

Washington State Judicial Branch

2023-25 Biennial Budget

Increase Public Guardianship Services

Agency: Administrative Office of the Courts

Decision Package Code/Title: S6 - Increase Public Guardianship Svcs

Agency Recommendation Summary Text:

The Administrative Office of the Courts requests \$1.4 million in ongoing funding to respond to the high demand for public guardianship services which reduce public costs over time while reinforcing legislative intent to protect the liberty and autonomy of all people in Washington, recognizing that some vulnerable adults cannot exercise their rights without the help of a guardian/conservator. The Office of Public Guardianship (OPG) contracts with 21 certified professional guardians and conservators/agencies to provide professional guardianship/conservatorship services to indigent individuals. OPG is approaching capacity and, without additional funding, will have to stop accepting new clients. (General Fund-State)

Fiscal Summary:

	FY 2024	FY 2025	Biennial	FY 2026	FY 2027	Biennial
Staffing						
FTEs	0.00	0.00	0.00	0.00	0.00	0.00
Operating Expenditures						
Fund 001-1	\$686,000	\$686,000	\$1,372,000	\$686,000	\$686,000	\$1,372,000
Total Expenditures						
	\$686,000	\$686,000	\$1,372,000	\$686,000	\$686,000	\$1,372,000

Package Description:

In 2007, the Legislature appropriated \$1.5 million to create the Office of Public Guardianship (OPG) within the Administrative Office of the Courts (AOC). After cuts that suspended services to new clients, in 2011, the Legislature provided additional funding of \$265,000 for one fiscal year to fund existing caseload pending a December 2011 completion of a Legislature-directed study by the Washington State Institute for Public Policy (WSIPP).

The WSIPP study was to “analyze the costs and off-setting savings to the state from the delivery of public guardianship services.” The 2011 study reported that individuals who are unable to pay for guardianship services ultimately accrue more costs to the state through increased hospital stays and placement in restrictive facilities, and it’s estimated that between 4000-5000 Washingtonians need public guardianship services. Because of that study, the Legislature provided OPG funding to continue providing public guardianship services for its existing caseload. Unfortunately, OPG’s growth remained stagnant with approximately 75 clients until 2019.

In 2019, the Legislature made significant changes to the program. OPG was established as a permanent statewide program and directed to develop a case weighting system thereby allowing public guardians to increase their caseload limit from 20 to 36 clients. The Legislature also expanded OPG services to include access to less restrictive alternatives, such as supported decision-making assistance and estate administration services.

OPG is currently able to serve a maximum of 140 clients. This is only a small fraction (two to three percent) of the overall need estimated in the WSIPP study. That need is likely much higher today – ten years later – as the demand for guardianship/conservatorship services continues to rise. There is a desperate need for guardians/conservators to

provide decision-making support for individuals with diminished capacity, especially for those that are indigent and cannot pay for guardianship services themselves. OPG provides guardianship services to individuals experiencing homelessness, with little to no resources, and those at risk of harm from abuse, exploitation, abandonment, and neglect and with no one else to care for them.

New clients cannot be served without additional funding. Additional funding will allow OPG to continue growing program capacity in response to ongoing and increasing demands for public guardianship services. This funding is also needed in order to support the increased caseload limit established in 2019. Without additional funding, OPG is unable to accept new clients, accommodate a higher caseload limit, or provide services for less restrictive options to guardianship.

In order to help grow program capacity and expand services, it is critical for OPG to recruit and retain more Certified Professional Guardians/Conservators (CPGCs) to serve as public guardians. The guardianship profession can be viewed as a high-risk, high-stress, long-term commitment with low return, which may be a reason for shortages of guardians in this state. OPG would like additional funding to not only recruit more contractors, but to also provide incentives for contractor retention. OPG must be able to appeal to CPGCs so that they will want to contract, and continue contracting with OPG as public guardians.

In establishing the OPG, the Legislature “reaffirms its commitment to treat liberty and autonomy as paramount values for all Washington residents.” Without a public guardian to establish proper care and services, this kind of freedom for low-income individuals who are completely dependent on others for their well-being and safety cannot be realized.

