2)(a)(I)(C); and **repeal** (2)(a)(II) and (2)(b) as follows:

13-94-102. Legislative declaration. (2) In establishing the office of public guardianship, the general assembly intends:

(a) That the office will:

(I) Provide guardianship services to indigent and incapacitated adults who:

(C) Are not subject to a petition for appointment of guardian filed by a county adult protective services unit or otherwise authorized by section 26-3.1-104. ~~and~~

~~(II) Gather data to help the general assembly determine the need for, and the feasibility of, a statewide office of public guardianship; and~~

~~(b) That the office is a pilot program, to be evaluated and then continued, discontinued, or expanded at the discretion of the general assembly in 2023.~~

SECTION 2. In Colorado Revised Statutes, 13-94-103, **amend** (2)(a), (2)(c), (2)(d), and (2)(e); and **add** (2)(a.5) as follows:

13-94-103. Definitions. (2) As used in this article 94, unless the context otherwise requires:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(a) ~~"Commission"~~ "BOARD" means the BOARD OF DIRECTORS FOR THE OFFICE OF public guardianship ~~commission~~ created pursuant to ~~section 13-94-104~~ SECTION 13-94-104.1.

(a.5) "CLIENT" MEANS A PERSON RECEIVING GUARDIANSHIP SERVICES FROM THE OFFICE.

(c) "Director" means the director of the office, appointed by the ~~commission~~ BOARD pursuant to ~~section 13-94-104~~ SECTION 13-94-104.1.

(d) "Guardian" or ~~"guardian-designee"~~ means an individual employed by the office to provide guardianship services on behalf of the office to one or more adults.

(e) "Office" means the office of public guardianship created in ~~section 13-94-104~~ SECTION 13-94-105.

SECTION 3. In Colorado Revised Statutes, 13-94-104, **amend** (2); **repeal** (3) and (4); and **add** (5) as follows:

13-94-104. Public guardianship commission created - repeal. (2) Each member of the commission serves at the pleasure of ~~his or her~~ THE MEMBER'S appointing authority; except that each member's term of service concludes with the repeal of this ~~article 94~~ SECTION pursuant to ~~section 13-94-111~~ SUBSECTION (5) OF THIS SECTION.

(3) ~~The commission shall appoint a director to establish, develop, and administer the office of public guardianship, which office is hereby created within the judicial department. The director serves at the pleasure of the commission.~~

(4) ~~The office and the judicial department shall operate pursuant to a memorandum of understanding between the two entities. The memorandum of understanding must contain, at a minimum:~~

(a) ~~A requirement that the office has its own personnel rules;~~

(b) ~~A requirement that the director has independent hiring and termination authority over office employees;~~

(c) ~~A requirement that the office must follow judicial fiscal rules; and~~

(d) ~~Any other provisions regarding administrative support that will help maintain the independence of the office.~~

(5) THIS SECTION IS REPEALED, EFFECTIVE AUGUST 31, 2023.

SECTION 4. In Colorado Revised Statutes, **add** 13-94-104.1 as follows:

13-94-104.1. Office of public guardianship board - members - duties - appointment of director - repeal. (1) (a) ON SEPTEMBER 1, 2023, THE BOARD OF DIRECTORS FOR THE OFFICE OF PUBLIC GUARDIANSHIP IS CREATED WITHIN THE

JUDICIAL DEPARTMENT. THE BOARD INCLUDES SEVEN MEMBERS, APPOINTED AS FOLLOWS:

(I) THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT SHALL APPOINT THREE MEMBERS WHO ARE ATTORNEYS ADMITTED TO PRACTICE LAW IN THIS STATE; AND

(II) THE GOVERNOR SHALL APPOINT FOUR NON-ATTORNEY MEMBERS AS FOLLOWS:

