



The Route to Conservatorship Reform

For the past eight years, Spectrum Institute has been showing judges, lawmakers, administrators, disability rights advocates, and conservatorship reform activists the way forward. The sign markers we have placed along the route have included conference materials, administrative complaints, public meeting presentations, policy reports, guidebooks, legal commentaries, amicus curiae briefs, letters, and webinars.

We have identified the [flaws and fixes](#). We have matched the [solutions](#) with the officials who have the jurisdiction to adopt and implement them. We have literally handed conservatorship reform advocates a template for change titled "[A Path Forward](#)."

Yet, although we have led people to the refreshing water of reform, few have chosen to partake. While most of these officials and many of these advocacy organizations are poised at the edge of a sea of reform options, tens of thousands of adults in California who are ensnared in overreaching and often unnecessary conservatorships are being deprived of access to justice. Thousands more in the state who are targeted with new proceedings each year are left to the whims of the status quo.

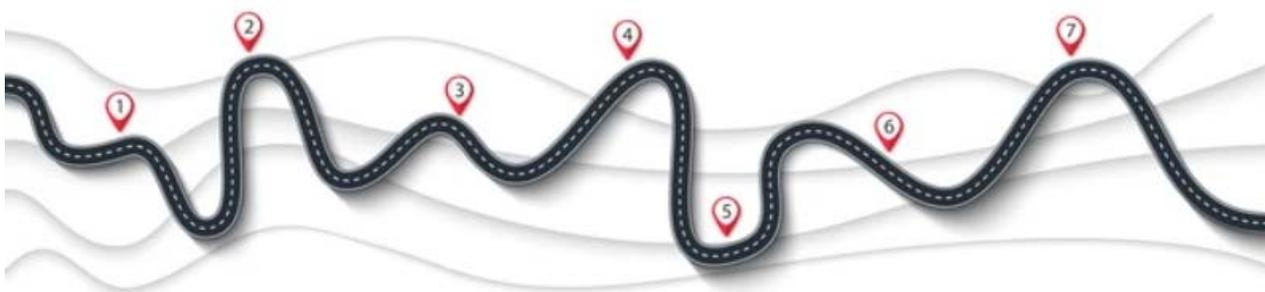
It serves no meaningful purpose to continue to churn out reform templates until people clamoring for reform, agencies with budgets allocated to protect disability rights, and officials who have taken an oath to uphold the constitution, read the sign markers and start walking down the path. The will to change cannot be imposed. It must be chosen.

The foundational research for reform has been done. Specific proposals to fix every broken part of the conservatorship system have been formulated. All of this has been provided to the advocates who are clamoring for reform and the public officials who continue to resist it.

Perhaps what is needed to activate the ingredients for reform that are sitting there in plain sight are a few catalysts. The #FreeBritney movement was a catalyst that prompted a few legislators to pass AB 1194. If it is implemented properly, this new law should usher in an era of zealous advocacy by lawyers who will file motions, lodge objections, demand jury trials, and file appeals. All of this will give individuals access to justice as well as promote systemic reforms to help the entire class of people affected by these proceedings.

Ongoing and sustained media attention -- focusing both on individual injustices and systemic failures -- may be the elixir that serves as a potent catalyst for meaningful and lasting reforms. We need more investigative reporters like [Andie Judson](#) from ABC-10 television in Sacramento popping up all over the state. Her [in-depth reporting](#) is causing greater public awareness of the massive systemic failures that are harming thousands of adults with mental and developmental disabilities, their families, and weakening the moral fabric of our society. Such reporting creates heightened public interest, which is what gets the attention of elected officials in all three branches of government.

While many officials stand hesitantly at water's edge, we at Spectrum Institute take satisfaction that our [publications and proposals](#) remain available as navigating tools for change agents and policy makers when they are ready to use them.



Route Markers

Here are some of the markers we have posted along the way to ensure that lawmakers who make the rules of the road, judges who provide the guardrails, attorneys who offer directional options, and appellate courts that cite navigational errors fulfill their roles in the administration of justice.



Flaws & Fixes

A [webinar](#) sponsored by the Long Beach Bar Association in 2021 identified each aspect of the conservatorship system with systemic flaws and suggested specific corrective measures to fix them; [Ten concerns](#) were brought to the Judicial Council in 2014.



Solutions

A [presentation](#) at a symposium in 2021 suggested a multi-faceted approach to conservatorship reform by identifying each agency or official with authority to fix part of the broken system and proposals they could adopt and implement; a set of [proposals](#) was submitted to the Judicial Council in 2014.



Zealous Advocacy

A [webinar](#) and associated [report](#) produced by Spectrum Institute in 2021 explained what public defenders and court-appointed attorneys must do to provide competent and effective advocacy and legal defense services for clients in conservatorship proceedings in order to comply with newly enacted AB 1194.



Legal Services Funding

A [report](#) issued by Spectrum Institute in 2021 released the findings of a study of funding and oversight needs of indigent legal defense services in conservatorship proceedings, including a set of recommendations to bring these services into compliance with constitutional requirements and ADA mandates.



