

**GUARDIANSHIP REVISIONS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Benjamin M. McAdams**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Office of Public Guardian Act to provide visitation rights to a parent of a vulnerable adult who is a ward of the Office of Public Guardian.

**Highlighted Provisions:**

This bill:

- ▶ defines a term;
- ▶ requires the Office of Public Guardian (office) to grant visitation rights, of at least four hours per week, to a parent of a vulnerable adult who is a ward of the office;
- ▶ provides that a court may reduce the visitation time, place restrictions on the visitation, or deny the visitation, if the court finds, by clear and convincing evidence, that the action is necessary in order to protect the vulnerable adult from harm;
- ▶ provides that a vulnerable adult may reduce the visitation time, place restrictions on the visitation, or deny visitation rights to the parent;
- ▶ provides that a vulnerable adult or a parent of a vulnerable adult may file a petition to enforce the visitation rights on the grounds that the visitation rights are being improperly reduced, restricted, or denied, or that the decision of a vulnerable adult to reduce, restrict, or deny visitation was not knowingly and voluntarily made; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **62A-14-102**, as last amended by Laws of Utah 2009, Chapter 75

34 ENACTS:

35 **62A-14-113**, Utah Code Annotated 1953



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **62A-14-102** is amended to read:

39 **62A-14-102. Definitions.**

40 As used in this chapter:

41 (1) "Conservator" is as defined in Section 75-1-201.

42 (2) "Court" is as defined in Section 75-1-201.

43 (3) "Estate" is as defined in Section 75-1-201.

44 (4) "Guardian" is as defined in Section 75-1-201.

45 (5) "Incapacitated person" means a person who has been determined by a court,  
46 pursuant to Section 75-5-303, to be incapacitated after the office has determined that the person  
47 is 18 years of age or older and suffers from a mental or physical impairment as part of the  
48 prepetition assessment in Section 62A-14-107.

49 (6) "Office" means the Office of Public Guardian.

50 (7) "Property" is as defined in Section 75-1-201.

51 (8) "Vulnerable adult" is as defined in Section 62A-3-301.

52 [(8)] (9) "Ward" means an incapacitated person for whom the office has been  
53 appointed as guardian or conservator.

54 Section 2. Section **62A-14-113** is enacted to read:

55 **62A-14-113. Visitation rights of a parent of a vulnerable adult.**

56 (1) Except as otherwise provided in this section, if the office is appointed as the  
57 guardian of a vulnerable adult, the office shall grant visitation rights to a parent of the  
58 vulnerable adult of at least four hours per week.

- 59           (2) The office may file a petition in district court to:  
60           (a) reduce the amount of time of a parent's visitation rights;  
61           (b) place restrictions on the parent's visitation rights; or  
62           (c) deny visitation rights to the parent.  
63           (3) The court may take an action described in Subsection (2) if, after the parent and the  
64 vulnerable adult are given notice and an opportunity to be heard, the court finds, by clear and  
65 convincing evidence, that the action is necessary in order to protect the vulnerable adult from  
66 harm.  
67           (4) A vulnerable adult may:  
68           (a) reduce the amount of time of a parent's visitation rights;  
69           (b) place restrictions on the parent's visitation rights; or  
70           (c) deny visitation rights to the parent.  
71           (5) A vulnerable adult or a parent of a vulnerable adult may file a petition in district  
72 court to enforce the visitation rights described in this section on the grounds that:  
73           (a) the parent's visitation rights are being improperly reduced, restricted, or denied; or  
74           (b) the decision of a vulnerable adult described in Subsection (4) was not knowingly  
75 and voluntarily made.

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**Legislative Review Note**  
as of 1-17-11 11:44 AM

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

S.B. 223

SHORT TITLE: **Guardianship Revisions**

SPONSOR: **McAdams, B.**

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill will cost the Courts \$49,600, the Attorney General \$69,900, and the Office of Public Guardian (OPG) in the Department of Human Services \$127,700 ongoing from the General Fund to provide support for court hearings and schedule, coordinate, and facilitate parental visitations beginning in FY 2012. Enactment of this bill will also cost the Attorney General \$1,800 and the OPG \$4,500 one time from the General Fund in FY 2012.

## STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue	\$0	\$0	\$0
Expenditure:			
General Fund	\$0	\$247,200	\$180,100
General Fund, One-Time	\$0	\$6,300	\$0
Total Expenditure	\$0	\$253,500	\$180,100
Net Impact, All Funds (Rev.-Exp.)	\$0	(\$253,500)	(\$180,100)
Net Impact, General/Education Funds	\$0	(\$253,500)	(\$180,100)

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or most businesses. Enactment of this bill will likely result in direct, measurable expenditures for service providers and for day and residential programs who would need to transport the ward to and from parental visits and supervise such visits.