

**OPG Commission meeting**  
**Director Report**  
**02.22.2023**

Purpose: The Director Report will provide information about new matters, updates about the previous month's matters, and next steps for the following month. The Director will provide the Director Report to all Commission members. Questions about the Director Report will be addressed at the Commission meetings, if necessary. Commissioners are encouraged to reach out to the Director directly regarding any questions in between meetings.

Attachments for the 01.25.2023 meeting:

- Attachment 1: SCAO/Judicial provided a FY 2023 Budget Summary as of 02.13.2023
- Attachment 2: SB23-064 Fiscal Note
- Attachment 3: SB23-064.L002
- Attachment 4: Proposed Public Records Policy

**I. Budget and Administrative Update.**

a. I previously provided the monthly budget summary report provided to me from Mike Henthorn, Judicial Budget Analyst II.  
**See Attachment 1**

b. COPG bill, SB23-064, was introduced on 01.23.2022. The Fiscal Note was introduced and provided previously via email and attached. It is important to remember that the Fiscal Note is a prediction. The COPG must present to the JBC and its budget be approved by the JBC every year. **See Attachment 2**

i. The hearing went well, no questions, and passed unanimously 5-0

ii. During the evening on 01.23.2022, I worked with Jennifer Levin, Director of Public Policy, of The Arc of Colorado on

some amendments. The amendments were introduced and passed. The amendment was previously provided and attached. **See Attachment 3**

- iii. SB23-064 was sent to Senate Appropriations Committee and there is no hearing date set. There will not be any testimony
- c. I will continue preparing for the House Judiciary Committee hearing and reaching out to stakeholders for support even though we do not have a date yet
- d. Other 2023 Legislative Updates
  - i. CORA Bill – LLS No. 23-0416.01 makes changes to the CORA and one aspect would subject agencies in the Judicial Branch to CORA. It has received a significant amount of criticism. I will be providing feedback to our legislative liaisons after review and asking AG Finke to review and provide feedback as well
- e. Proposed Public Records Policy. **See Attachment 4.** As discussed at that January 2023 meeting, AG Finke updated a proposed Public Records Policy regarding CORA requests and fees. The proposed policy is standard and in line with other state agencies. This policy will be adopted after feedback is received
- f. Human Resources Update.
  - i. The OBH/Momentum guardian resigned effective 02.20.2023. This position was posted on 02.10.2023 with a closing date of 03.24.2023. We are juggling case coverage, transfers and accepting new clients beginning in March
  - ii. We will repost for the 16<sup>th</sup> Judicial District Public Guardian position after the new year. We have posted twice for this position. We are planning with the 16<sup>th</sup> JD Judge and court

staff and stakeholders such as local APS to schedule an OPG meet and greet with providers over a couple of days help shore up our presence

- iii. I was recently notified that Judicial Payroll and Benefits are trimming their services to the Independent Agencies even more. When new employees are onboarding, the COPG will be expected to handle some of the new employee paperwork related to payroll and benefits. America, Janelle, and I completed training this past Monday, 02.13.2023
- iv. I also recently learned that the mandatory State compliance trainings are no longer offered freely through the State. These trainings have to be contracted with a third party and this will be an additional expense incurred by the COPG. I met with the third party contractor on 02.03.2023. It was determined that the third party contractor is through the Executive Branch and could not assist the COPG. The Judicial Department did not notify the COPG of this change. Therefore, I reached out to the Judicial Department Human Resources representative seeking information and assistance to ensure that COPG has access to the State compliance trainings. I have not received a response so I will follow up accordingly
- g. As an identified stakeholder, on 02.08.2023, I met with Behavioral Health Administration's third-party contractor, Health Management Associates, regarding the BHA statutory requirements for Universal Contract Provisions. We discussed the contracting concerns and requirements of the COPG and guardians in general