(A) THREE MEMBERS WHO HAVE LIVED EXPERIENCE WITH A FAMILY MEMBER WHO IS AN AT-RISK ADULT OR WHO HAVE EXPERTISE AND EXPERIENCE IN ADVOCATING FOR THE AT-RISK ADULT POPULATION, INCLUDING ADVOCACY AND REPRESENTATION IN THE AREAS OF AGING, MENTAL HEALTH, SUBSTANCE USE DISORDERS, HOMELESSNESS, VETERANS ISSUES, INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, HEALTH CARE, AND LAW ENFORCEMENT AND CRIMINAL JUSTICE. AT LEAST ONE OF THE MEMBERS APPOINTED PURSUANT TO THIS SUBSECTION (1)(a)(II)(A) MUST BE A PERSON WITH LIVED EXPERIENCE WITH A FAMILY MEMBER WHO IS AN AT-RISK ADULT.

(B) ONE MEMBER WHO HAS NOT SERVED DIRECTLY IN AN ADVOCACY ROLE FOR AT-RISK ADULTS.

(b)(I) EACH OF THE MEMBERS APPOINTED BY THE CHIEF JUSTICE MUST RESIDE IN A DIFFERENT CONGRESSIONAL DISTRICT, AND NO MORE THAN TWO MEMBERS APPOINTED BY THE CHIEF JUSTICE MAY BE FROM THE SAME POLITICAL PARTY.

(II) EACH OF THE MEMBERS APPOINTED BY THE GOVERNOR MUST RESIDE IN A DIFFERENT CONGRESSIONAL DISTRICT, AND NO MORE THAN THREE MEMBERS APPOINTED BY THE GOVERNOR MAY BE FROM THE SAME POLITICAL PARTY.

(c) IN MAKING APPOINTMENTS TO THE BOARD, THE CHIEF JUSTICE AND THE GOVERNOR SHALL CONSIDER PLACE OF RESIDENCE, INCLUDING RURAL OR URBAN RESIDENCY; DISABILITY; SEX; RACE; AND ETHNIC BACKGROUND.

(d) EACH MEMBER OF THE BOARD SERVES WITHOUT COMPENSATION BUT IS ENTITLED TO RECEIVE REIMBURSEMENT FROM THE OFFICE OF PUBLIC GUARDIANSHIP CASH FUND CREATED IN SECTION 13-94-108 FOR ACTUAL AND NECESSARY EXPENSES THE MEMBER INCURS IN THE PERFORMANCE OF THE MEMBER'S DUTIES.

(2)(a) EACH MEMBER OF THE BOARD SERVES AT THE PLEASURE OF THE MEMBER'S APPOINTING AUTHORITY. EXCEPT FOR THE INITIAL APPOINTMENTS MADE PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION, EACH MEMBER'S TERM OF APPOINTMENT IS FOUR YEARS. A MEMBER SHALL NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

(b)(I) THE CHIEF JUSTICE AND GOVERNOR SHALL MAKE INITIAL APPOINTMENTS TO THE BOARD NO LATER THAN AUGUST 1, 2023, AS FOLLOWS:

(A) THE CHIEF JUSTICE AND GOVERNOR SHALL EACH APPOINT ONE MEMBER TO A TERM OF FOUR YEARS FROM AMONG THE MEMBERSHIP OF THE PUBLIC GUARDIANSHIP COMMISSION CREATED IN SECTION 13-94-104 AS IT EXISTS ON THE EFFECTIVE DATE OF THIS SUBSECTION (2)(b);

(B) THE CHIEF JUSTICE AND GOVERNOR SHALL EACH APPOINT ONE MEMBER TO A TERM OF TWO YEARS;

(C) THE CHIEF JUSTICE AND GOVERNOR SHALL EACH APPOINT ONE MEMBER TO A TERM OF THREE YEARS; AND

(D) THE GOVERNOR SHALL APPOINT ONE MEMBER TO A TERM OF FOUR YEARS.

(II) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE DECEMBER 31, 2027.

