



## Fiscal Note

### Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

## HB 26-1100: GUARDIANSHIP FOR INCAPACITATED ADULTS

**Prime Sponsors:**

Rep. Stewart R.; Espenosa  
Sen. Snyder

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**Fiscal note status:** The revised fiscal note reflects the introduced bill, as amended by the House Judiciary committee.

### Summary Information

**Overview.** The bill repeals certain laws related to guardianship and replaces them with laws that are part of the "Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act".

**Types of impacts.** The bill is projected to affect the following areas Beginning in FY 2027-28:

- State Revenue
- State Expenditure
- TABOR Refunds

**Appropriations.** No appropriation is required.

**Table 1**  
**State Fiscal Impacts**

| Type of Impact          | Budget Year<br>FY 2026-27 | Out Year<br>FY 2027-28 | Out Year<br>FY 2028-29 |
|-------------------------|---------------------------|------------------------|------------------------|
| State Revenue           | \$0                       | \$27,480               | \$54,960               |
| State Expenditures      | \$0                       | \$1,471,571            | \$1,639,759            |
| Transferred Funds       | \$0                       | \$0                    | \$0                    |
| Change in TABOR Refunds | \$0                       | \$27,480               | Not estimated          |
| Change in State FTE     | 0.0 FTE                   | 5.1 FTE                | 10.0 FTE               |

Fund sources are identified in tables below.

**Table 1A**  
**State Revenue**

| <b>Fund Source</b>                       | <b>Budget Year<br/>FY 2026-27</b> | <b>Out Year<br/>FY 2027-28</b> | <b>Out Year<br/>FY 2028-29</b> |
|--|-----------------------------------|--------------------------------|--------------------------------|
| General Fund                             | \$0                               | \$0                            | \$0                            |
| Cash Funds (Various Judicial Cash Funds) | \$0                               | \$27,480                       | \$54,960                       |
| <b>Total Revenue</b>                     | <b>\$0</b>                        | <b>\$27,480</b>                | <b>\$54,960</b>                |

**Table 1B**  
**State Expenditures**

| <b>Fund Source</b>        | <b>Budget Year<br/>FY 2026-27</b> | <b>Out Year<br/>FY 2027-28</b> | <b>Out Year<br/>FY 2028-29</b> |
|---------------------------|-----------------------------------|--------------------------------|--------------------------------|
| General Fund              | \$0                               | \$1,345,345                    | \$1,392,951                    |
| Cash Funds                | \$0                               | \$0                            | \$0                            |
| Federal Funds             | \$0                               | \$0                            | \$0                            |
| Centrally Appropriated    | \$0                               | \$126,226                      | \$246,808                      |
| <b>Total Expenditures</b> | <b>\$0</b>                        | <b>\$1,471,571</b>             | <b>\$1,639,759</b>             |
| <b>Total FTE</b>          | <b>0.0 FTE</b>                    | <b>5.1 FTE</b>                 | <b>10.0 FTE</b>                |

## Summary of Legislation

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The bill enacts certain provisions of the "Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act" while repealing certain sections pertaining to guardianship in current law.

### Rights for Persons Subject to Guardianship

The bill defines a bill of rights for adults who are subject to guardianship. These rights include being present and participating in all court hearings related to their guardianship and asking the court to review their case and make changes or end the guardianship if appropriate. The bill outlines which rights the courts may restrict and which rights an appointed guardian may make decisions for on behalf of the person subject to guardianship (respondent).

### Appointment of a Guardian

The bill repeals current laws for appointment of a guardian and replaces them with language requiring the court to not establish a full guardianship if a less restrictive alternative would meet the needs of the respondent. Appointment of a guardian may be requested by a parent or spouse of the person needing care. The bill specifies what information must be included in a petition for guardianship. When a petition is filed, the court must schedule a hearing and serve

the respondent with a notice that includes the right for the respondent to be represented by an attorney. The court must appoint an attorney to represent the respondent once a petition is filed. Attorney costs are at the state's expense, pending a determination that the respondent is indigent. If a respondent is not indigent, they have the right to retain the appointed attorney or to retain an attorney of their choice at their own expense.

Current law requires that upon receiving a petition for guardianship, the court must appoint a visitor to explain the arrangement to the respondent and file a report. The bill expands the information this visitor must include in their report to the court. In the event that the respondent requests or requires a professional evaluation, the bill requires that this person be a licensed physician, psychologist or social worker and that this person not have a conflict of interest related to the case. The court must schedule an evaluation as soon as is practicable.