- h. With the assistance of the Attorney General's Office, we are considering filing Motions to Intervene in Mental Health proceedings under CRS §27-65-111(6). The COPG will be notified of these proceedings and may present evidence. We have not filed any proceedings yet
  - i. The Honorable Elizabeth D. Leith of the Denver Probate Court approached me about the 2<sup>nd</sup> Judicial District Court submitting a proposal for funding of a COPG Public Guardian for the Criminal REACH Docket. Judge Leith submitted the proposal for funding and has kept me updated
- II. **Stakeholder Engagement Plan.** This item is on hold until the Office is permanent.
- III. **Colorado OPG Pilot Program Commission and Operating Policies Updates – No updates.** Please note that Commission and Operating Policies are available on the OPG website: <https://colorado-opg.org/opg-in-depth/>
  - a. **Commission policies were posted on the COPG website prior to the SMART Act hearing.**
  - b. **All COPG policies were updated and posted on the COPG website prior to the SMART Act hearing.**
  - c. **Trainings and Projects – Ongoing.** A list will be provided quarterly.
  - d. **Intake Eligibility, Prioritization and Referral Process.**
    - i. Update on number of registered users, referrals, accepted cases, etc. as of **02.15.2023**
      - 1. 82 Active guardianships

2. 20 Partial referrals
3. 21 clients passed away since CO OPG appointment
4. 20 Hold status for 6 months (now includes OBH/CHMI-Ft. Logan/Pueblo referrals that are non-OBH/Momentum contract referrals)
5. The OBH/Momentum dedicated caseload is full and all 12 guardianships are active
  1. Registered 2
  2. Partial 3
6. 35 Declined referrals – pre-Hold status
  1. 39 Denver declined referrals (some declined were prior to establishing the Hold status)
    - a. 6 - Family available to serve
    - b. 25 - Expired/Incomplete information
    - c. 6 – Not appropriate referral
    - d. 2 - Not adult
    - e. 1 - Withdrawn by Ft. Logan
    - f. 4 - No OPG Capacity
  2. Withdrawn, not incapacitated – 2
  3. Texas inquiry - 1
  4. Nebraska referral - 1
  5. Alaska inquiries – 2
7. 97 streamlined referrals (Non-Denver County) – Declined
  1. Adams County – 5
  2. Alamosa County - 1
  3. Arapahoe County – 17
  4. Boulder County – 6
  5. Broomfield County – 1
  6. Crowley - 2
  7. “Denver County” – 2
  8. El Paso County – 18

9. Garfield County – 1
10. Gunnison County – 1
11. Huerfano County - 3
12. Jefferson County – 9
13. Lake County - 1
14. La Plata County – 2
15. Larimer County - 5
16. Las Animas County - 2
17. Mesa County – 1
18. Montrose County – 2
19. Otero County – 6
20. Pueblo County – 5
21. Weld County – 7

IV. **Colorado OPG Strategic Plan.** Draft previously provided – no updates.

V. **Stakeholder Outreach – Ongoing.** A list can be provided if requested.

VI. **Data gathering and Final Report – Completed.** The Final Report was submitted to the Legislative Council Staff on 12.27.2022, 01.01.2023 and again on 01.18.2023. LSC is backlogged. I have not received confirmation from my latest submission yet as to whether it has been released. I will update you as soon as I have confirmation.

- a. We will continue to update our data to provide current data at legislative hearings





