

Senate Judiciary Committee – Last Stop Before Federal Intervention

Report Reveals That Rights of People with Disabilities Are Being Violated by California Judges

The California Legislature created the limited conservatorship system in 1980 – 35 years ago. Judges were given authority to protect adults with intellectual and developmental disabilities who lacked capacity to make their own decisions regarding finances, medical care, education, residence, marriage, and other major aspects of life.

The Legislature entrusted the Judicial Branch to operate the limited conservatorship system in a manner that respected the statutory and constitutional rights of people with developmental disabilities. The idea was that judicial intervention and control over such adults would be *limited* to those areas where it was necessary and that conservatorships would be used only when lesser restrictive alternatives were not feasible.

A new [study](#) reveals that the limited conservatorship system is failing to live up to these goals – not because the legislative policies on which the system is based are faulty, but because the Judicial Branch has not implemented those policies in a fair and just manner. *The limited conservatorship system has no quality assurance controls.* There is no appellate oversight. The Executive Branch plays no part in the system. Audits are never conducted. The Legislative Branch has not revisited the limited conservatorship system with meaningful oversight hearings since it was created. The system has been allowed to run on “auto pilot” for decades.

The lives of 40,000 adults are under the control of the limited conservatorship system at any given time. Some 5,000 new cases are added each year. The judges, attorneys, investigators, and other personnel who operate this system are not properly trained about intellectual and developmental disabilities, the needs and capacities of the people who have such disabilities, or issues that are critical to the processing of limited conservatorship cases.

The deficiencies uncovered in the intensive study conducted by Spectrum Institute have been brought to the attention of the Chief Justice of California, the Judicial Council, the Attorney General, the Director of the Department of Developmental Services, and the President of the State Bar of California. No

corrective action has been taken. Now the problem is being called to the attention of the California Legislature – the place where the concept of limited conservatorship was originally created.

Spectrum Institute is asking for an evaluation of the system, an honest appraisal of the deficiencies identified in the only study that has ever been done of how limited conservatorship cases are being processed. Requests for a legislative Task Force on Access to Justice, a statewide survey of superior court operations in each county, and an audit of the Los Angeles Superior Court are warranted.

Detailed and significant oversight by the Legislature is needed – now. If the Legislature responds the way that other officials in the Judicial Branch and Executive Branch have responded – by doing nothing – state law remedies will have been exhausted. The next step will be filing a complaint with the United States Department of Justice for violations of Title Two of the Americans with Disabilities Act (ADA) based on the systematic denial of access to justice for people with intellectual and developmental disabilities by California judges.

Spectrum Institute filed a complaint last year with the U.S. Department of Justice against the Los Angeles Superior Court for violating the voting rights of thousands of people with developmental disabilities. The [complaint](#) is still pending. After the complaint was filed, the Legislature passed [AB 1311](#) to partially remedy the problem.

A review of the limited conservatorship system by a legislative task force would make immediate federal intervention unnecessary to correct this larger set of ADA violations. ♦♦♦ www.spectruminstitute.org

Spectrum Institute is a nonprofit organization conducting research and education on issues involving people with intellectual and developmental disabilities. Attorney Thomas F. Coleman [818-482-4485] and psychologist Nora J. Baladerian [310-925-4488] are available to answer questions about the report, titled *Limited Conservatorships: Systematic Denial of Access to Justice*. [Victims](#) of the limited conservatorship system are available for interviews by media and legislators.