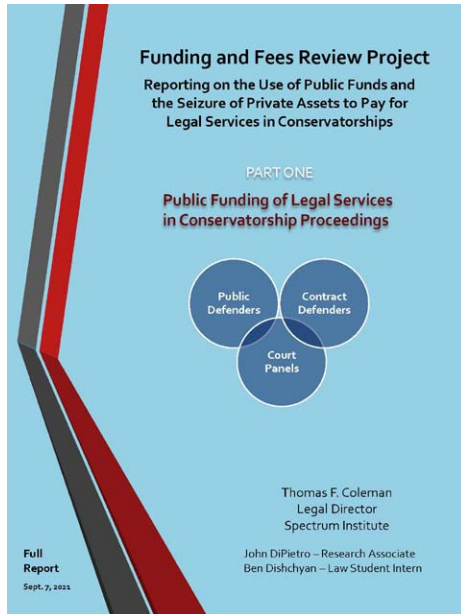


Report Calls for Greater Accountability and More Consistency in Conservatorship Defense Services



After studying conservatorship legal defense providers in all 58 counties in California, a new report from Spectrum Institute has found that inadequate funding, high caseloads, a lack of performance standards, and an absence of quality assurance controls are contributing to deficient legal services for indigent adults with mental and developmental disabilities.

The report [recommends](#) a variety of remedial actions by state officials and agencies. It also calls on civil grand juries in all counties throughout the state to investigate these deficiencies.

Some 70,000 adults in California are living in probate conservatorships. About 5,000 new petitions are filed annually. Some are seniors while others are adults with developmental disabilities. Many have no assets and therefore must rely on indigent legal defense services to protect their rights.

Spectrum Institute filed a [request](#) with the California Supreme Court in July asking it to convene a *Workgroup on Conservatorship Right to Counsel Standards*. Today's report underscores the urgency of that request.

"Adults whose fundamental rights are targeted or taken away by these proceedings are entitled to due process no matter where they may live in the state," said attorney Thomas F. Coleman who authored the report. "To ensure equal protection of the law, the Legislature should consider shifting the source of funding for these services from counties to the state."

Brendon Woods, Public Defender in Alameda County, warns that such a shift in funding will not improve anything unless the state provides adequate financial support. Alternatively, he suggests that county supervisors consider establishing a specialized Office of Conservatorship Defense separate from the Public Defender, set reasonable caseload limits, and provide sufficient funding so attorneys can effectively represent their clients.

A recent comment from Mary Heare Amodio, president of the Lake County Bar Association, suggests that counties should reconsider tasking criminal defense offices with conservatorships. According to her: "Conservatorships are a 'minor' consideration in both the county and the criminal defense bars view."

People with disabilities deserve lawyers who make conservatorship defense a "primary" consideration. "Officials in California should consider reforms like those recently adopted in Nevada," Coleman said.

Nevada provides quality legal services in these cases without using taxpayer money. The value of shifting legal services to a nonprofit organization with a special unit for guardianship advocacy is shown by case outcomes. Some 25% of new petitions are denied in favor of other alternatives, thus avoiding costly court supervision that can last for many years. A significant percent of existing cases have been terminated. A similar program could be created in California where few cases are dismissed and even fewer terminated -- all due to a lack of zealous advocacy by adequately funded legal defense programs.

Barbara Buckley, executive director of Legal Aid Center of Southern Nevada, invites public officials and indigent legal defense providers in California to contact her. "We are happy to share information on our funding sources, performance standards, monitoring methods, and outcome statistics," she said.

Tony Chicotel, a staff attorney for California Advocates for Nursing Home Reform, commented on today's report. "Thanks to the groundbreaking research of Spectrum Institute, we know that conservatorship defense is set up to be second-rate in many parts of the state. It is high time for the state to improve the quality of conservatorship defense and make the conservatorship system more just."

The Legislature is expected to send [Assembly Bill 1194](#) to the governor's desk by September 10. When signed, it will go into effect on January 1, 2022, ushering in a new era for the right to counsel in conservatorship proceedings. The bill protects the right to counsel of choice for those who can afford an attorney and mandates appointment of counsel for those who can't. Public defenders and appointed attorneys will be required to act as "zealous advocates" -- something that will only occur if the recommendations of this report are properly implemented by state and local officials.

For a copy of the report, [click here](#). For an executive summary, [click here](#).

