

Multiple Agency Fiscal Note Summary

Bill Number: 6427 SB	Title: Incapacitated adults
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Estimated Cash Receipts

NONE

Estimated Expenditures

Agency Name	2011-13			2013-15			2015-17		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Commerce	.0	0	0	.0	0	0	.0	0	0
Total	0.0	\$0	\$0	0.0	\$0	\$0	0.0	\$0	\$0

Local Gov. Courts *	Non-zero but indeterminate cost. Please see discussion.								
Local Gov. Other **									
Local Gov. Total									

Estimated Capital Budget Impact

NONE

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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

Judicial Impact Fiscal Note

Bill Number: 6427 SB	Title: Incapacitated adults	Agency: 055-Admin Office of the Courts
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2012	FY 2013	2011-13	2013-15	2015-17
Counties					
Cities					
Total \$					

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.
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The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☒ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

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Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

Section 1 amends RCW 11.88.020 and provides that a proposed professional guardian shall disclose in writing to the guardian ad litem (GAL) any prior or existing relationship, or other circumstance that would cause the appearance of a conflict of interest in the matter.

Section 2 amends RCW 11.88.030 and makes changes to a notice of the legal rights of the alleged incapacitated person.

Subsection (7) states the court must provide a person filing a petition under this section with information regarding professional and lay guardians.

Section 3 amends RCW 11.88.040 requiring that 15 days before the hearing provided for is to be held, notice as to the proposed guardian or limited guardian to be appointed is to be given to the alleged incapacitated person and other specified persons, along with other information provided for in RCW 11.88.030.

Section 4 amends RCW 11.88.120 to provide that anytime after a guardianship is established, or the appointment of a guardian, the court may, upon the death of the guardian, or for other good reason, modify or terminate the guardianship or replace a guardian or limited guardian. Any person, including the incapacitated person, may register a complaint about the conduct of the guardian or limited guardian and request the court grant appropriate relief. Applicants may move for an order to show cause or they may deliver a written request to the clerk of the court. By the next judicial day after receipt of a person's request the clerk shall deliver the request to the court and the court must direct the clerk to schedule a hearing and mail notice to those set out in the subsection. The court may deny the application without scheduling a hearing, if it appears based on documents in the court file that the application is frivolous. If the court denies the petition without hearing it shall state reasons in writing and a copy of the order shall be mailed by the clerk to the applicant, to the guardian, and to any other person entitled to receive notice of proceedings in the matter.

Section 5 amends RCW 11.88.090 and provides that a guardian ad litem (GAL) appointed pursuant to this section must disclose in writing to the court any prior or existing relationship or other circumstances that would cause the appearance of a conflict of interest in the GAL's recommendation when the GAL is making a recommendation of an appointment of a particular person, or persons, as a guardian to a court. Such disclosure must also be provided to persons receiving copies of the report as set out in this section.

Section 6 amends RCW 11.92.043 and provides that no guardian, or limited guardian, or standby guardian, may prevent or limit contact between the incapacitated person and another person except where a guardian has grounds to believe that contact with a person puts the incapacitated person at substantial and imminent risk of harm, the guardian may prevent or limit the contact for the period of time necessary to file and be heard on a petition for a vulnerable adult protection order or other court order conveying this authority.

When a guardian, limited guardian or stand by guardian, prevents or limits contact between the incapacitated person and another person the guardian shall promptly serve to the incapacitated person, the affected party and each party entitled to receive a notice of proceedings a written statement that identifies the harm that the guardian seeks to prevent, facts supporting the guardian's concern, what limitations are placed on contact, and written notice that the incapacitated person or the affected party may seek relief from the limitation. The guardian shall file with the court a copy of the statement, the notice, and proof of the delivery of the notice to each party entitled to notice.

Section 7 is a new section to RCW 2.56 that directs the administrative office of the courts to publish on its web site information regarding professional and lay guardians. Information must provide family members of incapacitated adults with information detailing: What a guardian is, the different types of guardianships in Washington, the powers granted to a guardian, an explanation of how professional guardian fees are approved by the court and a description of the process to request that the court modify a guardianship or to remove a guardian, the ethical and fiduciary duties of a guardian and information about the professional guardian board and program.

