

GUARDIANSHIP AND CONSERVATORSHIP MONITORING PROGRAMS CONTINUE TO PROTECT IDAHO'S MOST VULNERABLE POPULATIONS



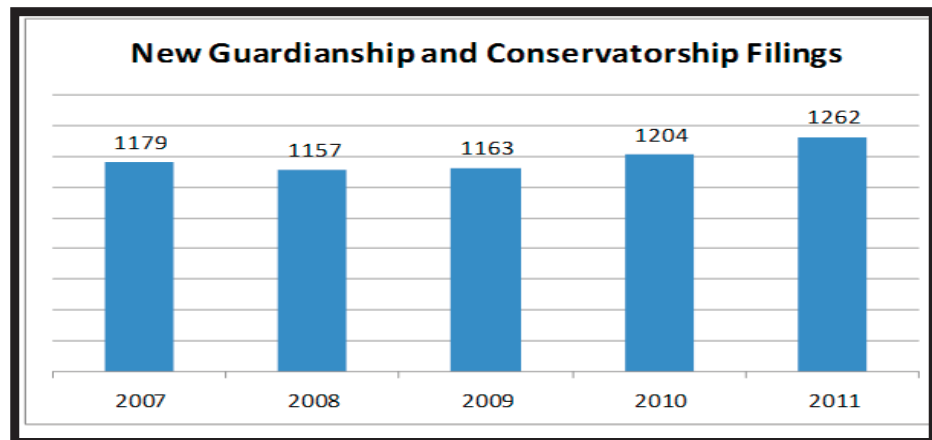
Report to
Governor C.L. "Butch" Otter
and the 2nd Regular Session of
the 61st Idaho Legislature

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In guardianship and conservator cases, a third party is appointed to assume physical caretaking and/or asset management for an elderly person, minor, or otherwise incapacitated person. There were 1,262 new guardianship and conservatorship filings in Idaho in FY2011, up slightly from the previous year. Idaho courts have seen an increasing number of these types of cases in recent years as the result of both an aging population and a rise in the number of children being raised by grandparents or other relatives. Once a guardian or conservator is appointed, the situation resulting in the need for the appointment could continue for months and years. In other words, these cases tend to remain active for extended lengths of time.



In 2005, the Idaho Legislature passed HB 131 (later codified as Idaho Code § 31-3201G), which increased fees in guardianship and conservatorship matters for the purpose of funding a pilot project to evaluate and improve the monitoring of guardianship and conservatorship cases. The pilot period has now ended and conservator and guardianship cases are being monitored statewide. Improved monitoring techniques have resulted in conservators being far more compliant in filing accountings required under the law; the capacity to detect the misuse of property and funds or the failure of conservators to adequately account for estates; and the ability of courts to require conservators to explain and correct problems.

The Guardianship and Conservatorship Committee (the Committee) has taken steps to expand successful monitoring techniques statewide. A third-party review of reports filed by conservators has been centralized in the financial office of the Administrative Office of the Courts (AOC). Court clerks now file with the AOC orders of appointment and annual accountings in all conservatorship cases. An AOC staff member, who is also a certified public accountant, oversees the review process and reports deficiencies back to the courts who ordered the appointment. In addition, the standardized forms originally developed for the six pilot counties are being implemented statewide and all clerks and judges have been trained in the new monitoring procedures for conservatorship cases.

- Over 1,710 annual reports have been submitted for review by the AOC, reflecting that over 212 million dollars is being managed by conservators for incapacitated persons in the state of Idaho.
- Of the annual reports reviewed, 255 estates with a value of over 50 million dollars were identified as needing further review to address deficiencies.

Standards of practice established and training strengthened for newly appointed guardians and conservators

Under Administrative Court Rule 54, all individuals petitioning to become a guardian or conservator for an incapacitated adult are required to complete an on-line training course and to certify to the court their completion of the course prior to being appointed. The training provides a sound basis for lay-persons, who comprise the bulk of those who act in the capacity of guardians and conservators, to understand clearly their responsibilities and duties when they take on these important legal obligations on behalf of incapacitated persons. The content is based upon a thorough review of nationally accepted professional standards of practice adapted to Idaho law and best practices as reviewed in depth by the Committee. This training will establish a benchmark for standards of practice in the state of Idaho such that protected persons and the courts will be able to expect and demand a higher level of performance by those appointed as guardians and conservators. The rule also allows the courts to charge a fee to cover the cost of administering the training and gives judges the discretion to waive the fee upon a showing of good cause.

In June of 2011, a webinar was presented to magistrate judges and deputy clerks to educate them about the mandatory training course for guardians and conservators. It was an outstanding success with most magistrate judges and most clerks who handle these types of cases participating in the training.

In addition, as a public education tool for previously appointed guardians and conservators and so that professionals in the field can be familiar with what their clients are required to study, any individual wishing to learn about guardianships and conservatorships can access the course online without paying a fee. This access does not, however, provide verification of certification for having completing the course.

Information about the course and how to access it can be found on the Idaho Supreme Court's web site and at http://www.isc.idaho.gov/guardian_conservator.htm.

Plans to continue the important work of the committee underway

Looking to the future, the Committee will work towards accomplishing the following important tasks:

- Complete the training of judges and clerks in the use of the on-line training video.
- Monitor the success of petitioners for appointment as guardians and conservators in completion of the training program.
- Develop and edit the online training course to address the unique needs of minors so that the guardians and conservators for minors can also be required to take the course.
- Develop a system of in-person visits to incapacitated persons protected under guardianship orders.
- Establish a system of third-party review of reports to be filed by guardians.
- Develop procedures to secure funding for appointment of attorneys as guardians ad litem to correct deficiencies identified by the third-party review.
- Review Idaho law and establish best practices in the care of the developmentally disabled individuals.
- Review Idaho law and establish best practices in guardianships relating to minors.
- Review Idaho law and establish best practices in relation to amounts delivered to parents or guardians on behalf of minors when a minor's claim is comprised by a court.