



Guardianship & Conservatorship

Protecting and Empowering Idaho's Vulnerable Citizens

By 2030, Idaho's total population is projected to increase by 52 percent, while the number of individuals over the age of 65 will grow by 147 percent.¹ In addition, the prevalence of individuals with developmental disabilities was 17% higher in 2006-2008 than it was a decade earlier.² As the vulnerable population grows, so will the need for guardianships and conservatorships to protect those who do not have the ability to fully manage their own affairs. Guardianships are relationships created by Idaho law in which a court gives a person or entity (the guardian) the duty to make personal decisions for another (the ward). Conservatorships are relationships in which the court gives a person or entity (the conservator) the duty to make financial decisions for the ward.

There were 1,233 new guardianship and conservatorship filings in Idaho courts in FY2013. Once a guardian or conservator is appointed, the situation resulting in the need for the appointment could continue for months or years. The Supreme Court and its Guardianship and Conservatorship Committee (GC Committee) has been actively committed to monitoring these cases, ensuring newly appointed guardians and conservators understand their rights and responsibilities, and determining future direction and programs to protect the citizens of Idaho.

FY2013 Accomplishments

- In 2010, the Supreme Court **implemented a statewide conservator monitoring program** that provides an independent review process to ensure effective asset management for the protected person under conservatorship.
- **An online training program was implemented** requiring all guardians or conservators seeking appointment on behalf of an incapacitated adult to complete a comprehensive course based upon standards of practice applicable to Idaho. This program addresses three major goals:
 1. To educate individuals petitioning to be a conservator and/or guardian about their responsibilities in caring for another person;
 2. To provide information about Idaho's laws in protecting the rights of those cared for and how to comply with those laws;
 3. To establish a system and process by which Idaho courts can protect and serve its citizens.

In FY2013, Idaho clerks of the court submitted 2,409 annual reports for review. These reports reflect \$374,794,466 of assets under the care of another person, an increase of 15% over last year.

In FY2013, 1301 newly appointed guardians or conservators completed and passed the training course.

¹ Coordination and Delivery of Senior Services in Idaho, Evaluation Report February 2011, Office of Performance Evaluations, Idaho Legislature, page 1; <http://www.legislature.idaho.gov/ope/publications/reports/r1102.pdf>

² Centers for Disease Control and Prevention. Can be found at: http://www.cdc.gov/Features/dsDev_Disabilities/. Last viewed on 5-30-13.

- **The Supreme Court adopted Idaho Court Administrative Rule 54.1.** Under this rule, a judge is allowed to receive and review communications about guardianship and conservatorship cases to determine if the communication relates to misconduct or malfeasance of the guardian or conservator. Along with providing a judge the ability to directly review communication about malfeasance and the well-being of the ward, the rule provides the presiding judge with a menu of case management options on how the complaints are to be addressed.
- **A standardized statewide guardianship annual status report** was adopted by the GC Committee. The form requires the guardian to report on the well-being of the ward including information on the health, living arrangements, independence and services the ward is receiving. This form will provide a clearer picture of the safety and well-being of the ward and is the first step towards a comprehensive guardianship monitoring program.
- **The GC Committee implemented a party locator service** whereby an individual working on behalf of the court receives a request from the local court clerk and uses his expertise to find current information on individuals in the case. Since guardianship and conservatorship cases are unique in that unlike criminal or other civil cases, they often go on for years, and in some cases, decades. When cases go on for years a ward or guardian/conservator may move periodically throughout the life of the case. In order to properly monitor these cases and ensure proper reports are filed, the court must be aware of current contact information for all participants. This service has proved invaluable in ensuring required reports are filed, assisting in conservatorship review, and is another step towards comprehensive guardianship monitoring.
- In partnership with Idaho Legal Aid Services, **judges in three pilot project sites have the ability to appoint an independent Guardian ad Litem attorney** to assist the court in conducting a variety of monitoring responsibilities. Duties of the Guardian ad Litem may include: (1) assisting in replacing or removing a non-compliant conservator or guardian; (2) participating in the review of reports which have been identified as problematic including attending hearings and making recommendations on any corrective or enforcement actions needed; and (3) pursue sanctions or remedies authorized under law. The pilot project is currently under review to determine the feasibility of providing this service statewide.

Guardianships and Conservatorships in Idaho: A vision for the future

In recognition of the success of the conservatorship monitoring program and the continuing need to protect incapacitated persons and their estates, the Supreme Court and the GC Committee continue to identify and implement best practices and standards.

Court directed guardianship monitoring has been identified as the committee's most pressing need to meet its charge of guarding those citizens whose protection are entrusted to other people through the courts. A protected persons monitoring project will be implemented in the coming months to ensure persons under guardianship or conservatorship are protected against exploitation, abuse and neglect; guardians understand and fulfill their duties and responsibilities both prior to and during their appointment; the development and implementation of a set of effective, streamlined policies, procedures, and forms; and implementation of an independent review system for purposes of monitoring the care of persons under guardianship.

Ongoing strategies and a future vision provides an active, systemic and organized process to recognize guardianships and conservatorships in need of support, in time to prevent or stop abuse and exploitation of vulnerable Idaho citizens.