II. B - Cash Receipts Impact

II. C - Expenditures

In 2010 there were 2,910 guardian petitions filed in Superior Courts. There are approximately 20,000 open guardian petitions statewide. It is not possible to determine how many new petitions would fall under the provisions of this bill

There is no data available to estimate the fiscal impact of this bill. However, it is assumed that the impact would be less than \$50,000 per year. The \$50,000 expenditure level represents approximately 83 hours (0.07 FTE) of superior court judicial officer time annually cumulative for all superior courts in the state with associated support staff and operational costs. It is assumed, therefore, that this bill would require less than 83 hours of judicial officer time statewide on an annual basis.

Section 4 provides for a procedure for a hearing to modify or terminate the guardianship or replace a guardian. This is an added procedure and would likely involve additional hearings and judges' time to screen written materials to determine whether the application is frivolous, and if found to be frivolous the judge must prepare written findings in an order. Clerks' offices would incur time and expense mailing these orders when a judge issues an order denying a hearing to persons entitled to receive them.

Section 7 directs the AOC to develop a publication for the AOC web site with information on professional and lay guardians. Information would be provided on the different types of guardians, powers granted to guardians, an explanation of professional guardian billing for their services, an explanation of how professional guardian fees are approved by the court and a description of the process to request that the court modify a guardianship or remove a guardian, the ethical and fiduciary duties of a guardian, and information about the certified professional guardian board and program. The estimated cost of preparing this publicaion is \$7,500.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Individual State Agency Fiscal Note

Bill Number: 6427 SB	Title: Incapacitated adults	Agency: 103-Department of Commerce
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Part I: Estimates

☒ No Fiscal Impact

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

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OFM Review: Tristan Wise	Phone: (360) 902-0538	Date: 02/01/2012

Request # 056-3A0-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 8 requires the Long Term Care Ombudsman program in the Department of Commerce to provide public information about professional and lay guardians. The information can be published on a web site, or other means, for the benefit of family members of incapacitated adults. This information should explain the different types of guardianships and the duties and responsibilities of a guardian or limited guardian, explain how professional guardian fees are approved by the court, and contain information about the certified professional guardian board and programs.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

There will be no net fiscal impact to Commerce because the interagency agreement with DSHS would be increased to reflect these additional expenditures.

Section 8

Commerce estimates 0.10 FTE Commerce Program Specialist 2 to coordinate the development of web content for the Long-Term Care Ombudsman web page and to coordinate with the Attorney General and the Long-Term Care Ombudsman contractor to ensure compliance of content with statute.

Salaries and Benefits:

FY13: \$7,194

FY14-17: \$7,385 each fiscal year

Goods and Services

FY13: \$3,629

-standard Goods and Services: \$2,713

-space Costs: \$496

-non-standard Goods and Services: \$420 for attorney general review services

FY14-17: \$3,696 each fiscal year
-standard Goods and Services: \$2,781
-space Costs: \$496
-non-standard Goods and Services: \$420 for attorney general review services

Note: Standard goods and services costs include supplies and materials, employee development and training, mandatory state seat of government and Department of Personnel charges, and Commerce agency administration. Commerce administration provides general standard governmental services including, but not limited to: budgeting, accounting, payroll, and purchasing services; personnel and employee services; internal information technology systems, desktop and network support services; facilities management services; public affairs services; policy and risk management services; and other support services.

Grants, Benefits and Client Services:

In FY13, the Long-Term Care Ombudsman (LTCO) contractor will conduct research on the professional and lay guardian system and consult with Commerce about the web site content (\$840) and coordinate with the web developer to design and maintain the website (\$3,640). After FY13, the LTCO contractor would maintain and update all printed and electronic information (\$1,740 each fiscal year).

FY13: \$4,480
FY14-17: \$1,740 each fiscal year

Interagency Agreement

Commerce has an interagency agreement with the Department of Social and Health Services (DSHS), under which the costs outlined above will be reimbursed.

FY13: minus \$15,303
FY14-17: minus \$12,821 each fiscal year

Total Commerce Program Cost:

FY13-17: \$0 each fiscal year

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None