

# Reform Long Overdue for State Conservatorship Process

By Thomas F. Coleman

The conservatorship process for adults with developmental disabilities is broken. There are about 40,000 such adults currently in conservatorships in California, and about 5,000 new cases are added to the system each year. There are many systemic and operational problems with the processing of these cases.

It's not too soon to get the number crunchers into the conversation about "supported decision-making" and guardianship reform. The best laid plans by policy people and rights advocates never gain real traction without also having financial analysts in the mix too.

Proponents of supported decision making have been focusing on issues of self determination and equal rights for people with intellectual and developmental disabilities. The idea is that, with proper support, people with disabilities have the capacity to make their own decisions without guardianships.

Those proposing reform of adult guardianships for people with developmental disabilities, known in California as limited conservatorships, have been complaining that the system has structural flaws and operational deficiencies of a magnitude that violate constitutional guarantees and statutory requirements.

The conversations about supported decision-making and guardianship reform are now moving from academic discussions and idealistic dialogues among like-minded individuals into the realm of politics, which adds another set of considerations.

The Disability and Abuse Project has been in contact with the Judicial Council of California – the state agency that makes rules, develops forms, and provides education to judges and attorneys. That agency is only now realizing the seriousness of the many problems existing within the limited conservatorship system.

To address these problems, the Judicial Council has designated two advisory committees to work with its educational institute to discuss possible training programs for the judges and attorneys who process limited conservatorship cases. This approach is like painting an airplane that has major mechanical problems. In the end, the plane looks nice, but the unfixed defects continue to place passengers at risk.

Proponents of supported decision-making and conservatorship reform should insist that defective parts be replaced and that periodic inspections be done by trained

mechanics. Pilots and navigators also need to receive training, plus the entire team must be accountable to someone.

Without systemic changes in policies and procedures, and without ongoing supervision and routine monitoring, the educational programs under discussion by the Judicial Council will be little more than cosmetic.

Budget planners need to have a seat at the table along with judicial overseers. Reform advocates also need to be involved in the process of creating what should be meaningful and lasting reform. Ongoing discussions and planning should be inclusive and transparent.

Evaluating supported decision-making as a less restrictive alternative in thousands of individual cases will cost money. So will the processing of conservatorship cases if supported decision-making is not adequate to protect vulnerable adults.



Insuring that proposed conservatees receive equal access to justice – as required by the Americans with Disabilities Act and by the Fourteenth Amendment – will cost money too.

Budgets will need to be increased for agencies that play or should play a role in the limited conservatorship system. At the state level, that would include the Judicial Council, the Department of Developmental Services, and the system of

Regional Centers, as well as the federally-funded Disability Rights California.

At the local level, superior courts that employ judges and investigators will be financially affected. County governments pay the fees of court-appointed attorneys and public defenders. So room should be made at the table for presiding judges and county supervisors.

There will come a time for educational programs – but only *after* decisions have been made about systemic changes and their estimated costs. First things first. ◇

*Thomas F. Coleman is the legal director of the Disability and Abuse Project of Spectrum Institute. Contact him at: [tomcoleman@disabilityandabuse.org](mailto:tomcoleman@disabilityandabuse.org)*

## Daily Journal

Published in California's largest legal news provider on February 5, 2015.