

Colorado Legislative Council Staff Fiscal Note

STATE
FISCAL IMPACT

Drafting Number: LLS 12-0190
Prime Sponsor(s): Rep. Kerr J.
 Sen. King S.

Date: February 6, 2012
Bill Status: House Judiciary
Fiscal Analyst: Alex Schatz (303-866-4375)

TITLE: CONCERNING ACCESS TO DATA TO ASSIST THE COURTS IN OVERSEEING PERSONS APPOINTED TO MANAGE THE AFFAIRS OF PERSONS UNDER DISABILITY.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures	See State Expenditures section.	
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: None.		

Summary of Legislation

This bill is recommended by the **Legislative Audit Committee**.

Under this bill, a court may access data maintained by state agencies that includes contact information for guardians and conservators acting on behalf of incapacitated or protected persons when the guardian or conservator has failed to file a required report or respond to a court order. A court conducting an investigation may access contact information for the guardian, conservator, incapacitated person, or the protected person, provided that the court preserves the confidentiality of any information it receives. The bill obliges all state government agencies with records containing personal contact information to respond to an investigation of a guardian or conservator by a Colorado court.

The bill specifically identifies vital statistics information (in the Department of Public Health and Environment), wage and employment data (in the Department of Labor and Employment), drivers' license and tax records (in the Department of Revenue), and voter records (as transmitted annually by the Secretary of State to the State Court Administrator's Office) as sources of personal contact information. The Judicial Branch and these named agencies, at their own discretion, may execute data sharing agreements to guide the use of state agency data for guardian and conservator investigations.

To accept the status of a guardian or conservator under the bill, a nominee must sign a statement acknowledging to the court their understanding that they may be investigated, including access to state agency data, or held in contempt of court for failing to file required reports or respond to a court order.

Background

A September 2011 report by the Office of the State Auditor found that Colorado courts supervising guardianship and conservatorship cases are deficient in obtaining and reviewing reports required of guardians and conservators and following up when these reports are missing. To address concerns in the audit report, the Judicial Branch stated that it would seek legislation granting courts access to Department of Revenue databases for contact information for delinquent guardians and conservators. The Legislative Audit Committee determined to support legislation with expanded authority to utilize information from multiple state agencies.

The bill identifies four executive branch departments that are presumed to have useful data for personal contact information. The bill also allows access to data maintained by other state agencies. There are many state agencies that maintain records with personal contact information. As examples:

- The Department of Natural Resources tracks personal information when hunting and fishing licenses are sold.
- The Department of Personnel and Administration maintains information about persons owing debts to the state.
- The Department of Human Services has some existing guardian and conservator information in its child welfare database.
- The Governor's Energy Office manages participation in the federal Low-Income Weatherization Program.

State Expenditures

The Colorado Department of Revenue (CDOR) routinely provides drivers' license data for investigative purposes, and the CDOR is able to share tax records on a limited basis. Protocol and resources for investigations are well established in CDOR. Request for CDOR data from the courts will not appreciably increase CDOR workload and will result in no increase in CDOR expenditures.

Based on its plan to focus on CDOR data, the fiscal note assumes that the Judicial Branch will not request data from other state agencies unless, on an infrequent basis, contact information is not first revealed through a search of CDOR data.

Given the wide availability of contact information and the limited number of guardians and conservators likely to be subject to investigations, the cost of this bill to most state agencies will be minimal. An occasional inquiry may require 10 to 15 minutes to search on most database systems. For most state agencies, the minimal increase in workload under the bill is comparable to normal variation in the number of records requests and will, therefore, be absorbed within existing resources.

Some state agencies have specific procedures and fees related to data sharing. For example, the Department of Labor and Employment (CDLE) typically charges fees for set-up, formation of a data sharing agreement, usage costs, and renewal of the agreement. The fiscal note assumes that requests for CDLE data will not be frequent enough to warrant the installation of a query system in Colorado courts. Should wage and employment data—or data from another agency with such fees—prove sufficiently useful, the State Court Administrator's Office may request funding through the normal budget process to install a data access system in one or more Judicial Branch locations.

Departments Contacted

All Departments

Judicial Branch