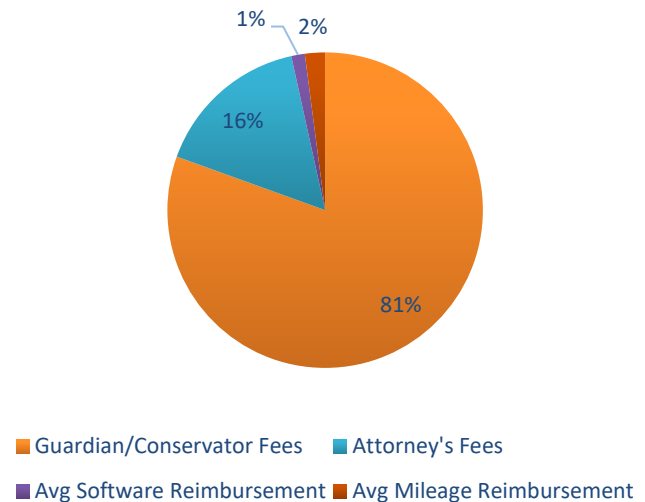
OPG is requesting an additional \$686,600 annually in ongoing funding in order to grow program capacity and to recruit and retain additional public guardians. This will add 75 clients to OPG’s capacity and allow it to serve up to 215 clients total.

The annual cost paid to contractors to provide public guardianship services is approximately \$7,688 per client – a total of \$576,600 for an additional 75 clients. OPG is also requesting an additional \$60,000 to assist with contingency matters such as extraordinary fees to deal with emergent issues involving the OPG client and/or extraordinary guardian/conservator fees to deal with clients’ prolonged instability such as physical and/or mental health crises.

Some of the incentives that OPG uses to attract and retain contractors is by offering reimbursements for attorney’s fees, required software that contractors must use for their OPG cases, and for travel incurred on behalf of an OPG client. See Figure 1 for a breakdown of guardianship/conservatorship fees paid.

Additionally, OPG would like to reimburse contractors for expenses to provide on-the-job training to CPGC students. Currently, the OPG and the University of Washington are collaborating to develop a job shadowing training opportunity for CPGC students. This partnership will help promote the field of (public) guardianship/conservatorship while helping prospective CPGCs develop fundamental skills and gain real world experience. An OPG contractor would receive up to \$1,000 in reimbursement annually for every CPGC student shadowing the contractor. The CPGC student will then have the opportunity to contract with OPG as a public guardian upon completion of the guardianship training program and becoming a certified professional guardian/conservator. The estimated cost for this is approximately \$50,000.

Estimated Annual Cost per OPG Client



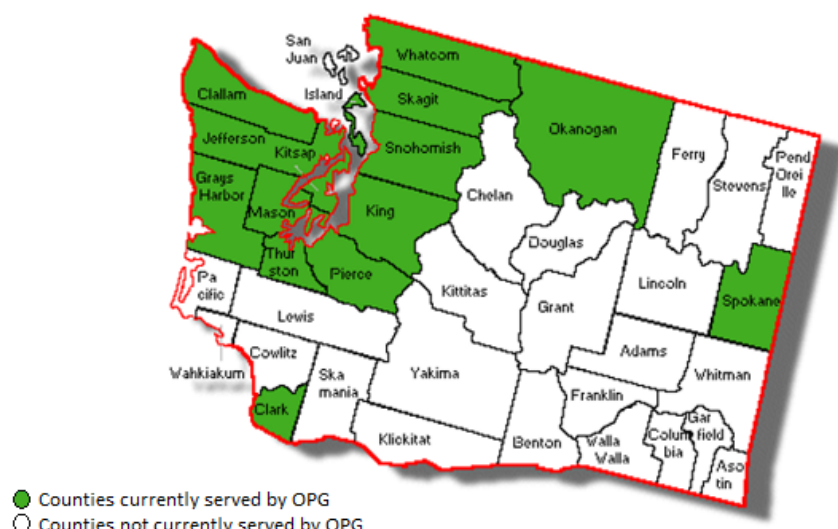
93 percent of the requested additional funding will go directly towards paying guardianship/conservatorship fees to public guardians serving OPG clients. The remaining 7% of funding will go towards training efforts to help foster and recruit more public guardians. There are approximately 257 active CPGCs in Washington and the number of CPGCs serving as public guardians is significantly lower. Currently, OPG contracts with 19 CPGCs/CPGC agencies to provide public guardianship/conservatorship services. The additional funding would not only allow OPG to serve more individuals in need of decision-making assistance, but will also help to educate and cultivate upcoming CPGCs to continue this important work. While there is a shortage of guardians, the need for guardianship services will only continue to rise due to increase in the elderly and persons with disabilities population. The actions taken by OPG with the support of the Legislature will help us respond to this inevitable problem.

