

VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

CHAPTER 272

An Act to amend and reenact § 51.5-150 of the Code of Virginia, relating to public guardian and conservator program; decennial review of staff-to-client ratios; report.

[H 96]

Approved April 8, 2022

Be it enacted by the General Assembly of Virginia:

1. That § 51.5-150 of the Code of Virginia is amended and reenacted as follows:

§ 51.5-150. Powers and duties of the Department with respect to public guardian and conservator program.

A. The Department shall fund from appropriations received for such purpose a statewide system of local or regional public guardian and conservator programs.

B. The Department shall:

1. Make and enter into all contracts necessary or incidental to the performance of its duties and in furtherance of the purposes as specified in this article in conformance with the Public Procurement Act (§ 2.2-4300 et seq.);

2. Contract with local or regional public or private entities to provide services as guardians and conservators operating as local or regional Virginia public guardian and conservator programs in those cases in which a court, pursuant to §§ 64.2-2010 and 64.2-2015, determines that a person is eligible to have a public guardian or conservator appointed;

3. Adopt reasonable regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) as appropriate to implement, administer, and manage the state and local or regional programs authorized by this article, including, but not limited to, the adoption of:

a. Minimum training and experience requirements for volunteers and professional staff of the local and regional programs;

b. An ideal range of ~~staff to client~~ *staff-to-client* ratios for the programs, and adoption of procedures to be followed whenever a local or regional program falls below or exceeds the ideal range of ~~staff to client~~ *staff-to-client* ratios, which shall include, but not be limited to, procedures to ensure that services shall continue to be available to those in need and that appropriate notice is given to the courts, sheriffs, where appropriate,; and the Department;

c. Procedures governing disqualification of any program falling below or exceeding the ideal range of ~~staff to client~~ *staff-to-client* ratios, which shall include a process for evaluating any program that has exceeded the ratio to assess the effects falling below or exceeding the ideal range of ratios has, had, or is having upon the program and upon the incapacitated persons served by the program.

The regulations shall require that evaluations occur no less frequently than every six months and shall continue until the ~~staff to client~~ *staff-to-client* ratio returns to within the ideal range; and

d. Person-centered practice procedures that shall:

(1) Focus on the preferences and needs of the individual receiving public guardianship services; and

(2) Empower and support the individual receiving public guardianship services, to the extent feasible, in defining the direction for his life and promoting self-determination and community involvement.

4. Establish procedures and administrative guidelines to ensure the separation of local or regional Virginia public guardian and conservator programs from any other guardian or conservator program operated by the entity with whom the Department contracts, specifically addressing the need for separation in programs that may be fee-generating;

5. Establish recordkeeping and accounting procedures to ensure that each local or regional program (i) maintains confidential, accurate, and up-to-date records of the personal and property matters over which it has control for each incapacitated person for whom it is appointed guardian or conservator and (ii) files with the Department an account of all public and private funds received;

6. Establish criteria for the conduct of and filing with the Department and as otherwise required by law: values history surveys, annual decisional accounting and assessment reports, the care plan designed for the incapacitated person, and such other information as the Department may by regulation require;

7. Establish criteria to be used by the local and regional programs in setting priorities with regard to services to be provided;

8. Take such other actions as are necessary to ensure coordinated services and a reasonable review of all local and regional programs;

9. Maintain statistical data on the operation of the programs and report such data to the General Assembly on or before January 1 of each even-numbered year as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents regarding the status of the Virginia Public Guardian and Conservator Program and the identified operational needs of

the program. Such report shall be posted on the Department's website. In addition, the Department shall enter into a contract with an appropriate research entity with expertise in gerontology, disabilities, and public administration to conduct an evaluation of local public guardian and conservator programs from funds specifically appropriated and allocated for this purpose, and the evaluator shall provide a report with recommendations to the Department and to the Public Guardian and Conservator Advisory Board established pursuant to § 51.5-149.1. Trends identified in the report, including the need for public guardians, conservators, and other types of surrogate decision-making services, shall be presented to the General Assembly. The Department shall request such a report from an appropriate research entity every four years, provided the General Assembly appropriates funds for that purpose; ~~and~~

10. Decennially review the ideal range of staff-to-client ratios for local and regional public guardian and conservator programs in the Commonwealth and make recommendations as to whether the ratio should be revised to ensure that public guardians are able to meet their obligations to incapacitated persons pursuant to this article and report its findings and conclusions to the Governor and the General Assembly by December 1 of each year in which such review is performed; and

11. Recommend appropriate legislative or executive actions.

C. Nothing in this article shall prohibit the Department from contracting pursuant to subdivision B 2 with an entity that may also provide privately funded surrogate decision-making services, including guardian and conservator services funded with fees generated by the estates of incapacitated persons, provided such private programs are administered by the contracting entity entirely separately from the local or regional Virginia public guardian and conservator programs, in conformity with regulations established by the Department in that respect.

D. In accordance with the Public Procurement Act (§ 2.2-4300 et seq.) and recommendations of the Public Guardian and Conservator Advisory Board, the Department may contract with a not-for-profit private entity that does not provide services to incapacitated persons as guardian or conservator to administer the program, and, if it does, the term "Department" when used in this article shall refer to the contract administrator.

2. That the Department for Aging and Rehabilitative Services shall complete the first decennial review of staff-to-client ratios for local and regional public guardian and conservator programs required pursuant to this act and report its findings and conclusions to the Governor and the General Assembly by December 1, 2022.