Legislative Council Staff  
*Nonpartisan Services for Colorado's Legislature*

Fiscal Note

<b>Drafting Number:</b>	LLS 23-0263	<b>Date:</b>	February 1, 2023
<b>Prime Sponsors:</b>	Sen. Gardner; Ginal Rep. Snyder	<b>Bill Status:</b>	Senate Judiciary
		<b>Fiscal Analyst:</b>	John Armstrong   303-866-6289 john.armstrong@coleg.gov
<b>Bill Topic:</b>	<b>CONTINUE OFFICE OF PUBLIC GUARDIANSHIP</b>		
<b>Summary of Fiscal Impact:</b>	<div><div><input checked="" type="checkbox"/> State Revenue</div><div><input checked="" type="checkbox"/> State Expenditure</div><div><input type="checkbox"/> State Transfer</div></div> <div><div><input type="checkbox"/> TABOR Refund</div><div><input type="checkbox"/> Local Government</div><div><input type="checkbox"/> Statutory Public Entity</div></div>		
	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.		
<b>Appropriation Summary:</b>	No appropriation is required in FY 2023-24.		
<b>Fiscal Note Status:</b>	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
<b>Revenue</b>		-	-	-	-
<b>Expenditures</b>	General Fund	-	\$1,048,395	\$1,710,272	\$2,438,436
	Centrally Appropriated.	-	\$184,735	\$337,733	\$500,163
	<b>Total Expenditures</b>	-	<b>\$1,233,130</b>	<b>\$2,048,005</b>	<b>\$2,938,599</b>
	<b>Total FTE</b>	-	<b>10.2 FTE</b>	<b>18.7 FTE</b>	<b>27.8 FTE</b>
<b>Transfers</b>		-	-	-	-
<b>Other Impacts</b>	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 2<sup>nd</sup> 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 2<sup>nd</sup> 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**

	<b>FY 2023-24</b>	<b>FY 2024-25</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>
<b>Office of Public Guardianship</b>				
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 <sup>1</sup>	-	\$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
<b>OPG Subtotal</b>	<b>-</b>	<b>\$1,155,288</b>	<b>\$1,947,381</b>	<b>\$2,810,868</b>
<b>Office of the State Court Administrator</b>				
Personal Services	-	\$12,757	\$25,517	\$38,274
Court-Ordered Appointments	-	\$61,687	\$68,311	\$78,454
Centrally Appropriated Costs <sup>1</sup>	-	\$3,398	\$6,796	\$10,193
FTE – Personal Services	-	0.2 FTE	0.4 FTE	0.6 FTE
<b>OSCA Subtotal</b>	<b>-</b>	<b>\$77,842</b>	<b>\$100,624</b>	<b>\$126,921</b>
<b>Total Costs</b>	<b>-</b>	<b>\$1,233,130</b>	<b>\$2,048,005</b>	<b>\$2,937,789</b>
<b>Total FTE</b>	<b>-</b>	<b>10.2 FTE</b>	<b>18.7 FTE</b>	<b>27.8 FTE</b>

<sup>1</sup> 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 1<sup>st</sup> and 18<sup>th</sup> 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

SB064\_S\_JUD.001

SENATE COMMITTEE OF REFERENCE REPORT

_____	<u>February 6, 2023</u>
Chair of Committee	Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB23-064 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 5, line 3, strike "JUSTICE; AND" and substitute
- 2 "JUSTICE. AT LEAST ONE OF THE MEMBERS APPOINTED PURSUANT TO THIS
- 3 SUBSECTION (1)(a)(II)(A) MUST BE A PERSON WITH LIVED EXPERIENCE
- 4 WITH A FAMILY MEMBER WHO IS AN AT-RISK ADULT."
  
- 5 Page 10, strike line 8 and substitute "WITH THE POPULATIONS SERVED BY
- 6 THE OFFICE;"
  
- 7 Page 10, line 10, strike "AND"
  
- 8 Page 10, line 12, strike "DECISION-MAKING." and substitute
- 9 "DECISION-MAKING; AND
- 10 (VIII) PLANNING SUPPORTS THAT INCLUDE LESS RESTRICTIVE
- 11 ALTERNATIVES SUCH AS LIMITED GUARDIANSHIPS AND SUPPORTIVE
- 12 DECISION-MAKING."

\*\* \*\* \*\* \*

**First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0263.01 Conrad Imel x2313

**SENATE BILL 23-064**

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**SENATE SPONSORSHIP**

**Gardner and Ginal,**

**HOUSE SPONSORSHIP**

**Snyder,**

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**Senate Committees**

Judiciary  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE OFFICE OF PUBLIC GUARDIANSHIP.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Under existing law, the office of public guardianship (office) is authorized to serve indigent and incapacitated adults (incapacitated adults) in need of guardianship in 3 judicial districts and is scheduled to repeal on June 30, 2024. The bill extends the office indefinitely and requires the office to operate in every judicial district in the state by December 31, 2027.