(3) THE BOARD SHALL:

(a) APPOINT THE DIRECTOR OF THE OFFICE OF PUBLIC GUARDIANSHIP, WHO SERVES AT THE PLEASURE OF THE BOARD;

(b) ESTABLISH BYLAWS AND OPERATING POLICIES FOR THE BOARD; AND

(c) WORK COLLABORATIVELY WITH THE DIRECTOR TO PROVIDE GOVERNANCE OF THE OFFICE, FISCAL OVERSIGHT OF THE GENERAL OPERATING BUDGET OF THE OFFICE, AND PROGRAMMATIC OVERSIGHT, AS ESTABLISHED IN THE BYLAWS AND OPERATING PROCEDURES OF THE BOARD.

(4) (a) THE BOARD SHALL MAKE ITS INITIAL APPOINTMENT OF A DIRECTOR PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION NO LATER THAN DECEMBER 31, 2023.

(b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JUNE 30, 2024.

SECTION 5. In Colorado Revised Statutes, 13-94-105, **amend** (1), (2) introductory portion, (2)(c), (2)(e), (2)(f), (2)(j), (2)(k), (3), (4), and (5); **repeal** (6); and **add** (1.5), (4.5), (6.5), (6.7), and (7) as follows:

13-94-105. Office of public guardianship - director - duties - memorandum of understanding - annual report - repeal. (1) (a) THE OFFICE OF PUBLIC GUARDIANSHIP IS CREATED WITHIN THE JUDICIAL DEPARTMENT TO SERVE INDIGENT AND INCAPACITATED ADULTS IN NEED OF GUARDIANSHIP IN EVERY JUDICIAL DISTRICT IN THE STATE NO LATER THAN DECEMBER 31, 2030.

(b) The director shall ~~establish, develop, and administer the office to serve indigent and incapacitated adults in need of guardianship in the second, seventh, and sixteenth judicial districts~~ and shall coordinate ~~its~~ THE OFFICE'S efforts with county departments of human ~~services~~ and county departments of social services within ~~those districts~~ EACH JUDICIAL DISTRICT IN WHICH THE OFFICE PROVIDES SERVICES TO CLIENTS.

(c) (I) THE OFFICE SHALL MAINTAIN OPERATIONS IN EACH JUDICIAL DISTRICT IN WHICH IT IS OPERATING ON THE EFFECTIVE DATE OF THIS SUBSECTION (1)(c); SHALL BEGIN TO OPERATE IN OTHER JUDICIAL DISTRICTS BEGINNING JULY 1, 2025; AND SHALL OPERATE IN EVERY JUDICIAL DISTRICT IN THE STATE NO LATER THAN DECEMBER 31, 2030.

(II) THIS SUBSECTION (1)(c) IS REPEALED, EFFECTIVE JUNE 30, 2031.

(d) The director shall administer the office in accordance with the memorandum of understanding WITH THE JUDICIAL DEPARTMENT described in ~~section 13-94-104 (4)~~. ~~Notwithstanding any other provision of this section, upon receiving funding sufficient to begin operations in the second judicial district, the office must begin operations in that judicial district prior to operating in any other district~~ THIS SECTION. THE JUDICIAL DEPARTMENT SHALL PROVIDE TECHNICAL AND ADMINISTRATIVE SUPPORT TO ASSIST THE OFFICE.

(1.5) IN ADDITION TO ANY OTHER DUTIES OR RESPONSIBILITIES SET FORTH IN THIS ARTICLE 94, THE OFFICE:

(a) MAY:

(I) INITIATE PETITIONS FOR GUARDIANSHIP; AND

(II) TAKE ANY ACTION ON BEHALF OF AN INDIGENT AND INCAPACITATED PERSON THAT A PRIVATE GUARDIAN MAY TAKE, EXCEPT AS OTHERWISE LIMITED BY LAW OR COURT ORDER; AND

(b) SHALL USE THE ELIGIBILITY CRITERIA AND PRIORITIZATION DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION TO SERVE INDIVIDUALS WITH THE GREATEST NEEDS WHEN THE NUMBER OF CASES IN WHICH SERVICES HAVE BEEN REQUESTED EXCEEDS THE NUMBER OF CASES IN WHICH PUBLIC GUARDIANSHIP CAN PROVIDE SERVICES.

