

FISCAL IMPACT OF PROPOSED LEGISLATION

80th Oregon Legislative Assembly – 2019 Regular Session
Legislative Fiscal Office

Measure: SB 891

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Date: March 29, 2019

Measure Description:

Requires that court hold hearing on petition to appoint fiduciary filed by Oregon Public Guardian and Conservator or county public guardian and conservator.

Government Unit(s) Affected:

Department of Human Services (DHS), Public Defense Services Commission (PDSC), Long Term Care Ombudsman (LTCO), Counties, Oregon Judicial Department (OJD)

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Analysis:

SB 891 requires that the probate courts hold a hearing on any petition to appoint a public guardian and conservator. This bill also requires the courts to appoint an attorney to represent the respondent unless the respondent already has an attorney, or objects to the appointment of counsel. The appointed attorney's fees are to be paid from the respondent's assets, or by the State Public Defense Services Commission if the court determines that the respondent is eligible for appointed counsel at state expense.

Long Term Care Ombudsman

The Long Term Care Ombudsman houses the Office of the Public Guardian (OPG) program. This program files petitions proposing the Public Guardian as the guardian for an individual. Non-contested OPG cases are generally handled relatively quickly with lower legal costs than required for contested cases; contested cases necessitate more Department of Justice assistance, which costs about \$10,000 per case. By appointing counsel in most guardianship hearings involving the public guardian as the proposed guardian, the cases would effectively be contested and increase the program's legal costs. However, OPG is currently close to reaching its caseload capacity, so very few new petitions are expected to be filed in the 2019-21 biennium; the associated fiscal impact is minimal. If this bill passes and the program receives more staff to support a higher caseload in the future, funding to cover the agency's additional legal costs would likely need to be provided.

Oregon Health Authority

The Oregon State Hospital brings forward about six petitions per year on behalf of its patient population where the potential exists for mismanagement of patient funds by outside sources. These cases have been uncontested. This bill would render the hearings contested and add legal costs. To the extent the Oregon State Hospital cannot absorb these increased costs, it will transfer petitions to counties or the Office of the Public Guardian. The fiscal impact of this bill is indeterminate, but likely minimal, on the Oregon State Hospital.

Oregon Judicial Department

Currently courts only hold hearings on guardianship and conservatorship petitions when an objection is filed by the respondent or an interested person. Requiring the court to hold a hearing in every case where a public guardian is to be appointed will increase the number of hearings in probate courts. The number of petitions for the appointment of the Oregon Public Guardian continue to increase each year. In 2018, 33 petitions to appoint the Oregon Public Guardian and Conservator were filed and there were objection hearings held on 13 of those

petitions. Based on that data, the number of hearings would be more than doubled with SB 891. However, the overall number of cases do not represent a significant impact on the courts statewide. The fiscal impact of this bill on the judiciary is minimal.

Public Defense Services Commission

The Public Defense Services Commission anticipates being able to absorb any costs associated with this bill.