The bill establishes a board of directors (board) to oversee the office. The board consists of 7 members: 3 members who are attorneys

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

appointed by the chief justice of the Colorado supreme court and 4 non-attorney members appointed by the governor. The existing public guardianship commission that oversees the office is repealed, effective August 31, 2023.

The bill clarifies the office's duties. The office's director administers the office pursuant to a memorandum of understanding with the judicial department. The bill clarifies what must be included in the memorandum of understanding.

The office is required to employ guardians to provide guardianship services to the office's clients. A guardian must be certified as a guardian or become certified within 2 years after being hired by the office. The office shall provide training to guardians in specified subjects.

The bill requires a court to waive filing fees for petitions for guardianship filed by the office in cases that involve an incapacitated adult who is eligible for guardianship services from the office. A court is prohibited from requiring the office or a guardian employed by the office to post a bond as a condition for appointment as a guardian.

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

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

4 **13-94-102. Legislative declaration.** (2) In establishing the office  
5 of public guardianship, the general assembly intends:

6 (a) That the office will:

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

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

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

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



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

3           **13-94-103. Definitions.** (2) As used in this article 94, unless the  
4       context otherwise requires:

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

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

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

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

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

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

19           **13-94-104. Public guardianship commission created - repeal.**

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

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

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

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

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

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

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

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

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

14           **13-94-104.1. Office of public guardianship board - members**  
15 **- duties - appointment of director - repeal.** (1) (a) ON SEPTEMBER 1,  
16 2023, THE BOARD OF DIRECTORS FOR THE OFFICE OF PUBLIC GUARDIANSHIP  
17 IS CREATED WITHIN THE JUDICIAL DEPARTMENT. THE BOARD INCLUDES  
18 SEVEN MEMBERS, APPOINTED AS FOLLOWS:

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

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

24           (A) THREE MEMBERS WHO HAVE LIVED EXPERIENCE WITH A  
25 FAMILY MEMBER WHO IS AN AT-RISK ADULT OR WHO HAVE EXPERTISE AND  
26 EXPERIENCE IN ADVOCATING FOR THE AT-RISK ADULT POPULATION,  
27 INCLUDING ADVOCACY AND REPRESENTATION IN THE AREAS OF AGING,

1 MENTAL HEALTH, SUBSTANCE USE DISORDERS, HOMELESSNESS, VETERANS  
2 ISSUES, INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, HEALTH CARE,  
3 AND LAW ENFORCEMENT AND CRIMINAL JUSTICE. AT LEAST ONE OF THE  
4 MEMBERS APPOINTED PURSUANT TO THIS SUBSECTION (1)(a)(II)(A) MUST  
5 BE A PERSON WITH LIVED EXPERIENCE WITH A FAMILY MEMBER WHO IS AN  
6 AT-RISK ADULT.

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

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

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

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

20 (d) EACH MEMBER OF THE BOARD SERVES WITHOUT  
21 COMPENSATION BUT IS ENTITLED TO RECEIVE REIMBURSEMENT FROM THE  
22 OFFICE OF PUBLIC GUARDIANSHIP CASH FUND CREATED IN SECTION  
23 13-94-108 FOR ACTUAL AND NECESSARY EXPENSES THE MEMBER INCURS  
24 IN THE PERFORMANCE OF THE MEMBER'S DUTIES.

25 (2) (a) EACH MEMBER OF THE BOARD SERVES AT THE PLEASURE OF  
26 THE MEMBER'S APPOINTING AUTHORITY. EXCEPT FOR THE INITIAL  
27 APPOINTMENTS MADE PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION,

1 EACH MEMBER'S TERM OF APPOINTMENT IS FOUR YEARS. A MEMBER SHALL  
2 NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

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

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

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

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

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

16 (II) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE DECEMBER  
17 31, 2027.

18 (3) THE BOARD SHALL:

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

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

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

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

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

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

8           **13-94-105. Office of public guardianship - director - duties -**  
9 **memorandum of understanding - annual report - repeal.** (1) (a) THE  
10 OFFICE OF PUBLIC GUARDIANSHIP IS CREATED WITHIN THE JUDICIAL  
11 DEPARTMENT TO SERVE INDIGENT AND INCAPACITATED ADULTS IN NEED  
12 OF GUARDIANSHIP IN EVERY JUDICIAL DISTRICT IN THE STATE NO LATER  
13 THAN DECEMBER 31, 2027.

