



Rachel Bombach
Legislative Director
Senator Dianne Feinstein

Re: Hearing of Subcommittee on the Constitution (Sept. 28)

Dear Ms. Bombach:

If Congress is serious about addressing the problem of toxic conservatorships there are several specific steps that Congress can take within its limited jurisdiction over state court proceedings. The jurisdiction may be limited, but if used properly it could promote significant reforms in these so-called protective proceedings.

Please pass these proposals along to the staff and members of the Subcommittee on the Constitution.

We are willing to assist senators in developing meaningful and effective legislation on this matter. Spectrum Institute has been studying the dysfunctional probate conservatorship system in California for many years. Not only have we identified problems with the system (<https://disabilityandguardianship.org/flaws-and-fixes.pdf>), we offer specific solutions (<https://disabilityandguardianship.org/symposium.pdf>).

Below you will find a description of some of the remedies that are within the jurisdiction of the federal government.

Respectfully,

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* Funding positions for lawyers in the Disability Rights Section at Department of Justice (DOJ) who will focus exclusively on violations of the Americans with Disabilities Act by judges and attorneys in state guardianship and conservatorship proceedings. Right now, the lawyers in this section are sitting on complaints for years without taking action, probably due to under-funding.

* Funding lawyers in the criminal division of the DOJ and investigators in the FBI who will focus on guardians and conservators who are violating federal criminal laws and thus making seniors and people with disabilities victims of federal crimes. Presently, federal prosecutors and investigators are ignoring these cases, probably due to under-funding.

* Require that a certain percent of federal funds that are allocated to protection and advocacy agencies (like Disability Rights California) must be used to protect the rights of people with disabilities who are entangled in guardianship and conservatorship proceedings. Despite receiving tens of millions of federal dollars to protect the rights of people with disabilities, these agencies have been doing almost nothing for this particular population.

* Require that any state or local courts that receive federal funds for any purpose must ensure that attorneys who are appointed by the court to represent protected persons in guardianship or conservatorship proceedings to attend periodic training programs on the application of the Americans With Disabilities Act and section 504 of the rehabilitation act to guardianship and conservatorship proceedings. Right now, the courts (and appointed attorneys) act as though the ADA does not apply to these proceeding, which is not true.