

FY 2009 Change Request Judicial Branch

Schedule 13							
Request Title:		Decision Item FY 08-09 X		Base Reduction Item FY 08-09			
Department:		Probate Audit Response		Dept. Approval by: 			
Priority Number:		8		OSP Approval: N/A			
	Fund	1	2	5	6	7	10
		Prior-Year Actual FY 06-07	Appropriation FY 07-08	Base Request FY 08-09	Decision/ Base Reduction FY 08-09	November 1 Request FY 08-09	Outyear Costs FY 09-10
Total of All Line Items	Total	111,236,192	105,393,628	121,303,145	188,717	121,491,862	201,780
	FTE	1,608.5	1,715.0	1,835.0	3.0	1,838.0	3.0
	GF	98,053,984	92,144,332	100,255,375	188,717	100,444,092	201,780
	CF	13,182,208	13,249,296	21,047,770	-	21,047,770	-
	FF	1,198,100	-	-	-	-	-
Trial Courts							
Personal Services	Total	104,889,064	98,558,722	110,358,872	162,522	110,521,394	188,010
	FTE	1,608.5	1,715.0	1,835.0	3.0	1,838.0	3.0
	GF	97,830,033	91,735,045	96,330,562	\$162,522	96,493,084	\$188,010
	CF	5,860,931	6,823,677	14,028,310	-	14,028,310	-
	FF	1,198,100	-	-	-	-	-
Operating	Total	7,545,228	6,693,883	6,884,633	9,810	6,894,443	9,810
	GF	223,951	268,264	268,264	\$9,810	278,074	\$9,810
	CF	7,321,277	6,425,619	6,616,369	-	6,616,369	-
Capital Outlay	Total	1,029,387	868,700	541,421	12,963	554,384	-
	GF	-	141,023	-	\$12,963	12,963	-
	CF	1,029,387	727,677	541,421	-	541,421	-
Special Purpose							
Amortization Equal. Disb.	Total	-	-	3,093,059	2,330	3,095,389	2,696
	GF	-	-	2,785,942	\$2,330	2,788,272	\$2,696
	CF	-	-	307,117	-	307,117	-
Special Purpose							
Supplemental Amortiz. Equalization Disb.	Total	-	-	966,581	1,092	967,673	1,264
	GF	-	-	870,607	\$1,092	871,699	\$1,264
	CF	-	-	95,974	-	95,974	-
Letternote revised text:		N/A					
Cash Fund name/number, Federal Fund Grant name:							
IT Request:		Yes No X					
Request Affects Other Departments:		Yes No X					

Request Summary

The Branch is requesting 3.0 FTE, at a cost of approximately \$189,000, in order to continue the implementation of the recommendations of the Protective Proceedings Task Force, a group appointed by the Chief Justice to craft solutions addressing the concerns raised by an audit of probate case processing in 2006.

General Description of Request

The 2006 Legislative Audit Committee requested that an audit of probate cases be conducted by the State Auditor pursuant to C.R.S. § 2-3-103. The audit report focused on protective proceedings, which are a sub-class of Colorado's probate caseload. Protective proceedings cases are defined as those cases where a petition is filed for the appointment of a conservator or guardian. Conservators are appointed to oversee the financial affairs of a protected person while

guardians are appointed to oversee the health and safety of an incapacitated person. Conservators or guardians are appointed by the Court, after a full due process hearing if the issue is contested, to make various on-going decisions in many cases over periods of years on behalf of a “ward”.

The audit identified several deficiencies in the Judicial Branch’s approach to the handling of protective proceedings cases, but did not find any deficiencies in regards to the remainder of the State’s probate cases, including trusts, estates, etc. The relevant issues identified, quoted from the audit report, are as follows:

- (1) “...some of the courts do not have sufficient controls to monitor the activities of conservators and guardians”;
- (2) the Judicial Branch “does not have any policies or directives establishing the standard monitoring practices courts must apply”;
- (3) that the “State Court Administrator’s Office does not currently review court practices to determine whether the courts are monitoring guardians and conservators effectively or to provide technical assistance”; and,
- (4) that the State Court Administrator needs to “take steps to standardize reporting and review procedures for conservator and guardian cases.”

