

Department of Planning and Budget 2022 Fiscal Impact Statement

1. **Bill Number:** SB 514

House of Origin Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. **Patron:** McPike

3. **Committee:** Finance and Appropriations

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) adds certain duties to the Department for Aging and Rehabilitative Services (DARS) to provide training for guardians; (ii) requires guardians ad litem (GAL) to notify the court if the respondent requests counsel and in the GAL's report include an explanation if appointment of counsel was not recommended, why a less restrictive alternative to guardianship/conservatorship is not available and if a determination that a limited or guardian/conservator is not appropriate; (iii) requires 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; (iv) requires 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; (v) provides 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 or is the expressed wish 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; (vi) requires guardians to visit the incapacitated individual at least once every 90 days and complete training developed by DARS within four months of their appointment as guardian; (vii) expands and clarifies the required elements to be completed by guardians in the report they must file annually with the local department of social services; and (viii) requires that the Office of the Executive Secretary of the Supreme Court maintain or offer training for circuit court judges and GALs, and include additional information on the list of qualified GALs.

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	\$1,669,491	General
2024	\$1,669,491	General
2025	\$1,669,491	General
2026	\$1,669,491	General
2027	\$1,669,491	General
2028	\$1,669,491	General
2029	\$1,669,491	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 role pertaining to the training of all guardians. The following provisions of SB 514 have been identified by DARS as likely having a fiscal impact:

- The bill requires DARS to developing and providing 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.
- 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.
- 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