(2) In addition to carrying out any duties assigned by the ~~commission~~ BOARD, the director shall ensure that the office provides, at a minimum, the following services ~~to the designated judicial districts~~ EACH JUDICIAL DISTRICT IN WHICH THE OFFICE OPERATES:

(c) Appointment and post-appointment public guardianship services of a ~~guardian-designee~~ GUARDIAN for each indigent and incapacitated adult in need of public guardianship;

(e) Recruitment, training, and oversight of ~~guardian-designees~~ GUARDIANS;

(f) ~~Development of~~ MAINTAINING a process for receipt and consideration of, and response to, complaints against the office, ~~to include~~ INCLUDING investigation in cases in which investigation appears warranted in the judgment of the director;

(j) Identification and establishment of relationships with local, state, and federal governmental agencies so that guardians ~~and guardian-designees~~ may apply for public benefits on behalf of wards to obtain funding and service support, if needed; and

(k) Public education and outreach regarding the role of the office. ~~and guardian-designees.~~

(3) (a) (I) THE OFFICE SHALL EMPLOY GUARDIANS TO PROVIDE GUARDIANSHIP

SERVICES TO THE OFFICE'S CLIENTS. EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(II) OF THIS SECTION, A GUARDIAN MUST BE CERTIFIED BY A STATE OR NATIONAL ORGANIZATION THAT CERTIFIES GUARDIANS. THE DIRECTOR SHALL INCLUDE IN THE RULES DEVELOPED PURSUANT TO SECTION 13-94-107 A LIST OF THE ORGANIZATIONS WHOSE CERTIFICATIONS THE OFFICE RECOGNIZES.

(II) THE OFFICE MAY HIRE AS A GUARDIAN A PERSON WHO IS NOT CERTIFIED. IF THE OFFICE HIRES A PERSON WHO IS NOT CERTIFIED, THE PERSON SHALL OBTAIN CERTIFICATION WITHIN TWO YEARS AFTER BEING HIRED.

(b) The director shall adopt professional standards of practice and a code of ethics for guardians, ~~and guardian-designees~~, including a policy concerning conflicts of interest. THE DIRECTOR MAY ADOPT PROFESSIONAL STANDARDS OF PRACTICE AND A CODE OF ETHICS DEVELOPED BY A NATIONAL ASSOCIATION OF GUARDIANS.

(c) THE OFFICE SHALL PROVIDE TRAINING TO ALL GUARDIANS THAT INCLUDES, AT A MINIMUM, INSTRUCTION IN THE FOLLOWING AREAS:

(I) THE PROFESSIONAL STANDARDS OF PRACTICE AND CODE OF ETHICS ADOPTED BY THE DIRECTOR;

(II) STANDARDS FOR AGENCIES AND PROGRAMS PROVIDING GUARDIANSHIP SERVICES DEVELOPED BY A NATIONAL ASSOCIATION OF GUARDIANS AND APPROVED BY THE DIRECTOR;

(III) FEDERAL AND STATE LAWS APPLICABLE TO PROVIDING GUARDIANSHIP SERVICES;

(IV) CHARACTERISTICS OF THE POPULATIONS SERVED BY THE OFFICE AND APPROPRIATE TERMINOLOGY TO BE USED WHEN WORKING WITH THE POPULATIONS SERVED BY THE OFFICE;

(V) STATE AND LOCAL SOCIAL SERVICES AND RESOURCES;

(VI) ACTIVE LISTENING SKILLS;

(VII) BEST PRACTICES IN CONFIDENTIALITY, DECISION-MAKING, ETHICS, AND MEDICAL DECISION-MAKING; AND

(VIII) PLANNING SUPPORTS THAT INCLUDE LESS RESTRICTIVE ALTERNATIVES SUCH AS LIMITED GUARDIANSHIPS AND SUPPORTIVE DECISION-MAKING.

