

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 958

FISCAL
NOTE

By Senator Oliverio

[Introduced February 16, 2026; referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend and reenact §44A-2-1 and §44A-3-11 of the Code of West Virginia, 1931, as
 2 amended, relating to closure of the Enforcement of Guardianship and Conservatorship Act
 3 Fund and redirection of remaining balance and certain filing fees; specifying Court Security
 4 Fund to receive certain portion of filing fee petition for the appointment of a guardian or
 5 conservator; closing Enforcement of Guardianship and Conservatorship Act Fund as of
 6 certain date; transferring remaining balance to Court Security Fund; and requiring
 7 Supreme Court of Appeals to establish and pay fee for reviewing certain reports.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. PROCEDURE FOR APPOINTMENT.

§44A-2-1. Filing of petition; jurisdiction; fees; special revenue account established.

1 (a) A petition for the appointment of a guardian or conservator shall be filed with the clerk of
 2 the circuit court in the county in which the alleged protected person resides or, if an alleged
 3 protected person has been admitted to a health care or correctional facility, in the county in which
 4 that facility is located. A petition for the appointment of a conservator for a missing person shall be
 5 filed with the clerk of the circuit court in the county in which the missing person last resided. The
 6 circuit clerk is not required to accept for filing a petition that is not administratively complete.

7 (b) The circuit court in which the proceeding is first commenced shall have exclusive
 8 jurisdiction unless that court determines that a transfer of venue would be in the best interests of
 9 the person alleged to need protection.

10 (c) The fee for filing a petition shall be \$110 payable upon filing to the circuit clerk, \$75 of
 11 which shall be retained by the circuit clerk and \$35 of which shall be remitted by the circuit clerk to
 12 the ~~special revenue account in the state Treasury created in subsection (e) of this section~~ Court
 13 Security Fund established in §51-3-14 of this code.

14 (d) The person bringing the petition shall be responsible for fees for filing the petition and
 15 other papers, for service of process, and for copies of court documents and transcripts. In the
 16 event that a guardian, conservator, or both, is appointed by the court, such fees shall be

17 reimbursed to the individual who filed the petition from the protected person's estate, if funds are
 18 available. Any person who is pecuniarily unable to pay the fees and costs as set forth in article
 19 one, chapter fifty-nine §59-1-1 et seq. of this code and article two, chapter fifty-one §51-2-1 et seq.
 20 of this code will not be required to pay the fees and costs.

21 ~~(e) There is hereby created in the state Treasury a special revenue account, which shall be~~
 22 ~~an interest-bearing account, to be known as the Enforcement of Guardianship and~~
 23 ~~Conservatorship Act Fund. On July 1, 2026, the Enforcement of Guardianship and~~
 24 ~~Conservatorship Act Fund created by prior enactment of this section shall be closed, and any~~
 25 ~~unexpended balances remaining in the fund shall be transferred to the Court Security Fund~~
 26 ~~established in §51-3-14 of this code.~~

27 (f) The reports of guardians and inventory and accountings of conservators required by this
 28 chapter shall be examined multiannually by the fiduciary commissioner or other person appointed
 29 by the court in accordance with section eleven, article three of this chapter §44A-3-11 of this code.

30 ~~(g) The special revenue account known as the Enforcement of Guardianship and~~
 31 ~~Conservatorship Act Fund, previously administered by the State Auditor, shall, on and after the~~
 32 ~~amendment and reenactment of this section, be administered by the West Virginia Supreme Court~~
 33 ~~of Appeals. All moneys previously collected for deposit into the fund pursuant to this chapter and~~
 34 ~~not expended in accordance with this chapter shall be transferred to the West Virginia Supreme~~
 35 ~~Court of Appeals. All collections shall be deposited and used for payment of fiduciary~~
 36 ~~commissioner or other person appointed by the court for review of the reports required by section~~
 37 ~~eleven, article three of this chapter and the education program required by section ten, article one~~
 38 ~~of this chapter.~~

ARTICLE 3. GUARDIANSHIP AND CONSERVATORSHIP ADMINISTRATION.

