

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB 862

House of Origin	<input checked="" type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Levine

3. Committee: Courts of Justice

4. Title: Guardianship; communication between close relatives and friends of incapacitated persons; restricted communication procedures; notification of close relatives and friends.

5. Summary: The proposed legislation provides that a guardian may restrict an incapacitated person's ability to communicate with, visit, or interact with close relatives, as defined in the bill, and friends, as defined in the bill, only when necessary to prevent a reasonable expectation of serious physical or psychological harm or serious financial exploitation occurring to the incapacitated person. The bill further sets up a procedure by which a person whose visits, communication with, or interaction with an incapacitated person have been restricted may challenge such restriction in court and a procedure by which a guardian may petition the court to restrict an incapacitated person's communication, visitation, and interaction rights with a close relative or friend. The bill provides that the court may restrict an incapacitated person's communication, visitation, and interaction rights with such person when it finds by clear and convincing evidence that serious physical or psychological harm or serious financial exploitation would reasonably be expected to occur to such incapacitated person from such communication, visitation, or interaction. The bill allows the court to require a guardian found to have imposed restrictions or brought such a petition in bad faith or not for the benefit of the incapacitated person to pay or reimburse all or some of the incapacitated person's reasonable costs and fees. The bill also specifies that such a finding may be grounds for termination of the guardianship appointment. The bill requires the guardian to notify close relatives and friends of the incapacitated person of certain life events of the incapacitated person, unless the guardian is notified in writing that any such close relative or friend does not wish to be notified or if there exists between such close relative or friend and the incapacitated person a protective order or court order otherwise prohibiting contact.

6. Budget Amendment Necessary: Yes

7. Fiscal Impact Estimates: Preliminary

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2020	-	-
2021	409,812	General

2022	409,812	General
2023	409,812	General
2024	409,812	General
2025	409,812	General
2026	409,812	General

- 8. Fiscal Implications:** The Virginia Public Guardian and Conservator Program pursuant to §51.5-150 et seq. funds guardianship for adults who are indigent, incapacitated, and in need of someone to help them make medical, financial, or daily living decisions and do not have a suitable family member or friend to serve as a guardian. While the Department for Aging and Rehabilitative Services (DARS) administers the public guardianship program, the agency contracts with 13 community organizations across the Commonwealth for guardianship services. The department currently has a budget of approximately \$4.4 million to support these contracts, which allows an estimated 1,040 incapacitated adults to be served each year.

DARS reports that the proposed legislation would significantly increase the burden on public guardians by mandating a number of administrative activities that are not currently required. Specifically, the bill 1) imposes new reporting and notification requirements; 2) increases the potential number of court hearings; and 3) requires that an inventory of close relatives and friends be maintained.

The agency estimates that these new requirements are projected to take an additional 10 hours per year per client. As such, the department anticipates an average cost increase of \$31,524 per public guardianship contract. This cost is based on an estimation of \$21.53 per hour for personal services costs (\$223,912) and \$1,500 per contract for nonpersonal service expenses (\$19,500). Additionally, the agency estimates that \$166,400 would be required for additional legal representation of court cases challenging the communication and visitation restrictions. This cost assumes \$3,200 per case for five percent of the clients (52).

This fiscal impact statement does not include the cost for research and investigation to identify close relatives, intimate partners and friends to be included in the database. In addition, the cost estimates are based on 2020 data and are not adjusted for increased services or inflation.

- 9. Specific Agency or Political Subdivisions Affected:**
Department for Aging and Rehabilitative Services

- 10. Technical Amendment Necessary:** No

- 11. Other Comments:** None