(d) PRIOR TO EMPLOYING A PERSON, THE OFFICE OF PUBLIC GUARDIANSHIP SHALL SUBMIT THE NAME OF THE PERSON TO BE HIRED, AS WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, TO THE DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111 TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

(4) On or before ~~January 1, 2023~~, JANUARY 1 OF EACH YEAR, the director shall

submit to the judiciary committees of the senate and the house of representatives, or to any successor committees, a report concerning the activities of the office. The report, at a minimum, must SUMMARIZE THE OFFICE'S WORK OVER THE PRIOR STATE FISCAL YEAR IN PROVIDING GUARDIANSHIP SERVICES FOR INDIGENT AND INCAPACITATED ADULTS AND IDENTIFY ANY NOTABLE EFFICIENCIES AND OBSTACLES THAT THE OFFICE INCURRED IN PROVIDING GUARDIANSHIP SERVICES DURING THE PRIOR STATE FISCAL YEAR. THE OFFICE SHALL NOT INCLUDE ANY PERSONAL IDENTIFYING INFORMATION ABOUT ANY CLIENT IN ITS ANNUAL REPORT. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE ANNUAL REPORT REQUIRED IN THIS SUBSECTION (4) CONTINUES INDEFINITELY.

~~(a) Quantify, to the extent possible, Colorado's unmet need for public guardianship services for indigent and incapacitated adults;~~

~~(b) Quantify, to the extent possible, the average annual cost of providing guardianship services to indigent and incapacitated adults;~~

~~(c) 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;~~

~~(d) Identify any notable efficiencies and obstacles that the office incurred in providing public guardianship services pursuant to this article 94;~~

~~(e) Assess whether an independent statewide office of public guardianship or a nonprofit agency is preferable and feasible;~~

~~(f) Analyze costs and off-setting savings to the state from the delivery of public guardianship services;~~

~~(g) Provide uniform and consistent data elements regarding service delivery in an aggregate format that does not include any personal identifying information of any adult; and~~

~~(h) 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.~~

(4.5) NO LATER THAN JUNE 30, 2030, BUT NO EARLIER THAN JULY 1, 2027, THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE AUDIT OF THE OFFICE.

(5) In addition to performing the duties described in this section, the director, in consultation with the ~~commission~~ BOARD, shall develop, PERIODICALLY EVALUATE, AND, IF THE DIRECTOR AND BOARD DETERMINE IT IS NECESSARY, UPDATE a strategy ~~for the discontinuation of the office~~ TO WIND UP THE OFFICE'S AFFAIRS in the event that the ~~general assembly declines to continue or expand the office after 2023~~ OFFICE IS DISCONTINUED. The strategy must include consideration of how to meet the guardianship needs of adults who will no longer be able to receive guardianship services from the office.

~~(6) Prior to employment, the office of public guardianship, pursuant to section 25-1.5-103 (1)(a)(I)(A), shall submit the name of a person hired as a guardian or guardian's designee, as well as any other required identifying information, to the department of human services for a check of the Colorado adult protective services data system pursuant to section 26-3.1-111 to determine if the person is substantiated in a case of mistreatment of an at-risk adult.~~

(6.5)(a) THE OFFICE AND THE JUDICIAL DEPARTMENT SHALL OPERATE PURSUANT TO A MEMORANDUM OF UNDERSTANDING BETWEEN THE TWO ENTITIES. THE OFFICE AND JUDICIAL DEPARTMENT SHALL ENTER INTO A MEMORANDUM OF UNDERSTANDING THAT COMPLIES WITH THIS SUBSECTION (6.5)(a) NO LATER THAN DECEMBER 31, 2023. THE MEMORANDUM OF UNDERSTANDING MUST CONTAIN, AT A MINIMUM:

(I) A REQUIREMENT THAT THE OFFICE HAVE ITS OWN PERSONNEL RULES;

(II) A REQUIREMENT THAT THE DIRECTOR HAVE INDEPENDENT HIRING AND TERMINATION AUTHORITY OVER OFFICE EMPLOYEES;