§44A-3-11. Filing of reports and accountings; misdemeanor for failure to file; reporting elder abuse.

1 (a) Reports of guardians and accountings of conservators, as described in this article shall

2 be filed with the circuit clerk of the county in which appointed and also with the fiduciary
3 commissioner of the county or other person if the court has made a referral in its order:

4 (1) Within six months of being appointed;

5 (2) By December 31 of each year thereafter;

6 (3) When the court orders additional reports or accountings to be filed;

7 (4) When the guardian or conservator resigns or is removed; and

8 (5) When the appointment of the guardian or conservator is terminated, except that in the
9 case of a guardian, the court may determine that there is no need for a report upon the termination;
10 and in the case of a conservator, no accounting is required if all persons entitled to any proceeds of
11 the estate consent thereto.

12 (b) The circuit clerk shall notify the court if the required reports are not filed or are
13 administratively incomplete. The fiduciary commissioner, or other person appointed by the court or
14 mental hygiene commissioner, shall review the reports and accountings multiannually, and may
15 request additional information from the guardian or conservator. If the reports or accountings are
16 not filed, or if there are any questions or discrepancies in the reports or accountings, the person
17 reviewing the report shall notify the court or mental hygiene commissioner for further investigation
18 or action of the court, including, but not limited to, a court order requesting copies of bank or
19 investment records, appointing counsel to investigate the matter or setting a hearing on the matter.

20 (c) If the court has in its order made a referral to the fiduciary commissioner of the county:

21 (1) The accounting shall be governed by and the fiduciary commissioner shall handle the
22 same under the provisions of sections ten, eleven, twelve, thirteen and fourteen, article four,
23 chapter forty-four of this code, except that all compensation and expenses of the conservator shall
24 be allowed and approved only by the circuit court in accordance with the provisions of section
25 thirteen, article one of this chapter.

26 (2) The fiduciary commissioner may not publish any notice concerning the filing of a
27 proposed accounting, but shall serve a copy of the proposed accounting of the conservator

28 together with the notice by United States mail on the protected person, all individuals and entities
29 given notice of the petition and any other person or entity found to be interested in the affairs of the
30 protected person, all of whom have standing to file exceptions to or falsify the accounting before
31 the fiduciary commissioner.

32 (3) In the settlement of the accounting of a conservator, the fiduciary commissioner is
33 entitled to fees as are allowed for fiduciary commissioners in the handling of accountings of a
34 decedent's estate, or as otherwise set by order of the circuit court.

35 (4) If the court or mental hygiene commissioner appoints a person other than the fiduciary
36 commissioner to review the reports, such person shall report to the court as required by this article.
37 The court shall establish a fee for reviewing a report which shall be paid by the Supreme Court of
38 Appeals. ~~from the Enforcement of Guardianship and Conservatorship Act Fund.~~

39 (5) Any party feeling aggrieved of a settlement or decision by the fiduciary commissioner
40 concerning the accounting may on motion filed within four months of the settlement or decision
41 appeal the same to the circuit court.

42 (d) Any guardian or conservator who knowingly violates the provisions of this section is
43 guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more
44 than \$500.

45 (e) The parties, attorneys or mental hygiene commissioner shall report violations of this
46 section, or any other alleged elder abuse violations, including criminal elder abuse pursuant to
47 §61-2-29 of this code, to the Department of Human Services or county prosecutor for further
48 investigation and action.

49 (f) The ~~West Virginia~~ Supreme Court of Appeals shall prescribe forms for reports,
50 accountings and inventories required to be filed pursuant to the provisions of this article.

NOTE: The purpose of this bill is to close the Enforcement of Guardianship and Conservatorship Act Fund and redirect the remaining balance and certain filing fees to the Court Security Fund.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.