

Memorandum

**To: The Honorable Jared Polis
Wade Buchannan, Adam Zerran**
From: Ruth Aponte, Aponte & Busam (303-907-1980)
Date: May 6, 2019
RE: Support HB 19-1045, Office of Public Guardianship Operations

On behalf of the undersigned organizations, please accept this request to enact HB 19-1045, Office of Public Guardianship Operations, into law with your signature. The measure is sponsored by Reps. Marc Snyder, Matt Soper & Senator Joann Ginal and supported by a strong bi-partisan majority of state lawmakers.

The bill funds a pilot program in the Second Judicial District (Denver) to provide public guardians to Colorado citizens who lack the mental capacity to act on their own behalf and are without relatives, friends or any other resource to assist them with basic decisions regarding health care, living arrangements, and all other needs to ensure their safety and wellbeing. The bill helps Coloradans caught in these most unfortunate life circumstances: a US veteran suffering from PTSD or other war-related conditions, an elder suffering from dementia, or any adult incapacitated by mental illness, traumatic head injury or other capacity limitations.

The pilot project is supported by four expert reports: 2012 Elder Abuse Task Force, two 2014 advisory reports to the Chief Justice of the Supreme Court and the 2016 Initial Strategic Action Plan on Aging. ***These reports found that public guardianship is an effective tool to ensure older adults and people with disabilities can live free from abuse, neglect and exploitation.***

While the exact number is not known, a 2014 population-based extrapolation model estimated that approximately ***5,800 individuals statewide*** may need public guardianship services. Currently there are no consistent, reliable or funded options for those persons who need a guardian and lack the capacity, resources, and friend or family support to make decisions concerning their well-being. The result is that many of these individuals are:

1. maintained in inappropriate and most restrictive and expensive settings such as a hospital ICU or other inpatient acute care setting, a long-term care facility, or a county jail; or
2. become homeless as they are unable to successfully apply for services to assist them to obtain housing, food, and medical services.

Public guardianship involves making personal decisions about the incapacitated person, such as

- where the individual will live;
- the kind of medical treatment, care and assistance the individual will receive;
- how the individual will be protected;
- the kind of supervision the individual will receive.

For the **overall system** public guardian involvement can provide the following benefits:

- Reduced delays in treatment, discharge or transfer of an incapacitated individual thus promoting better health outcomes and cost savings
- Reduce the time incapacitated individuals are unnecessarily confined in restrictive institutionalized settings such as hospitals or jails or may become homeless.

- Reduce costs to state services such as Medicaid, Adult Protective Services and law enforcement.
- Provide the Courts the ability to secure the appointment of a guardian where needed, including the appointment of a guardian for individuals determined permanently incompetent to proceed on criminal matters.
- Allow APS to focus on investigation of referrals for adult neglect, abuse and exploitation.
- Provide uniform guardianship services and ensure guardians act in accordance with the highest ethical standards.

HB 19-1045 funds the pilot program with a mix of General Fund and statewide fees on court cases. The fee increase was done with support and collaboration of the Colorado Bar Association and the Department of Law. Lack of public guardians creates a significant challenge to due process in courts across Colorado.

The bill also narrowed the pilot to the Second Judicial District (Denver). This will assure a critical mass needed to provide data, implement best practices and conduct a cost-benefit analysis to inform the effort to scale the pilot statewide with a priority on rural judicial districts.

Thank you for consideration of signing this important measure. HB 19-1045 acknowledges that a stable and ongoing funding source is needed to bring the OPG pilot program into reality.

SUPPORTING ORGANIZATIONS

Commission for the Colorado Office of Public Guardianship

AARP – Colorado

Alzheimer’s Association of Colorado

The Alliance

The Arc of Colorado

Colorado Bar Association

Colorado Coalition for the Homeless

Colorado Hospital Association

Colorado Senior Lobby

Denver Health

United Veteran’s Coalition of Colorado