(III) A REQUIREMENT THAT THE OFFICE FOLLOW JUDICIAL FISCAL RULES;

(IV) A REQUIREMENT THAT THE JUDICIAL DEPARTMENT PROVIDE HUMAN RESOURCES, BUDGET MANAGEMENT, ACCOUNTING, INFORMATION TECHNOLOGY SUPPORT, LEGAL SERVICES, AND ADMINISTRATIVE STAFF SERVICES AT LOW OR NO COST TO THE OFFICE, AND A REQUIREMENT THAT THE JUDICIAL DEPARTMENT PROVIDE THE OFFICE WITH A DIRECT CONTACT FOR EACH SERVICE;

(V) A PROCESS FOR ASSIGNING OFFICE SPACE FOR THE OFFICE'S MAIN OFFICE, WHICH MUST BE LOCATED IN DENVER, AND OTHER OFFICE SPACE IN EACH JUDICIAL DISTRICT; AND

(VI) ANY OTHER PROVISIONS REGARDING ADMINISTRATIVE SUPPORT TO HELP MAINTAIN THE INDEPENDENCE OF THE OFFICE.

(b) (I) A MEMORANDUM OF UNDERSTANDING BETWEEN THE OFFICE AND THE JUDICIAL DEPARTMENT IN EFFECT ON THE DAY BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (6.5)(b) REMAINS IN EFFECT UNTIL A NEW MEMORANDUM OF UNDERSTANDING IS ENTERED INTO PURSUANT TO SUBSECTION (6.5)(a) OF THIS SECTION.

(II) THIS SUBSECTION (6.5)(b) IS REPEALED, EFFECTIVE JUNE 30, 2024.

(6.7) THE OFFICE IS AN INCLUDED AGENCY FOR THE PURPOSES OF ARTICLE 100 OF THIS TITLE 13 AND RECEIVES ADMINISTRATIVE AND FISCAL SUPPORT SERVICES FROM THE OFFICE OF ADMINISTRATIVE SERVICES FOR INDEPENDENT AGENCIES. THE OFFICE AND JUDICIAL DEPARTMENT SHALL OPERATE PURSUANT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE OFFICE AND THE JUDICIAL DEPARTMENT IN EFFECT ON THE DAY BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (6.7) UNTIL THE OFFICE BEGINS RECEIVING ADMINISTRATIVE AND FISCAL SUPPORT SERVICES FROM THE OFFICE OF ADMINISTRATIVE SERVICES FOR INDEPENDENT AGENCIES. THE OFFICE

AND JUDICIAL DEPARTMENT MAY AMEND THE EXISTING MEMORANDUM OF UNDERSTANDING.

(7) (a) THE DIRECTOR OF THE OFFICE ON THE DAY BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (7) SHALL CONTINUE TO CARRY OUT THE DIRECTOR'S DUTIES SET FORTH IN THIS ARTICLE 94 UNTIL THE BOARD APPOINTS A DIRECTOR PURSUANT TO SECTION 13-94-104.1 (3)(a).

(b) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE JUNE 30, 2024.

SECTION 6. In Colorado Revised Statutes, **amend** 13-94-106 as follows:

13-94-106. Costs - waiver of court costs and filing fees - bond not required.

(1) The court shall waive court costs and filing fees in any proceeding in which an indigent and incapacitated adult is receiving public guardianship services from the office AND SHALL WAIVE FILING FEES FOR PETITIONS FOR GUARDIANSHIP FILED BY THE OFFICE IN A CASE THAT INVOLVES A PERSON WHO IS ELIGIBLE FOR GUARDIANSHIP SERVICES FROM THE OFFICE.

(2) A COURT SHALL NOT REQUIRE THE OFFICE OR A GUARDIAN EMPLOYED BY THE OFFICE TO POST A BOND AS A CONDITION FOR APPOINTMENT AS A GUARDIAN OR TO PROVIDE SERVICES PURSUANT TO THIS ARTICLE 94.