Attorney Performance Standards

In addition to the 2021 zealous advocacy [report](#) mentioned above, a [request](#) was made in 2021 to the Supreme Court to convene a Workgroup on Conservatorship Right to Counsel Standards and ADA-compliant performance standards were submitted to the [Judicial Council](#) in 2015 and to the U.S. [Department of Justice](#) the same year.



Complaint System Accessibility

A [report](#) and recommendations to the State Bar in 2021 and [communications](#) over the course of several years asking for pro-active measures to compensate for the fact that, due to the nature of their disabilities, clients in conservatorship proceedings do not have meaningful access to the State Bar complaint and discipline system.



ADA Compliance

A [report](#) to the Judicial Council in 2019 documenting that judicial branch policies do not comply with the ADA; a [request](#) in 2021 to adopt new rules; a [memo](#) and a [letter](#) on ADA liability was sent to superior courts in 2021; a [webinar](#) and [references](#) for superior courts in 2021; an intern [educated](#) superior courts about their ADA duties.



Civil Rights Enforcement

A [report](#) to the governor in 2021 documenting the failure of civil rights agencies to investigate disability rights violations against adults disabilities in conservatorship proceedings; [request](#) in 2019 to FEHC to hold hearings and [request](#) in 2020 to adopt; ongoing [requests](#) to the California Attorney General and [emails](#) to state DOJ staff.



Data Collection

A [report](#) sent to the Judicial Council in 2021 documented the failure of the judicial branch to keep even rudimentary data on adults under the “protection” of the courts in conservatorships and recommended ways to monitor these individuals and the courts that are supposed to be protecting them.



Appellate Oversight

Amicus curiae briefs and letters were submitted to: the Supreme Court in the case of [O. B.](#) in 2019; the case of [Anna N.](#) in 2020; the case of [A.E.](#) in 2020; the case of [Catherine D.](#) in 2019; and [Victoria T.](#) in 2019. Many [letters](#) were sent to the Chief Justice asking for oversight hearings and a study of conservatorship system flaws.



Congressional Hearings and Legislation

A [letter](#) was sent to the House Judiciary Committee in 2021 asking for conservatorship oversight hearings; a [letter](#) was sent in 2021 to Senate Dianne Feinstein with proposals for federal legislation to allocate funding to address state court conservatorship abuses; a [letter](#) to DOJ in 2017 to implement Section 505 of S.178.



Grand Jury Scrutiny

A [commentary](#) was published in 2021 on the authority of civil grand juries to investigate deficiencies in county-funded aspects of conservatorships; a [letter](#) was sent to grand juries in all 58 counties; a [memo](#) was sent to the Alameda civil grand jury about deficiencies in the public defender’s conservatorship legal defense services.



Regional Center Improvements

A [report](#) was sent to the Department of Developmental Services and regional centers in 2017 about the need for DDS to provide guidance to and oversight of regional centers in connection with their role in conservatorships; a second [report](#) was sent that same year; a [letter](#) was also sent to the HHS secretary on this subject.



State Legislative Oversight

A [report](#) was submitted to the Senate Judiciary Committee in 2015 asking for oversight hearings into the limited conservatorship system; [letters](#) were sent to the Senate Judiciary chair in 2014-2020; a [letter](#) to Senator Umberg in 2020; letters to Senator Wieckowski in [2014](#) and in [2020](#); a [letter](#) to Assemblyman Mark Stone in 2021.



Capacity Assessment Improvements

A [report](#) was sent to the Chief Justice, Legislature, and Governor in 2020 with recommendations for improvements in the capacity assessment process in conservatorship proceedings; a [report](#) on assessing capacity to consent to sex was sent to APS offices throughout the state.



Use of Supported Decision-Making

A [commentary](#) in 2016, a [presentation](#) at the Arc of California annual policy conference in 2017, a [commentary](#) in 2017, a [seminar](#) at the World Congress on Adult Guardianship in 2018.



Judicial Ethics Reforms

A [report](#) was sent to the Supreme Court in 2019 asking for clarification in the Code of Judicial Ethics that it is unethical for judges to appoint, train, pay, coach, and monitor attorneys who appear before them or the court in which they preside; judges should decide cases, not manage a legal services program.



Accountability

A [presentation](#) to guardianship reform advocates at a national forum in Tampa explained systemic changes in guardianship and conservatorship systems that would create greater accountability by the judges who preside in these cases and other participants in the proceedings.



Legal and Judicial Education

More than 30 [commentaries](#) on the need for conservatorship reform and improved access to justice for people with mental or developmental disabilities were published by the Daily Journal legal newspaper between 2015 and 2021.



Chief Justice

[Letters](#) were sent to the Chief Justice of California from 2014 to 2020 pointing out systemic deficiencies in the conservatorship system and asking for a variety of interventions to verify and remedy them – all with no response and to no avail.



ADA Complaints

A pre-complaint [inquiry](#) was filed with DFEH in 2018; a [complaint](#) and [exhibits](#) were filed with the Sacramento Superior Court in 2018; a [complaint](#) with Los Angeles County in 2015; a class-action [complaint](#) to the DOJ in 2015 with an [exhibit](#) of systematic violations (the complaint is [pending](#) for review).



County Executives

A [letter](#) was sent in 2021 to the CEO of the California Association of County Executives asking her to share with all counties problems associated with inadequate county funding of indigent legal defense services in conservatorship proceedings.



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