

Conservatorships and the LGBTQ Population

How Intrusive Legal Proceedings Can Harm You



Adults, regardless of sexual orientation or gender identity, can become involuntarily entangled in conservatorship or guardianship proceedings. As we age, the risk of such entanglement increases.

Having an estate plan, health care directive, or financial power of attorney -- or being married for that matter -- will not necessarily protect an adult who develops cognitive disabilities as a result of aging or due to an injury or illness. Judges sometimes void these documents at the request of a professional fiduciary or a hostile relative. Assets accumulated over a lifetime can be depleted in a matter of a few years by exorbitant fees to attorneys and fiduciaries involved in the litigation. Personal rights can be restricted so that an adult no longer is in charge of decisions regarding where they live, what content they can access on the internet, who they socialize with, or who they can have sexual relations with.

The conservatorship nightmare can happen to anyone -- whether they are single, married, or have a romantic partner. Here are examples of what happened to a few people in California:

* **Theresa**, a lifelong single person with no relatives, was targeted by a professional fiduciary. Even though a conservatorship was eventually denied, the judge ordered her to pay about \$300,000 in fees to all of the attorneys in the case. * **Rosalind**, who was engaged to be married to her partner who developed a brain disease, was not allowed to be conservator until her partner's assets were depleted by fees to attorneys in the case. * **Catherine**, who outlived her spouse, was not given an attorney to defend her but was forced to pay for five other attorneys in the case. * **Juan**, whose partner had a brain injury, was not allowed to visit Leroy due to the actions of a homophobic brother. Leroy died and was buried out of state, so Juan never was able to say goodbye. * **Betty**, who was married and lived with her spouse, had her estate depleted significantly due to protracted litigation initiated by daughters who wanted to separate Betty from her spouse and have the assets to themselves. * A conservator and group-home

operator arranged for and officiated at a marriage between **Ryan**, a 22 year-old gay man with intellectual disabilities and Sean, a former group-home employee who was more than twice Ryan's age. Ryan thought the ceremony was a baptism.

Spectrum Institute is fighting for conservatorship reform in California and guardianship reform nationally. We are seeking law reforms guaranteeing that anyone targeted by a conservatorship petition can have the attorney of their choice, but if they cannot choose or afford a lawyer, they will receive an appointed attorney who has a duty to fight for the client's rights and advocate for their expressed wishes. We just succeeded in getting such a law passed in California (AB 1194). Now we must work to ensure that the law is properly implemented and that appointed attorneys actually provide the type of zealous advocacy the law intends. We want other states to enact similar "zealous advocacy" statutes so that no matter where someone lives, if they are ever served with a conservatorship or guardianship petition, they are guaranteed to have an attorney who will fight for their rights. We are also promoting laws to stop excessive attorney fees in these cases.

Please donate to Spectrum Institute. We need your help to fight for the rights of everyone -- including the LGBTQ population. Our legal director is Thomas F. Coleman, a gay attorney with decades of civil rights advocacy experience.

Help us protect you. Donate today.

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