SECTION 7. In Colorado Revised Statutes, **amend** 13-94-107, as follows:

13-94-107. Director shall develop rules. (1) The director shall develop rules to implement this article 94. The rules, at a minimum, must include policies concerning:

(a) Conflicts of interest for guardians ~~and guardian-designees~~ employed pursuant to this article 94; ~~and~~

(b) The solicitation and acceptance of gifts, grants, and donations pursuant to section 13-94-108 (3); AND

(c) A LIST OF THE ORGANIZATIONS THAT CERTIFY GUARDIANS AND WHOSE CERTIFICATIONS ARE RECOGNIZED BY THE OFFICE.

SECTION 8. In Colorado Revised Statutes, **amend** 13-94-108 as follows:

13-94-108. Office of public guardianship cash fund - created - gifts, grants, and donations. (1) The office of public guardianship cash fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of 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.

(2) The money in the fund is annually appropriated to the judicial department to pay the expenses of the office. All interest and income derived from the investment and deposit of money in the fund is credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year must remain in the fund and not be credited or transferred to the general fund or any other fund.

except that any money remaining in the fund on June 30, 2024, shall be transferred to the general fund.

(3) The office may seek, ~~and accept,~~ AND EXPEND gifts, grants, or donations from private or public sources for the purposes of this article 94; except that the office may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this article 94 or any other law of the state. ~~The office shall transmit all private and public money received through gifts, grants, or donations to the state treasurer, who shall credit the same to the fund.~~

SECTION 9. In Colorado Revised Statutes, **repeal** 13-94-111 as follows:

13-94-111. Repeal - wind-up. ~~(1) This article 94 is repealed, effective June 30, 2024. Prior to such repeal, the general assembly, after reviewing the report submitted by the director pursuant to section 13-94-105 (4), shall consider whether to enact legislation to continue, discontinue, or expand the office.~~

~~(2) If the general assembly has adjourned the legislative session beginning in January of 2023 sine die without enacting legislation to continue or expand the office, the office shall notify the joint budget committee that the office will not be continued and that court fees may be reduced by the amount deposited to the office of public guardianship cash fund, implement its discontinuation plan developed pursuant to section 13-94-105, and wind up its affairs prior to the repeal of this article 94.~~

SECTION 10. In Colorado Revised Statutes, 26-3.1-111, **amend** (3)(b) and (7)(j) as follows:

26-3.1-111. Access to CAPS - employment checks - conservatorship and guardianship checks - confidentiality - fees - rules - legislative declaration - definitions. (3) (b) **Conservatorship and guardianship CAPS checks.** Beginning January 1, 2022, the state department shall provide the courts the results of a CAPS check, upon the court's request and using forms approved by the state department, to determine if a person who may be appointed as a conservator or guardian of an at-risk adult is substantiated in a case of mistreatment of an at-risk adult. This subsection (3)(b) does not apply to office of public guardianship employees required to undergo a CAPS check pursuant to ~~sections 13-94-105 (6)~~ SECTION 13-94-105 and ~~26-3.1-111 (7)(j)~~ SUBSECTION (7)(j) OF THIS SECTION, or adult protective services employees required to undergo a CAPS check pursuant to section 26-3.1-107 (2).

(7) The following employers shall request a CAPS check pursuant to this section:

(j) The office of public guardianship pursuant to section 13-94-105. ~~(6)~~

SECTION 11. Effective date. (1) Except as otherwise provided in this section, this act takes effect upon passage.

(2) Section 13-94-105 (6.5), Colorado Revised Statutes, enacted in section 5 of this act, takes effect only if Senate Bill 23-228 does not become law.

(3) Section 13-94-105 (6.7), Colorado Revised Statutes, enacted in section 5 of this act, takes effect only if Senate Bill 23-228 becomes law, in which case section 13-94-105 (6.7) takes effect on the effective date of this act or Senate Bill 23-228, whichever is later.

SECTION 12. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 30, 2023