

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 903
(Delegate Bridges)
Health and Government Operations

Task Force to Study the Maryland Public Guardianship Program

This bill establishes the Task Force to Study the Maryland Public Guardianship Program. The Maryland Department of Aging (MDOA) must provide staff for the task force. Members may not receive compensation but are entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget. By January 1, 2022, the task force must report its findings and recommendations to the Governor and the General Assembly. **The bill takes effect July 1, 2021, and terminates June 30, 2022.**

Fiscal Summary

State Effect: MDOA general fund expenditures increase by \$34,500 in FY 2022 only for contractual support to staff the task force and complete the required report. Revenues are not affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	34,500	0	0	0	0
Net Effect	(\$34,500)	\$0	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The task force consists of (1) one member of the Senate, appointed by the Senate President; (2) one member of the House of Delegates, appointed by the Speaker of the House; (3) the Secretary of Aging (or the Secretary's designee); and (4) several specified members appointed by the Governor. The members of the Senate and House of Delegates must serve as co-chairs.

The task force must:

- assess and analyze the Maryland Public Guardianship Program;
- compare the practices of local Area Agencies on Aging (AAAs) relating to the Maryland Public Guardianship Program;
- analyze and compare the laws and practices of other states relating to public guardianship programs;
- examine any other research, analysis, or guidance related to the best practices of public guardianship programs; and
- make recommendations to improve the Maryland Public Guardianship Program.

Current Law: Section 13-705 of the Estates and Trusts Article establishes the process for the appointment of a guardian of the person for a disabled person. On petition and after any notice or hearing, a court may appoint a guardian of the person of a disabled person. A guardian of the person must be appointed if the court determines from clear and convincing evidence that a person lacks sufficient understanding or capacity to make or communicate responsible personal decisions (including provisions for health care, food, clothing, or shelter) because of any mental disability, disease, habitual drunkenness, or addiction to drugs, and no less restrictive form of intervention is available that is consistent with the person's welfare and safety.

For adults younger than age 65, the director of the local department of social services may be appointed guardian. For adults age 65 years or older, the Secretary of Aging or the director of an AAA may be appointed as guardian, except where the local department of social services has been appointed guardian to a person before age 65.

If a local department of social services receives a report that an alleged vulnerable adult, who lacks the physical or mental capacity to provide for their daily needs, has been subjected to abuse, neglect, self-neglect, or exploitation, the department must conduct a thorough investigation. If an individual is determined to require protective services but is unwilling or unable to accept protective services voluntarily, the director may petition the court for the appointment of a guardian. A director of a local department in the county where the vulnerable adult lives may be appointed as guardian.

Every county must have an adult public guardianship review board. The review board must generally review each guardianship that a public agency holds every six months. Guardianships that a public agency has held for more than one-year must be reviewed at least annually, with a file review to take place at least every six months. Each time the review board reviews a guardianship, the board must recommend whether the guardianship should be continued, modified, or terminated.

State Expenditures: General fund expenditures increase by \$34,523 in fiscal 2022, which accounts for the bill's July 1, 2021 effective date. MDOA cannot absorb the additional duties and has determined that one regular part-time position is needed to implement this bill. However, the Department of Legislative Services advises that the added responsibilities incurred by this legislation are not permanent and, thus, may be performed by a contractual employee. This estimate reflects the cost of hiring one part-time contractual administrator to staff the task force and complete the required report. It includes a salary, fringe benefits, one-time start-up costs, and operating expenses.

Contractual Position	0.5
Salary and Fringe Benefits	\$29,105
Operating Expenses	<u>5,418</u>
Total FY 2022 State Expenditures	\$34,523

The contractual position is eliminated June 30, 2022, concurrent with the termination of the task force.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Aging; Department of Legislative Services

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md/jc

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