Current law specifies an order of persons who can be appointed as a guardian; the bill modifies this order and if there is a conflict, the bill requires the court to appoint the person by considering the wishes of the respondent. The bill requires the court to review guardianships for respondents who are less than 26 years old every six months to determine if the guardianship remains necessary.

Notice to the respondent must include information about their rights, including the right to seek termination or modification of the guardianship.

## **Guardianship Hearing Attendance**

Current law requires the respondent to attend the initial hearing unless excused by the court for good cause. The bill requires attendance at the hearing unless the court finds clear and convincing evidence that the person subject to guardianship refused to attend or there was no practicable way for the person to attend. Virtual attendance may fulfill this requirement.

## **Emergency Appointment of a Guardian**

Current law outlines the procedures for appointing an emergency guardian to a respondent and that the court may appoint an attorney to represent the respondent in this circumstance. The bill requires the court to appoint an attorney for any emergency appointments and personally serve the respondent and hold a hearing on the appropriateness of the emergency guardianship within seven days.

## **Duties and Powers of a Guardian**

The bill expands the required duties for guardians and places certain additional requirements and restrictions on their powers over the respondent. Guardians must only move the respondent to a nursing home, mental health institution or other facility if the court holds a hearing and authorizes the move and the guardian must follow current laws appropriate to the placement. Guardians must not restrict the respondent's ability to communicate unless authorized by a court order. Guardians must create a plan for care of the respondent and file it with the court. Guardians must notify the court if their respondent dies. The court must review this plan and determine if the plan is appropriate. If the respondent is not represented by an attorney, the court must appoint one if a hearing is required to review the plan.

## **Termination of Guardianship**

The bill requires the court to establish procedures for reviewing a guardian's report and determine if the guardianship needs to continue. Current law requires a petition to be filed to terminate a guardianship. The bill allows the court to initiate a termination if appropriate, but must hold a hearing if a petition is filed or if the court recommends termination. The bill outlines the requirements for hearings regarding a termination of a guardianship.

## **Background**

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The bill contains some, but not all, of the provisions of the "Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act" (UGCOPAA), which updates and replaces the current "Uniform Guardianship and Protective Proceedings Act". The latter is currently Colorado law. To date, four states have enacted UGCOPAA: Kansas, Idaho, Maine and Washington. Kansas, Idaho and Maine passed UGCOPAA without an additional appropriation, while Washington included \$3.6 million in the first year of implementation.

## **State Revenue**

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The bill will increase state revenue through additional court filings by about \$27,000 in FY 2027-28 and \$54,000 in FY 2028-29 and future years. Court fees are subject to TABOR. An estimated 240 additional cases annually are expected to be filed for the additional hearings, protective arrangement proceedings, and termination proceedings that are allowable under the bill. Each case requires the petitioner to pay \$229 in filing fees, as shown in Table 2. Revenue in FY 2027-28 is prorated for the effective date of the bill.

**Table 2  
 Fee Impact of Additional Probate Case Filings**

| <b>Fiscal Year</b> | <b>Additional Cases</b> | <b>Filing Fees</b> | <b>Total</b>    |
|--------------------|-------------------------|--------------------|-----------------|
| <b>FY 2026-27</b>  | 0                       | 0                  | <b>\$0</b>      |
| <b>FY 2027-28</b>  | 120                     | \$229              | <b>\$27,480</b> |
| <b>FY 2028-29</b>  | 240                     | \$229              | <b>\$54,960</b> |

## State Expenditures

The bill increases state expenditures in the Judicial Department by \$1.5 million in FY 2027-28 and \$1.6 million in FY 2028-29 and future years, as shown in Table 3 and described in the sections below. Costs are paid from the General Fund.

### Judicial Department

The Judicial Department will require additional magistrates and court staff to handle an increase in both number and complexity of probate cases and to pay increased costs for attorney reimbursement and mailing.

