

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: HB 514

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: McPike

3. Committee: Judiciary

4. Title: Incapacitated persons; changes to provisions of adult guardianship and conservatorship

5. Summary: This legislation makes several changes to the provisions of adult guardianships and conservatorships, including (i) adding certain powers and duties to the Department for Aging and Rehabilitative Services (DARS) to provide support, oversight, and guidance with respect to such guardianships; (ii) requiring the notice of hearing on a guardianship or conservatorship petition to include notice that any adult individual required to receive a copy of such notice may file a motion to intervene in the action to become a party and request to be appointed as guardian or conservator or offer an alternative to the guardian or conservator selected; (iii) requiring a schedule for periodic review hearings in the order of appointment of a guardian or conservator to be set by a court, unless the court makes a determination that such hearings are unnecessary or impracticable; and (iv) providing that a guardian shall not restrict an incapacitated person's ability to communicate with, visit, or interact with other persons with whom the incapacitated person has an established relationship unless such restriction is necessary to prevent physical, mental, or emotional harm to or financial exploitation of the incapacitated person; the bill further requires that the guardian must provide written notice to any restricted person stating (a) the nature and terms of the restriction, (b) the reasons why the guardian believes the restriction is necessary, and (c) how the restricted person may challenge such restriction in court. The bill sets up a procedure by which a person whose visit, communication with, or interaction with an incapacitated person has been restricted may challenge such restriction in court.

6. Budget Amendment Necessary: Yes

7. Fiscal Impact Estimates: Preliminary. The following impact only reflects the fiscal impact on DARS. The Supreme Court of Virginia is also evaluating this bill. Once that analysis has been completed, this statement will be updated to reflect any additional costs.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2023	\$2,079,302	General
2024	\$2,079,302	General
2025	\$2,079,302	General
2026	\$2,079,302	General
2027	\$2,079,302	General

2028	\$2,079,302	General
2029	\$2,079,302	General

8. Fiscal Implications:

Department for Aging and Rehabilitative Services

DARS administers the public guardianship program (PGP) which provides guardianship services for adults who are incapacitated, indigent and have no suitable person to serve as their guardian. The PGP currently serves approximately 1,000 individuals and is entirely supported with state dollars. In contrast, there are over 11,000 individuals with a court appointed guardian in Virginia. DARS currently has no responsibilities related to these guardianships. This legislation would expand DARS roles pertaining to all guardianships making the agency responsible for training and receiving complaints. The following provisions of SB 514 have been identified by DARS as likely having a fiscal impact:

- The bill requires DARS to develop and provide training for all appointed guardians related to responsibilities, completing reports, and involving the participation of incapacitated adults in decision making. DARS expects that this provision will require the agency to hire two positions at a total cost of \$271,295 annually.
- DARS must also develop a process for providing information to guardians ad litem on any valid report of adult abuse, neglect, or exploitation regarding prospective or appointed guardians. DARS estimates the cost of this to be \$90,325 annually.
- The bill's provisions to provide training to local departments of social services on how to review annual guardianship reports and identifying areas of concern regarding appointments can be absorbed by additional adult protective services staff (\$599,207 and five positions) included in the introduced budget. Should this funding be removed, then this cost assumption will need to be revised.
- DARS must take action to assist in improving the Commonwealth's data tracking and reporting related to guardianships. The agency estimates a cost of approximately \$25,000 for software development and implementation. Personal services support associated with this effort can be absorbed.
- The agency assumes that two positions at a cost of \$294,486 will be needed to create and administering a process for receiving complaints against appointed guardians.
- The bill requires the court to schedule periodic review hearings one year after the initial appointment and every three years thereafter. This provision will require additional PGP staff time to make additional court appearances. In addition, the guardian is expected to provide an evaluation report at each periodic review hearing. DARS estimates the cost of complying with this provision to be \$1,398,196 annually.
- DARS expects the bill's provision to develop a proposal to facilitate the additional monitoring of guardians can be covered with existing resources.

- The bill also includes provisions that restrict visitation notifications and add information to the annual report. These changes are expected to add costs to the PGP and local departments of social services. However, DARS assumes that these elements of the bill are considered part of the current workload and can be performed with existing positions.

Supreme Court of Virginia

The Supreme Court of Virginia is currently evaluating the impact of this bill. Once the Court has completed its analysis, this statement will be updated to reflect any costs.

9. Specific Agency or Political Subdivisions Affected:

Department for Aging and Rehabilitation Services

Supreme Court of Virginia

10. Technical Amendment Necessary: No

11. Other Comments: None