Fully describe and quantify expected impacts on state residents and specific populations served:

This decision package affects exceptionally marginalized individuals who are unable to manage fundamental health and safety, indigent, and without any support system. OPG serves the most vulnerable in society: the elderly, people with disabilities, people experiencing homelessness, and all at risk of significant harm from abuse, exploitation, and neglect. A public guardian may be the only feasible option to access residential placement or care. Without OPG services, this population will either be at substantial health and safety risk or occupy scarce hospital or other high-level care beds due to lack of safe discharge. Guardians are more inclined to accept clients that have resources through which they can pay themselves. Low-fee and pro bono professional guardianship services are limited. Furthermore, vulnerable individuals living in rural areas are even more disproportionately impacted. This decision package amplifies an established mechanism for indigent vulnerable individuals to access federal, state, and local benefits and appropriate residential placements, particularly in rural Washington.

The map below shows that most of OPG's contractors serve the Puget Sound and Spokane areas. King, Pierce, and Spokane Counties alone account for nearly 60% of OPG clients served and are the operating base for nearly 75% of public guardians/conservators. The shortage of public guardians is exacerbated in rural Washington.

OPG Counties Currently Served

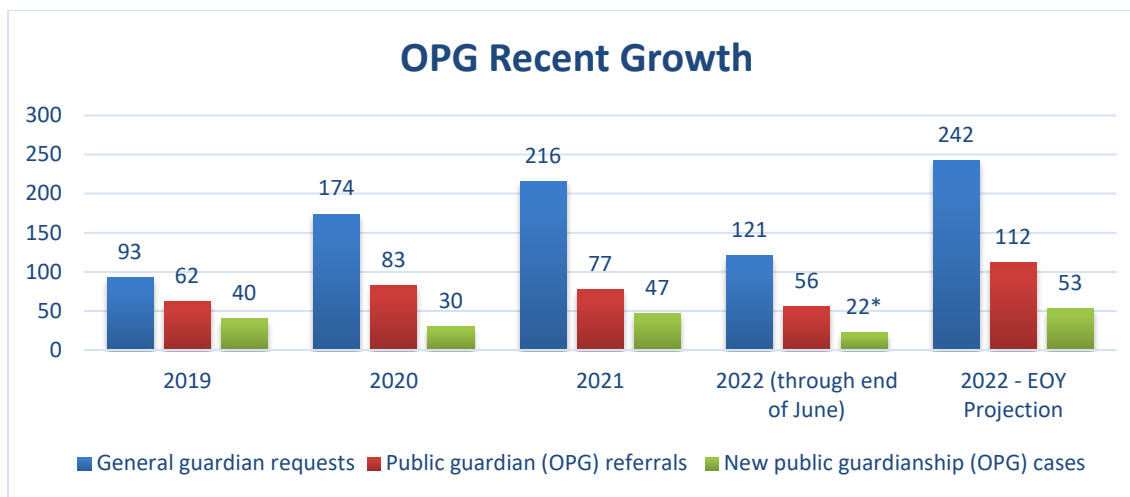


Without sufficient public guardians, the courts will be forced to dismiss more guardianship petitions, which means these individuals can't access necessary care and services, perpetuating a cycle of hospitalization and homelessness. OPG will use additional funding to attract more public guardians to serve urban and especially rural areas.