**Table 3  
 State Expenditures  
 Judicial Department**

| <b>Cost Component</b>        | <b>Budget Year<br/>FY 2026-27</b> | <b>Out Year<br/>FY 2027-28</b> | <b>Out Year<br/>FY 2028-29</b> |
|------------------------------|-----------------------------------|--------------------------------|--------------------------------|
| Personal Services            | \$0                               | \$562,019                      | \$1,094,528                    |
| Operating Expenses           | \$0                               | \$12,672                       | \$24,576                       |
| Capital Outlay Costs         | \$0                               | \$633,730                      | \$0                            |
| Attorney Reimbursement       | \$0                               | \$114,900                      | \$229,800                      |
| Mailing Costs                | \$0                               | \$9,004                        | \$18,007                       |
| Translation Costs            | \$0                               | \$13,020                       | \$26,040                       |
| Centrally Appropriated Costs | \$0                               | \$126,226                      | \$246,808                      |
| <b>Total Costs</b>           | <b>\$0</b>                        | <b>\$1,471,571</b>             | <b>\$1,639,759</b>             |
| <b>Total FTE</b>             | <b>0.0 FTE</b>                    | <b>5.1 FTE</b>                 | <b>10.0 FTE</b>                |

## Staff

The Judicial Department will require 2.3 FTE Magistrates to implement the bill. These magistrates will spend more time handling additional petitions, notice requirements, and requests for hearings to challenge current guardianship and protective arrangement cases. Based on Judicial Department common policies, each magistrate requires a ratio of court support staff. The standard ratio for district courts, where probate cases are heard, is three support staff for each judge or magistrate, resulting in an additional 6.9 FTE support staff. Also, based on department common policies, magistrates require additional operating and capital outlay costs, including costs for a courtroom, conference room, office furnishings and audio-visual equipment.

In addition, the Judicial Department will require 0.5 FTE Court Programs Analyst and 0.3 FTE Judicial Education Specialist to update documentation, revise forms and train judicial personnel on the new requirements of the bill for probate cases. All staff costs are prorated to assume a January 2028 start date and for non-magistrate positions, standard operating and capital outlay costs are included.

## Reimbursement for Attorneys in Probate Cases

The bill requires the Judicial Department to appoint an attorney to represent a respondent for emergency guardian appointments and upon additional circumstance for non-emergency cases. Based on current data, 1,086 new guardianship cases are filed annually. The fiscal note estimates that in 18% of these new cases, an attorney will either be requested or required. This results in 200 cases, with each case requiring an average of \$1,149 in reimbursement costs, resulting in total reimbursements of \$229,800 annually. Costs are prorated for a half-year impact in FY 2027-28.

## Mailing Costs

An estimated 21,960 additional notices will be required to be mailed to respondents, guardians, and family members under the bill. At a cost of 82 cents per notice, this results in \$18,807 in mailing costs annually. Costs are prorated for a half-year impact in FY 2027-28.

## Translation Costs

An estimated 186 notices annually will be required to be translated into another language. These costs will average \$140 per notice, resulting in \$26,040 in translation services annually. Costs are prorated for a half-year impact in FY 2027-28.

## **Office of Public Guardianship**

Staff for the Office of Public Guardianship will spend more time on guardianship cases to comply with the bill's additional requirements. This additional time is expected to be minimal and no change in appropriations is 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. These costs, which may include employee insurance, supplemental employee retirement payments, indirect cost assessments, and other costs, are shown in the table(s) above.

## **TABOR Refunds**

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The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts in Table 1A. This estimate assumes the March 2026 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2027-28. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save in FY 2027-28 and any future years when the state is over its revenue limit.

## **Effective Date**

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The bill takes effect January 1, 2028, assuming no referendum petition is filed.

## **Departmental Difference**

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When fully implemented, the Judicial Department estimates that the bill requires \$4.4 million in General Fund appropriations to implement the bill. This estimate includes a total of 3.2 FTE Magistrates, 10.0 FTE support staff, 2.3 FTE for other staff, as well as increased attorney reimbursement and mailing costs. These estimates assume that the requirements to consider less restrictive arrangements, as well as the additional notices and hearing requirements will result in a total of 3.2 Magistrates, based on an additional total increase in workload of about 6,600 hours for magistrate to review additional required documentation, spend time in hearings, issue rulings and review additional information in the required reports.

The fiscal note differs from this estimate by assuming that the hearings and notices for other protective arrangements will be less complex and require a similar amount of time as current guardianship proceedings, reducing the overall amount of additional Magistrate time required to about 4,800 hours annually.

## State and Local Government Contacts

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Denver County Courts

Office of Public Guardianship

District Attorneys

Public Defender

Judicial