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

20           (c) (I) THE OFFICE SHALL MAINTAIN OPERATIONS IN EACH JUDICIAL  
21 DISTRICT IN WHICH IT IS OPERATING ON THE EFFECTIVE DATE OF THIS  
22 SUBSECTION (1)(c) AND SHALL OPERATE IN EVERY JUDICIAL DISTRICT IN  
23 THE STATE NO LATER THAN DECEMBER 31, 2027.

24           (II) THIS SUBSECTION (1)(c) IS REPEALED, EFFECTIVE JUNE 30,  
25 2028.

26           (d) The director shall administer the office in accordance with the  
27 memorandum of understanding WITH THE JUDICIAL DEPARTMENT

1 described in ~~section 13-94-104 (4)~~. Notwithstanding any other provision  
2 of this section, upon receiving funding sufficient to begin operations in  
3 the second judicial district, the office must begin operations in that  
4 judicial district prior to operating in any other district SUBSECTION (6) OF  
5 THIS SECTION. THE JUDICIAL DEPARTMENT SHALL PROVIDE TECHNICAL  
6 AND ADMINISTRATIVE SUPPORT TO ASSIST THE OFFICE.

7 (1.5) IN ADDITION TO ANY OTHER DUTIES OR RESPONSIBILITIES SET  
8 FORTH IN THIS ARTICLE 94, THE OFFICE:

9 (a) MAY:

10 (I) INITIATE PETITIONS FOR GUARDIANSHIP; AND

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

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

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

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

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

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

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

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

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

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

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

27          (c) THE OFFICE SHALL PROVIDE TRAINING TO ALL GUARDIANS THAT

1 INCLUDES, AT A MINIMUM, INSTRUCTION IN THE FOLLOWING AREAS:

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

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

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

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

12 (V) STATE AND LOCAL SOCIAL SERVICES AND RESOURCES;

13 (VI) ACTIVE LISTENING SKILLS; ==

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

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

19 (d) PRIOR TO EMPLOYING A PERSON, THE OFFICE OF PUBLIC  
20 GUARDIANSHIP SHALL SUBMIT THE NAME OF THE PERSON TO BE HIRED, AS  
21 WELL AS ANY OTHER REQUIRED IDENTIFYING INFORMATION, TO THE  
22 DEPARTMENT OF HUMAN SERVICES FOR A CHECK OF THE COLORADO  
23 ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION  
24 26-3.1-111 TO DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF  
25 MISTREATMENT OF AN AT-RISK ADULT.

26 (4) On or before ~~January 1, 2023~~, JANUARY 1 OF EACH YEAR, the  
27 director shall submit to the judiciary committees of the senate and the



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

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

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

15 ~~(c) Quantify, to the extent possible, the net cost or benefit, if any,~~  
16 ~~to the state that may result from the provision of guardianship services to~~  
17 ~~each indigent and incapacitated adult in each judicial district of the state;~~

18 ~~(d) Identify any notable efficiencies and obstacles that the office~~  
19 ~~incurred in providing public guardianship services pursuant to this article~~  
20 ~~94;~~

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

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

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

1           ~~(h) Assess funding models and viable funding sources for an~~  
2 ~~independent office of public guardianship or a nonprofit agency,~~  
3 ~~including the possibility of funding with a statewide increase in probate~~  
4 ~~court filing fees.~~