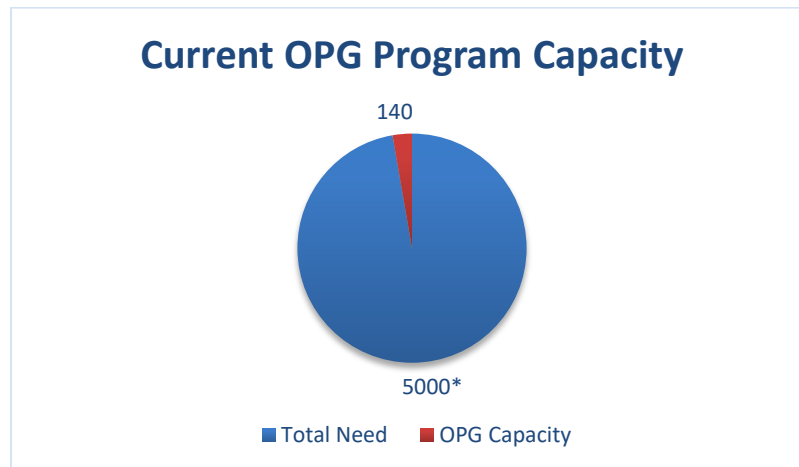
The Legislature's establishment of OPG as a permanent statewide program in 2019 enabled OPG to grow faster in the last three years than in the previous 11-year pilot status period. OPG served approximately 75 clients during the pilot period. Between 2019 and 2021, OPG added, on average, an additional 39

clients per year to the program. The volume of requests for professional guardianship services, and the volume of unmet need from those requests, have increased markedly. OPG's mission is to fulfill this unmet need as much as funding and public guardian availability will permit.

The chart below demonstrates the overall growth in requests for professional guardian/conservator services and the unmet need resulting in referrals for OPG services, and increase in OPG clients. Continued growth in demand for services is expected based on 2022 trends to date. OPG estimates an additional 53 clients added to the program by the end of the year which would exceed the program's current capacity of 140 clients.



With requested funding, OPG will be able to serve an additional 75 clients, 215 in total. Historical estimated need from 2011 (see figure below) indicates a need of considerable magnitude. Demographic trends (e.g., aging and mobile populations) indicate continued growth. Funding this necessary and vital program is a concrete, critical step in addressing Washington's challenges for these vulnerable populations.



**As reported by WSIPP, this is the 2011 estimated need, a need that is likely much higher today.*

Explain what alternatives were explored by the agency and why they were rejected as solutions:

There are less restrictive alternatives (LRAs) to guardianship that does not require court action, such as a durable power of attorney or a supported decision-making agreement. These less restrictive options are not only less expensive to implement, but allows the individual to participate in their own decision-making. LRAs, however, cannot be utilized if the court determines there exists significant risk of harm to the individual without appointment of a guardian. When the court determines that guardianship is the only suitable option for an individual, then no other alternatives to guardianship can be explored.

The court will initially attempt to appoint a lay guardian in most cases. The court will seek to appoint a certified professional guardian if there is no lay guardian willing or appropriate serve. OPG is the guardian of last resort and public guardians are only appointed when there are no other alternatives.

What are the consequences of not funding this request?

Without additional funding, many low-income individuals with diminished capacity will continue to have limited access to public services, healthcare, programs and activities, including entitlement programs that can significantly improve their quality of life. Lack of services for these individuals will result in a higher number of emergency hospitalizations, increase in the number of vulnerable adults subjected to abuse and exploitation, and an increase in caseload within the jurisdiction of probate, civil, and criminal courts – further straining state resources. Incarceration will become a replacement for treatment and displacement of the most vulnerable individuals will also increase – further exacerbating the homeless crisis. These issues will continue to remain, and increase, without additional funding for public guardianship services.

Is this an expansion or alteration of a current program or service?

This budget request is an expansion of the current OPG program. OPG requests funding to increase program capacity, expand services to include options for less restrictive alternatives to guardianship/conservatorship, and to recruit and retain more public guardians to serve low-income individuals with diminished capacity.

Decision Package expenditure, FTE and revenue assumptions:

Contracts (Object C)

Guardianships. This package will require ongoing “Client Service Contracts” (renewed annually) between the AOC/OPG and the CPGC contractor. Contractors are reimbursed for guardianship/conservatorship fees at the end of each month. Guardianship/conservatorship fees for one client average \$7,688 annually for another 75 clients = \$576,600 per fiscal year.

Guardianships. Contingency estimates \$60,000 per fiscal year.

Incentives. Estimated at \$50,000 per fiscal year.

Expenditures by Object		<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>
C	Personal Service Contract	686,000	686,000	686,000	686,000	686,000	686,000
Total Objects		686,000	686,000	686,000	686,000	686,000	686,000

How does the package relate to the Judicial Branch principal policy objectives?

