



Report to the Governor  
C.L. "Butch" Otter  
and the  
1st Regular Session of the  
64th Idaho Legislature

# IDAHO JUDICIARY

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## IDAHO'S GUARDIANSHIPS AND CONSERVATORSHIPS

Guardianships and conservatorships are relationships created by Idaho law in which a court gives a person or entity (the guardian or conservator) the duty and power to make personal or financial decisions for another (the person under guardianship or conservatorship).

### Encouraging and Enabling People to Lead Independent, Self-Determined and Community Included Lives

The Idaho Legislature has recognized through Title 66 (the Developmental Disability Code) and Title 15 (the Uniform Probate Code) that every individual has unique needs and differing abilities, and public welfare is promoted by establishing a guardianship or conservatorship that permits persons to participate as fully as possible in decisions affecting them. To further this objective, the Idaho Supreme Court Guardianship and Conservatorship Committee (GC Committee) is identifying and implementing promising practices to facilitate limited guardianships and conservatorships and less intrusive alternatives, and crafting procedures that take into account each individual's unique circumstances. One of these practices is called supported decision making.

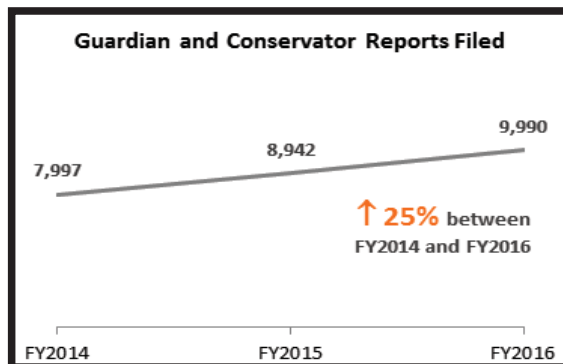
Supported decision making occurs when people choose trusted friends, family members, and professionals to help them understand the situations and choices they face, so they may make their own decisions. In FY2016, Idaho judges received training on supported decision making by national experts. The judges learned about this innovative practice while also receiving practical information they can use on the bench to further the legislature's policy of self-determination.

### Compliance and Monitoring

A guardian is required by Idaho Code § 15-5-312(e) to report annually on the status of the person under guardianship including information on actions taken throughout the year, current functioning, and any concerns. A conservator is required by Idaho Code § 15-5-419 to report annually on any income and expenses for that year, and must include an inventory of the entire estate of the person under conservatorship. This is one of the most effective and efficient ways to determine how the person is functioning, and if the guardian or conservator is fulfilling his or her responsibilities to protect the interests of the incapacitated individual.

While the number of guardianship and conservatorship petitions has remained stable, the number of reports to the court has steadily risen across the state due to increased training and public outreach.

Six years ago, the GC Committee implemented a statewide financial monitoring program that provides an independent review of conservators' reports to monitor effective asset management for the person under conservatorship. In FY2016, Idaho clerks of the court submitted 2,752 annual financial reports for review. These reports reflect \$336 million dollars of assets under the care of another person. Certified Public Accountants, working for the Administrative Office of the Courts, reviewed these reports and found 295 that required further follow up to confirm the conservator was not mismanaging the finances of the protected person.



In July 2014, the GC Committee launched two pilot projects in the Third and Fifth Judicial Districts, called the Court Monitoring of Protected Persons (CMPP) project, to explore and develop best practices for comprehensive court monitoring for guardianship cases. Coordinators were hired to provide court monitoring of persons under guardianship, to develop and implement a set of effective, streamlined policies and procedures, and to act as a point of contact for parties and members of the public on guardianship processes. One of the major duties of the coordinators is to review the guardian's reports and follow up if there is a concern.

Evaluation of the CMPP shows that the program provides needed resources for clerks, establishes consistency in case processing, gives assistance to the public, and improves the monitoring of cases, including identification of cases in need of follow up. The work of the coordinators identified 204 guardianship cases that were erroneously closed, helped increase annual guardianship report submission by 23%, and provided follow up on flagged cases (about 10% of all cases reviewed) where the guardian wanted to resign or there were indicators of potential abuse or exploitation.

### **Innovative Practices**

- **Eldercaring Coordination:** The Association for Conflict Resolution provided an opportunity for courts across the nation to participate in a pilot project on Eldercaring Coordination. Eldercaring Coordination focuses on reducing the level of conflict in families regarding the care and safety of an elder. This helps the elder and family members to more productively address the issues at hand and work with others in their support system to obtain legal advice, guidance, and care. The Fifth Judicial District is nearing the end of the one-year pilot project and anticipates recommending implementation in other areas of the state with a focus on advanced training for elder mediation services.
- **Online Training:** An online training program launched in 2011 requires that all persons seeking appointment as a guardian or conservator on behalf of an incapacitated adult complete a comprehensive course based upon standards of practice applicable to Idaho. Since its inception, over 7,000 people have completed and passed the course on their way to becoming guardians or conservators.
- **Guardian ad Litem Appointments:** In partnership with Idaho Legal Aid Services, judges in the Third, Fifth, Sixth, and Seventh Judicial Districts and within Kootenai County have the ability to appoint an independent Guardian ad Litem attorney to assist the court in conducting a variety of monitoring responsibilities.
- **Party Locator Services:** 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. This service has proved invaluable in increasing the number of reports filed, assisting in report review, and allowing the court to effectively monitor cases. Since October of 2012, clerks in 20 different counties have requested contact information for 414 different cases.

Never before has Idaho had such a large population of elderly persons who are enjoying greater longevity. In addition to the growing aging population, trends include an increase in individuals with dementia, growth in the population of individuals with developmental disabilities, and grandparents raising grandchildren. Thankfully, Idaho anticipated this trend and has established practices to protect individuals who need an additional voice while also supporting vulnerable persons to participate as fully as possible in the decisions that affect them.

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### **Mission Statement of the Idaho Courts**

*As the Third Branch of  
Government, we provide  
access to justice by ensuring  
fair processes and the timely,  
impartial resolution of cases.*

*The Idaho Courts stand for:*  
*Integrity*  
*Fairness*  
*Independence*  
*Respect*  
*Excellence*  
*Innovation*

*The Idaho Courts strive to:*

**Provide Timely,  
Impartial Case  
Resolution through  
Legally Fair Procedures**

**Ensure Access to Justice**

**Promote Effective,  
Innovative Services**

**Increase Public Trust  
and Confidence in  
Idaho Courts**

Adopted by the  
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