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

14           ~~(6) (a) Prior to employment, the office of public guardianship,~~  
15 ~~pursuant to section 25-1.5-103 (1)(a)(I)(A), shall submit the name of a~~  
16 ~~person hired as a guardian or guardian's designee, as well as any other~~  
17 ~~required identifying information, to the department of human services for~~  
18 ~~a check of the Colorado adult protective services data system pursuant to~~  
19 ~~section 26-3.1-111 to determine if the person is substantiated in a case of~~  
20 ~~mistreatment of an at-risk adult.~~ THE OFFICE AND THE JUDICIAL  
21 DEPARTMENT SHALL OPERATE PURSUANT TO A MEMORANDUM OF  
22 UNDERSTANDING BETWEEN THE TWO ENTITIES. THE OFFICE AND JUDICIAL  
23 DEPARTMENT SHALL ENTER INTO A MEMORANDUM OF UNDERSTANDING  
24 THAT COMPLIES WITH THIS SUBSECTION (6)(a) NO LATER THAN DECEMBER  
25 31, 2023. THE MEMORANDUM OF UNDERSTANDING MUST CONTAIN, AT A  
26 MINIMUM:

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

1 RULES;

2 (II) A REQUIREMENT THAT THE DIRECTOR HAVE INDEPENDENT

3 HIRING AND TERMINATION AUTHORITY OVER OFFICE EMPLOYEES;

4 (III) A REQUIREMENT THAT THE OFFICE FOLLOW JUDICIAL FISCAL

5 RULES;

6 (IV) A REQUIREMENT THAT THE JUDICIAL DEPARTMENT PROVIDE

7 HUMAN RESOURCES, BUDGET MANAGEMENT, ACCOUNTING, INFORMATION

8 TECHNOLOGY SUPPORT, LEGAL SERVICES, AND ADMINISTRATIVE STAFF

9 SERVICES AT LOW OR NO COST TO THE OFFICE, AND A REQUIREMENT THAT

10 THE JUDICIAL DEPARTMENT PROVIDE THE OFFICE WITH A DIRECT CONTACT

11 FOR EACH SERVICE;

12 (V) A PROCESS FOR ASSIGNING OFFICE SPACE FOR THE OFFICE'S

13 MAIN OFFICE, WHICH MUST BE LOCATED IN DENVER, AND OTHER OFFICE

14 SPACE IN EACH JUDICIAL DISTRICT; AND

15 (VI) ANY OTHER PROVISIONS REGARDING ADMINISTRATIVE

16 SUPPORT TO HELP MAINTAIN THE INDEPENDENCE OF THE OFFICE.

17 (b) (I) A MEMORANDUM OF UNDERSTANDING BETWEEN THE OFFICE

18 AND THE JUDICIAL DEPARTMENT IN EFFECT ON THE DAY BEFORE THE

19 EFFECTIVE DATE OF THIS SUBSECTION (6)(b) REMAINS IN EFFECT UNTIL A

20 NEW MEMORANDUM OF UNDERSTANDING IS ENTERED INTO PURSUANT TO

21 SUBSECTION (6)(a) OF THIS SECTION.

22 (II) THIS SUBSECTION (6)(b) IS REPEALED, EFFECTIVE JUNE 30,

23 2024.

24 (7) (a) THE DIRECTOR OF THE OFFICE ON THE DAY BEFORE THE

25 EFFECTIVE DATE OF THIS SUBSECTION (7) SHALL CONTINUE TO CARRY OUT

26 THE DIRECTOR'S DUTIES SET FORTH IN THIS ARTICLE 94 UNTIL THE BOARD

27 APPOINTS A DIRECTOR PURSUANT TO SECTION 13-94-104.1 (3)(a).

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

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

4 **13-94-106. Costs - waiver of court costs and filing fees - bond**  
5 **not required.** (1) The court shall waive court costs and filing fees in any  
6 proceeding in which an indigent and incapacitated adult is receiving  
7 public guardianship services from the office AND SHALL WAIVE FILING  
8 FEES FOR PETITIONS FOR GUARDIANSHIP FILED BY THE OFFICE IN A CASE  
9 THAT INVOLVES A PERSON WHO IS ELIGIBLE FOR GUARDIANSHIP SERVICES  
10 FROM THE OFFICE.