Accessibility: Increasing the funding to serve low-income individuals with diminished capacity and with no one else to care for them will ensure that Washington’s most vulnerable population have access to the support and entitlements they need. By providing access to public guardianship services, OPG helps to improve the lives of marginalized groups such as the elderly, people with disabilities, low-income individuals, and those suffering from homelessness. A guardian can help reduce many barriers for these individuals and help them access healthcare, safe housing, and public services that are necessary to live successfully in the least restrictive environment that is appropriate for that individual. Accessing these vital services for the most vulnerable population helps preserve their autonomy and provides them the protection they need when they cannot protect themselves from personal and financial harm. Without a guardian to appoint, the courts have no other option than to dismiss the case.

Access to Necessary Representation: Pursuant to RCW 11.130.285 and RCW 11.130.385, respondents in guardianship proceedings have the right to representation. The courts, may but are not required, to appoint an attorney to represent the respondent. There are exceptions outlined in RCW 11.130.285 and RCW 11.130.385 when the court must appoint an attorney regardless of the respondent’s ability to pay. Additionally, OPG reimburses attorney fees for public guardianship cases.

Commitment to Effective Court Management: The Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, effective January 1, 2022, requires a court to consider whether less restrictive alternatives would be sufficient to meet the individual’s needs in lieu of a guardianship. This includes options such as a Durable Power of Attorney (DPOA) or a Supported Decision-Making Agreement (SDMA). Increasing funding would allow OPG to serve clients whose needs could not be met without having to appoint a guardian thereby preserving their liberty and autonomy, and saving court costs related to guardianship proceedings. Additionally, support staff will analyze, evaluate, and provide oversight of the program and can demonstrate outputs to provide guidance to policy makers which enhances effective court management.

Are there impacts to other governmental entities?

Providing guardianship services for low-income/indigent individuals will help reduce impacts to both the executive and judicial branches. Without a guardian, those who do not have decision-making capacity cannot discharge themselves from hospitals therefore taking up valuable bed space. The Department of Social and Health Services (DSHS) has already seen an influx of hospitalization cases where individuals with diminished capacity cannot

discharge due to needing a decision-maker. Often times, these individuals do not even have a safe place to be discharged. Both DSHS' and the Assistant Attorney General's (AAG) caseload will continue to increase as it responds to this phenomenon. There will also be an increase in caseload within the jurisdiction of probate, civil, and criminal courts, and incarceration will become a replacement for treatment.

There has been and continues to be widespread support from the legal community and various government entities, such as Aging and Long-Term Support Administration, Developmental Disabilities Administration, and WA State Long-Term Care Ombudsman Program, for OPG to expand its services.

Stakeholder response:

Non-governmental stakeholders impacted by this proposal includes Disabilities Rights Washington, The Arc of Washington, Washington Association of Professional Guardians, and the Washington State Hospital Association. There continues to be strong support from these stakeholders as well as support from certified professional guardians, especially those serving as public guardians, for OPG to increase program capacity. Other referrers of the program, such as case and social workers from private entities, also support additional funding for OPG to increase program capacity and to expand services to include options for less restrictive alternatives.

Are there legal or administrative mandates that require this package to be funded?

There are no legal or administrative mandates that require this package to be funded.

Does current law need to be changed to successfully implement this package?

No.

Are there impacts to state facilities?

There are no impacts to AOC facilities. However, there are currently and will continue to be impacts to state facilities such Eastern and Western State Hospitals, and long-term care facilities operated by the Department of Social and Health Services. Without a guardian to help discharge these individuals, they remain hospitalized when they no longer need to be. Without a guardian to provide medical consent and to ensure proper diagnoses, the result will be improper treatment and placement in more restrictive settings, such as jail or correctional facilities. Studies have identified savings that occurred from public guardianship services such as "lower health care cost, recovery of financial assets, and moves to less restrictive (and costly) residential settings."

Are there other supporting materials that strengthen the case for this request?

Washington State Institute for Public Policy (WSIPP) released reports required by statute discussing the costs and benefits of providing public guardianship services and the need for said services. Links to the reports are provided below:

- [Public Guardianship in Washington State: Costs and Benefits](#)
- [Assessing the Potential Need for Public Guardianship Services in Washington State](#)

Are there information technology impacts?

No.

Agency Contacts:

Christopher Stanley, 360-357-2406, christopher.stanley@courts.wa.gov
Angie Wirkkala, 360-704-5528, angie.wirkkala@courts.wa.gov