In response to the audit, the Chief Justice appointed a diverse task force of judges, attorneys, other government officials, non-profit groups, and citizens to consider the issues in the audit and begin to craft solutions to the issues identified in the audit. The result of the efforts of the task force has been that the Judicial Branch has fully responded, without any requests for additional resources in this area, to several of the key recommendations contained in the audit, including: (1) development of twenty new JDF forms to further standardize the process for clerks and litigants and make statewide practice more uniform; (2) completion of a new set of detailed case-handling procedures for clerk’s office staff that will be incorporated into the new clerk’s manual and become standard practice branch-wide; (3) consideration of various probate rule changes to better simplify and streamline the processing and handling of these cases; and, (4) development of new manuals for use by appointees to assist them in performing their duties and complying with Court filing requirements. A full report from that task force is forthcoming.

State Court Administrative Office Staff, based on the recommendations of the task force, reached the following independent conclusions regarding what will be necessary to further implement the recommendations of the task force:

- (1) that once problem cases are identified, there is in many cases no where for a court to send a case for further review and auditing after district level staff have identified the case as a problem case, and thus there is a need to fill that gap by having a person, at the state office level, with the relevant expertise available to assist the trial courts when an audit is needed but no funds are available in the estate;
- (2) that most districts do not have a case load that would allow for a full-time person to be ready to audit all of the problem cases, and thus that function would be best be performed at the statewide level on a pilot basis in order to begin to ascertain need and the distribution of need across districts;

- (3) that there was a need identified in the audit to have state-wide programmatic support to perform, in this area of the law, what are the classic functions of the State Court Administrator's Office¹;
- (4) that the Judicial Branch needs to further study the cost of implementing the numerous recommendations that came from the task force and that the best way to accomplish this was to fund several district-level staff pilot projects to determine the staffing levels and type of staff necessary to close the monitoring gap and otherwise respond to the audit findings and task force recommendations; and,
- (5) that the Judicial Branch needs to be institutionally prepared for what are likely to be an influx in these types of cases which numbers correlate with the aging growth of the population.

As such, the Branch is requesting an increase of 3.0 FTE. 1.0 FTE will go the State Court Administrator's Office. That person will perform the classic functions of SCAO in relation to this area of law, facilitate and evaluate the district-level staffing pilot projects with a two-year time frame, further implement the recommendations of the task force, develop a statewide system of compliance monitoring to assist the districts, and provide on a pilot basis conservator and guardian audit support services. 2.0 FTE is requested for additional staff at the district level to operate a 1-2 year pilot project. It is expected that these persons will be classified as court facilitators, and the study will determine the scope and nature of their duties and study the staffing levels necessary to achieve the recommendations of the task force statewide. Districts will be selected by SCAO as pilot sites after a competitive process of submitting written proposals that will be evaluated using the guidelines developed by the Further Studies Group of the task force.

Consequences if Not Funded

Failure to fund this request will hamper the Branch's ability to completely and in a timely fashion implement the various recommendations of the Task Force in response to the deficiencies identified in the audit.

In particular, failure to fund this decision item in FY 2009 will have the following results. First, the audit called for the SCAO to have personnel in place to perform what the audit identified as the typical functions of SCAO in the area of protective proceedings cases. Unfortunately, under current resource allocations, it is impossible for SCAO staff to entirely complete the tasks the audit recommended in terms of the responsibilities of the state office. The result will be further delays in closing the so-called monitoring gap, the result of which is that the wards will continue to be more vulnerable to various abuses. Second, failure to fund the pilot project will hamper the Branch's ability to study the response necessary to close the monitoring gap at the district level. It is still unknown the levels and type of staffing necessary to respond to the various challenges in the audit and recommendations of the task force. Without undertaking the pilot, it will be difficult if not impossible to implement the kind of district-level processes and staffing models necessary to fully respond to the recommendations of the Task Force.