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

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

17 **13-94-107. Director shall develop rules.** (1) The director shall  
18 develop rules to implement this article 94. The rules, at a minimum, must  
19 include policies concerning:

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

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

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

26 **SECTION 8.** In Colorado Revised Statutes, 13-94-108, **amend**  
27 (2) as follows:

1           **13-94-108. Office of public guardianship cash fund - created.**

2           (2) The money in the fund is annually appropriated to the judicial  
3           department to pay the expenses of the office. All interest and income  
4           derived from the investment and deposit of money in the fund is credited  
5           to the fund. Any unexpended and unencumbered money remaining in the  
6           fund at the end of a fiscal year must remain in the fund and not be  
7           credited or transferred to the general fund or any other fund. ~~except that~~  
8           ~~any money remaining in the fund on June 30, 2024, shall be transferred~~  
9           ~~to the general fund.~~

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

12           **13-94-111. Repeal - wind-up.** ~~(1) This article 94 is repealed,~~  
13           ~~effective June 30, 2024. Prior to such repeal, the general assembly, after~~  
14           ~~reviewing the report submitted by the director pursuant to section~~  
15           ~~13-94-105 (4), shall consider whether to enact legislation to continue,~~  
16           ~~discontinue, or expand the office.~~

17           ~~(2) If the general assembly has adjourned the legislative session~~  
18           ~~beginning in January of 2023 sine die without enacting legislation to~~  
19           ~~continue or expand the office, the office shall notify the joint budget~~  
20           ~~committee that the office will not be continued and that court fees may be~~  
21           ~~reduced by the amount deposited to the office of public guardianship cash~~  
22           ~~fund, implement its discontinuation plan developed pursuant to section~~  
23           ~~13-94-105, and wind up its affairs prior to the repeal of this article 94.~~

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

26           **26-3.1-111. Access to CAPS - employment checks -**  
27           **conservatorship and guardianship checks - confidentiality - fees -**

1     **rules - legislative declaration - definitions. (3) (b) Conservatorship**  
2     **and guardianship CAPS checks.** Beginning January 1, 2022, the state  
3     department shall provide the courts the results of a CAPS check, upon the  
4     court's request and using forms approved by the state department, to  
5     determine if a person who may be appointed as a conservator or guardian  
6     of an at-risk adult is substantiated in a case of mistreatment of an at-risk  
7     adult. This subsection (3)(b) does not apply to office of public  
8     guardianship employees required to undergo a CAPS check pursuant to  
9     ~~sections 13-94-105 (6)~~ SECTION 13-94-105 and ~~26-3.1-111 (7)(j)~~  
10    SUBSECTION (7)(j) OF THIS SECTION, or adult protective services  
11    employees required to undergo a CAPS check pursuant to section  
12    26-3.1-107 (2).

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

15           (j) The office of public guardianship pursuant to section  
16    13-94-105. ~~(6)~~.

17           **SECTION 11. Safety clause.** The general assembly hereby finds,  
18    determines, and declares that this act is necessary for the immediate  
19    preservation of the public peace, health, or safety.

## PUBLIC RECORDS POLICY

### I. PURPOSE OF POLICY

The Office of Public Guardianship (“OPG”) is committed to transparency. The following policy has been developed in order to implement the Colorado Open Records Act (“CORA”) (§§ 24-72-201 to 206, C.R.S.). It is designed to help the OPG balance the statutory requirements of the CORA and the protections afforded to information that must be kept confidential by law. This policy helps ensure the OPG complies in all respects with the CORA and sets forth the procedure the OPG will follow in response to requests for public records.

### II. OPG PROCEDURE FOR HANDLING RECORDS REQUESTS

**Requests in Writing.** The OPG will only accept records requests made in writing or electronically via e-mail or fax. The OPG will not accept records requests made over the telephone or via social media. Requests should be directed to the OPG Director at the address, e-mail address, or fax number listed on the OPG website. Records requests that cite the federal Freedom of Information Act will be treated as though they were made pursuant to the CORA.

**Time to Respond.** When responding to a request for public records under the CORA, the OPG will make every effort to respond within three working days as required by § 24-72-203(3)(b), C.R.S. The three working-day response time begins the first working day following receipt of the request. A request received after noon or any day the OPG is officially closed will be considered received as of the following working day. The OPG may add an extension up to seven working days if extenuating circumstances apply as described in § 24-72-203(3)(b), C.R.S. The OPG will provide all findings of extenuating circumstances to the requestor in writing.

