



Colorado's controversial public guardianship program scrutinized in legislative budget battle

Lawmakers are concerned about deaths of 14 wards in two years and a lack of oversight

By Jennifer Brown, The Colorado Sun

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The Colorado Capitol on Dec. 10. (Olivia Sun/The Colorado Sun via Report for America)



A controversial plan to expand Colorado's fledgling public guardianship program for people who have no family or friends to speak for them is in jeopardy as state lawmakers debate the state's budget.

The Office of Public Guardianship, which began taking wards in 2020, is now making decisions for about 70 people who are unable to care for themselves because of age, disabilities or medical conditions. The program has so far operated only in Denver, but is seeking an additional \$770,000 to expand to two other regions – the three counties in the judicial district based in La Junta and the six counties in the district based in Montrose.

The plan to expand has divided Colorado lawmakers, who have yet to make a final decision about the program's funding. It is among the pieces of the \$36.4 billion budget bill the Legislature is trying to iron out as it heads toward final approval. The House last week stripped the \$770,000 needed to add staff members and expand the program to two more jurisdictions. The 35-29 vote came after impassioned debate among a handful of lawmakers, including those who pointed to the deaths of 14 wards during the program's short but troubled tenure.

In addition to the deaths, lawmakers are concerned about complaints from Denver Health that paid public guardians ignored requests to visit wards in the hospital and had abandoned wards after they died. One guardian was escorted from the hospital because of belligerent behavior with staff members, Denver Health officials said.

"That's not something I want to multiply into other jurisdictions," said Rep. Stephanie Luck, a Republican from Penrose. Rather than expanding the current office, Luck wants to look at more comprehensive programs that go beyond a government agency only making legal and health decisions.

"That's not really providing community for these people," she said. "Those people are still living in isolated situations. They are still not being visited. They are still not being cared for. There are other models that we could employ to ensure that people are actually being embraced in our communities and finding a family, even if it's not biological."

But on Tuesday, a Senate committee restored funding for the program expansion, wiping out the House amendment before sending the budget bill to the full Senate. Still, the debate isn't over, as the budget is up for discussion on the Senate floor this week and then will head next week to the Joint Budget Committee to sort out the disagreements between the Senate and the House.

A mother of a teenage son with Down syndrome and autism who might one day need a guardian has been the program's harshest critic. Maureen Welch asked senators Tuesday not to expand the program, which she has called dangerous and haphazard. Instead, Colorado should push pause and create structure and oversight to ensure that guardians cannot take advantage of vulnerable wards, she said.

Additional funding would allow the Office of Public Guardianship to expand its staff members to 11 from seven, including hiring guardians in southeast and Southwest Colorado. The new funding would come July 1, at the start of the state fiscal year, and only six months before the office is required by law to submit a report to the Legislature about its pilot program. The Legislature is set to decide in January whether to make the office permanent, a process spelled out in the 2017 law that created the pilot program. The original bill called for installing public guardians in three districts, but the program has been stalled by the pandemic and funding issues.

Six months is hardly enough time to produce adequate data to show whether the program is helping people in two additional regions, Welch said. And she questioned what would happen to new wards in rural Colorado if lawmakers decided not to make the office permanent.

"This is not the time to expand the program," she said.

But some lawmakers want the program to expand this summer in the hopes of getting additional data by January. That includes Sen. Chris Hansen, a Denver Democrat and vice chairman of the Joint Budget Committee, which included the expansion funding in the budget in the first place.

"Here's our opportunity to get some data from those parts of the state, see how it's working in a more rural context, and then have a better chance of evaluating the program," Hhe said. "There have been issues raised with this program, and I think that's what we were trying to do, to get a more full assessment of what's working and what's not."

Regarding the 14 deaths, Hansen and Rep. Julie McCluskie, a Dillon Democrat, urged others not to jump to conclusions. While 14 deaths out of about 80 wards in the past two years is significant, lawmakers should consider the circumstances, she said.

"We know that this population is elderly, medically frail or health challenged," she said, noting that higher rates of mortality were expected among wards compared with the general population.

The guardianship office told The Colorado Sun the deaths were because of medical conditions, and the median age of wards who died was 67.

Despite the controversy, no one has argued that Colorado doesn't need a program to help people who cannot make their own decisions.

A state survey taken before the guardianship office was created found that 1,000 to 1,300 adult guardianship cases were filed in courts across Colorado each year. Colorado law says a person who is concerned about another's welfare can petition for guardianship. If a judge is convinced a person needs a guardian, the judge can appoint one who is then responsible for financial, medical and other decisions for their ward. But often, no relatives or friends are found.

Without a public guardianship office, hospitals, long-term care facilities and others must seek guardianship for their abandoned patients through probate court, a process that's costly and time-consuming.

The Legislature approved the pilot program in 2017, then funded the Office of Public Guardianship in 2018. The office hired an executive director at the end of 2019 and began taking on wards in April 2020.

Lawmakers arguing against the expansion said they do not want to do away with the program entirely.

"Press pause on this program," said Rep. Meg Froelich, a Greenwood Village Democrat. "There is a lack of transparency, a lack of responsiveness. We're not saying that there's not a desperate need, but because it serves such vulnerable people, we absolutely have to get it right."

Staff writer Jesse Paul contributed to this report.

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