

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: SB987ER

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Mason

3. Committee: Passed Both Houses

4. Title: Periodic review hearings for guardianships and conservatorships

5. Summary: The bill requires the court to set up a schedule for periodic review hearings in the order of appointment of a guardian or conservator, unless the court makes a determination that such hearings are unnecessary or impracticable.

The bill further provides that any periodic review hearing shall include the following assessments by the court: (i) the likelihood that the respondent's condition will improve or the respondent will regain capacity, (ii) whether concerns or questions were raised about the suitability of the person appointed as a guardian or conservator at the time of the initial appointment, and (iii) whether the appointment of a guardian or conservator or the appointment of the specifically appointed guardian or conservator was contested by the respondent or another party.

6. Budget Amendment Necessary: Indeterminate

7. Fiscal Impact Estimates: Final (see Item 8 below)

8. Fiscal Implications: According to the Office of the Secretary of the Supreme Court (OES), from fiscal years 2020 through 2022, the average number of petitions filed for the appointment of a guardian or conservator was 2,379.

Va. Code § 64.2-2008 (fees and costs) states "In any proceeding filed pursuant to this article, if the adult subject of the petition is determined to be indigent, any fees and costs of the proceeding that are fixed by the court or taxed as costs shall be borne by the Commonwealth." During 2020, 2021, and 2022 fiscal years, the average annual amount paid from the Criminal Fund for guardian ad litem fees under § 64.2-2008 was \$842,151.32. However, OES cannot distinguish the separate amounts for the various services or costs incurred in the proceedings for indigent subjects, but believes that virtually all of those expenses represent the compensation for indigent subjects requiring guardians ad litem representation.

For each periodic review hearing that the court finds necessary, an appointment of a guardian ad litem is required. Guardians ad litem are paid by the hour from the appropriations of the Criminal Fund, with a differential between in-court time and out-of-court time. Since future expenditures are dependent upon the number of petitions filed, it is not possible to estimate the fiscal impact for future amounts spent from the Criminal Fund.

At this time, it is unknown how many court hearings would be waived in accordance with the bill's provisions, but any such waiver would potentially reduce the fiscal impact.

9. Specific Agency or Political Subdivisions Affected: Courts

10. Technical Amendment Necessary: No

11. Other Comments: None