**Notification of Commission.** The OPG is subject to the oversight of the Office of Public Guardianship Commission (“Commission”) pursuant to § 13-94-104(3), C.R.S. In order to keep the Commission informed of public records requests, the OPG will notify the Chair of the Commission prior to responding to the person requesting the records.

**Clarifying Requests.** The OPG may contact the requestor in an attempt to clarify or narrow a request. While not required, requestors may want to provide phone and e-mail contact information to facilitate communication regarding the request. Providing specific and narrow information about the nature of documents requested can help limit the cost to the requestor.

**Exceptions to CORA.** No employee of the OPG may modify, redact or omit any records they are required to provide, pursuant to this policy, to the OPG Director or his or her designee handling the request. However, some confidential information is not subject to public inspection, and will be redacted or withheld, pursuant to §§ 24-72-204, C.R.S. Redactions and decisions about whether a record falls under an exemption to the CORA will be made by the OPG Director in

consultation with the Colorado Attorney General's Office. Staff should never assume a document is exempt and should always consult the OPG Director before making a final determination.

**Format of Records Produced.** When feasible, the OPG will endeavor to provide electronic copies of files to requestors if such alternative is significantly less burdensome to provide than paper copies. When responsive records cannot be easily or cost effectively provided electronically to a requestor, the OPG will work with the requestor to schedule a time to inspect the records in person. The OPG is open from 8 a.m. to 5 p.m., Monday through Friday, except state holidays. The OPG Director may grant exceptions where the requestor or the records produced require special accommodations.

**Abandoned Requests.** If the OPG attempts to contact a requestor to clarify a request or discuss the scope of a request and the requestor does not respond within ten business days, the OPG will close the request and require the requestor to submit a new records request. The OPG will hold records assembled in response to a CORA request for no more than ten business days after the requestor has been notified that the records are available for inspection or pick-up. The holding period may be shorter for records which are needed for any use. Failure to inspect or pick-up the records within this timeframe will be considered an abandoned request, and the request will be automatically closed.

### **III. FEES FOR COPIES AND STAFF TIME**

When a request requires the production of more than 25 pages of documents or more than one hour of staff time to locate or produce records, the OPG will charge the requestor for all copying expenses and for staff time in accordance with §§ 24-72-205(5)(a) and 24-72-306, C.R.S., and other applicable law. Any cost charged to a requestor shall not exceed the actual cost of producing the records, in accordance with § 24-72-205(5)(a), C.R.S. and applicable law.

When the OPG anticipates that more than 25 pages will be produced and/or more than one hour of staff time will be required, the OPG will provide a cost estimate to the requestor. The cost estimate will include the estimated time for staff to search for, retrieve, redact, assemble and transmit the records. in accordance with the following table. In extraordinary circumstances, the use of a third-party contractor may be necessary and will be discussed with the requestor in advance. The requestor must approve the cost estimate before the OPG will begin work on fulfilling the records request. The timeframe the OPG has to complete the request will be tolled between providing the cost estimate to the requestor and the requestor approving the cost estimate.

When the number of pages produced in response to a records request exceeds 25 pages, the OPG will charge \$0.25 per page for all documents copied.

When researching the location of a document, retrieving or producing records consumes more than one hour of staff time, the OPG shall charge \$20 an hour for all staff time. An hourly rate not to exceed \$33.58 an hour when specialized document production or specialized skills are



required to fully comply with a records request. In extraordinary circumstance, the use of a third-party contractor may be necessary and will be discussed with the requestor in advance.

The requestor shall also be charged \$33.58 an hour for time spent by an attorney engaged in the practice of law directly related to a records request, including but not limited to, the review of documents for privilege or other exemptions to production; document redaction; creation of documents that articulate the privileged nature of the requested documents or conducting CORA related legal research.

Payment is due within 30 days of the invoice date. Past due amounts will be referred to collections.

DRAFT