

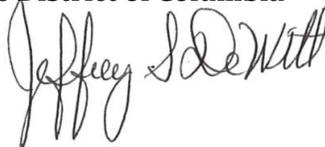
Government of the District of Columbia  
Office of the Chief Financial Officer



**Jeff DeWitt**  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeff DeWitt  
Chief Financial Officer 

**DATE:** November 24, 2014

**SUBJECT:** Fiscal Impact Statement – Limitations of Guardianship Amendment Act of 2014

**REFERENCE:** Bill 20-710, Draft Committee Print as shared with the Office of Revenue Analysis on November 18, 2014

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**Conclusion**

Funds are sufficient in the FY 2015 through FY 2018 budget and financial plan to implement the bill.

**Background**

District law requires that attorneys and guardians consider the legitimate interest of a person who is the subject of protective legal proceeding and allows them to make a determination as to the person's interests if the person is incapacitated.<sup>1</sup> The bill directs the attorneys or guardians to elicit and represent the expressed wishes of the person so long as the person can express his or her wishes. If the expressed wishes of the individual cannot be determined due to incapacitation, then the attorney or guardian should act in the best interests of the individual.

The bill also establishes greater oversight of guardians through regular mandatory reviews and enhanced guardian selection criteria. All guardianship cases established after January 1, 2015 are subject to a licensed social worker<sup>2</sup> case review every three years. The social worker must complete the case review within six months and include an updated medical or psychological report of the ward,<sup>3</sup> a statement from the ward expressing his or her guardianship scope and duration preferences, and statements from the ward or other interested parties about the status of the guardianship. The case reviewer must also include his or her opinion on whether the guardianship

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<sup>1</sup> D.C. Official Code § 21-2033.

<sup>2</sup> The social worker can be supported graduate students in the court's Guardianship Assistance Program.

<sup>3</sup> A ward is an individual for whom a guardian has been appointed.

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FIS: Bill 20-710, "Limitations of Guardianship Amendment Act of 2014," Draft Committee Print as shared with the Office of Revenue Analysis on November 18, 2014

order is the least restrictive guardianship order. The report should be delivered to the ward and the guardian within ten days of its completion. At the ward's request or upon the case reviewer's recommendation of a modification or termination of guardianship, the court should hold a hearing to evaluate the guardianship order.

The bill also changes the qualification criteria for a guardian. A prospective guardian must provide official documentation of criminal records,<sup>4</sup> and Metropolitan Police Department and Federal Bureau of Investigation background checks. If the prospective guardian had been convicted of a crime, the prospective guardian must establish why he or she can best represent the wishes of the individual.

Lastly, the bill imposes a limitation on a guardian that prohibits unreasonable confinement or involuntary seclusion of an incapacitated individual.

### **Financial Plan Impact**

Funds are sufficient in the FY 2015 through FY 2018 budget and financial plan to implement the bill.

The Department of Disability Services (DDS), and to a lesser degree other District agencies,<sup>5</sup> participates in the legal process for all guardianship cases involving recipients of DDS services.<sup>6</sup> The case reviews and any hearings that result from them could pressure DDS resources. The number of hearings requested for individuals monitored by District agencies should be reviewed to ensure existing resources continue to be sufficient in the future. This information will not be known until the case reviews begin which is likely to start in 2016.

Implementation of the case reviews for all guardianship cases will require additional social workers at Superior Court to accommodate nearly five hundred case reviews annually. The DC Courts are federally funded so the federal government will bear the burden of funding this need and there is no impact on the District's budget.

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<sup>4</sup> The specific crimes established in the bill include crimes such as lifetime registration offenses, registration offenses, dangerous crimes, crimes of violence, and abuse of a minor or elderly individual.

<sup>5</sup> Examples of agencies active in guardianship issues are the Child and Family Services Agency and the Department of Behavior Health.

<sup>6</sup> DDS currently participates in over 650 general or limited guardianship cases.