¹ Such classic functions would include: providing administrative and technical support to the trial courts handling protective proceedings cases, providing centralized policy guidance, developing and implementing standards, and serving as an advocate and central point of contact for all protective proceedings related issues.

Calculations for Request

PERSONAL SERVICES CALCULATIONS					
<i>GRAND TOTAL</i>					
		FY 08-09	FY 08-09	FY 08-09	FY 09-10
PERSONAL SERVICES		Management Analyst II	Court Facilitator		
Number of PERSONS / class title		1.00	2.00	3.00	3.00
Monthly base salary	\$	5,239	4,400		
Number months working in FY 08-09		11	10		
Salary		\$57,629	\$88,000	\$145,629	\$168,468
PERA	10.15%	\$5,849	\$8,932	\$14,781	\$17,099
AED	1.60%	\$922	\$1,408	\$2,330	\$2,696
SAED	0.75%	\$432	\$660	\$1,092	\$1,264
Medicare	1.45%	\$836	\$1,276	\$2,112	\$2,443
Health/Life/Dental (non-add)	6.684	\$6,684	\$13,369	\$20,053	\$20,053
Short-Term Disability (non-add)	0.13%	\$75	\$114	\$189	\$219
Subtotal Personal Services		\$72,427	\$113,759	\$165,944	\$191,970
OPERATING					
Supplies @ \$500/FTE	\$ 500	\$500	\$1,000	\$1,500	\$1,500
Travel @ \$1000/FTE	\$ 1,000	\$1,000	\$2,000	\$3,000	\$3,000
Telephone Base @ \$450/FTE	\$ 450	\$450	\$900	\$1,350	\$1,350
Leased Space of 180 SF/FTE @ \$22 SF	\$ 3,960	\$3,960		\$3,960	\$3,960
Subtotal Operating		\$1,950	\$3,900	\$9,810	\$9,810
CAPITAL OUTLAY					
Computer @ \$959/FTE	\$ 959	\$0	\$0	\$0	
Laptop @ \$1,500/FTE	\$ 1,500	\$1,500	\$3,000	\$4,500	
Office Suite Software @ \$300/FTE	\$ 300	\$300	\$600	\$900	
Office Equipment @ \$2,021 /FTE	\$ 2,021	\$2,021	\$4,042	\$6,063	
Printer @ \$500/FTE	\$ 500	\$500	\$1,000	\$1,500	
Subtotal Capital Outlay		\$4,321	\$8,642	\$12,963	\$0
GRAND TOTAL ALL COSTS		\$78,698	\$126,301	\$188,717	\$201,780

Assumptions for Calculations

Personal Services

All personal services calculations were based on FY08-09 Common Policies

Impact on Other Government Agencies

No impact on other state agencies is anticipated.

Cost/Benefit Analysis

The benefit of undertaking the analysis cannot be numerically quantified. The benefit of fully and completely implementing the recommendations made in response to the audit is that wards who are under the full protection of the state as contemplated by the audit will be better protected and less vulnerable to abuse, financial losses, and neglect.

Implementation Schedule

Task	Month/Year
State Office 1.0 FTE Hired	7/09
Pilot Project Begins (2.0 FTE to Districts)	8/09

Statutory Authority

Sections 13-5-101, et seq., C.R.S.

Performance Measures

MEASURE I-1:					
Objective – Increase positive perceptions of court experience.					
Performance Measure	Outcome	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (estimate)	FY 10-11 (projected)
Percentage of respondents surveyed indicating positive perception of access and fairness.	Benchmark	N/A	N/A	N/A	N/A
	Actual	N/A	N/A	N/A	N/A

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