



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

IDAHO JUDICIARY

Idaho Supreme Court
451 W. State Street
P.O. Box 83720
Boise, ID 83720-0101
208.334.2246
FAX 208.334-2146
www.isc.idaho.gov

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 to make personal decisions for another (the person under guardianship or conservatorship).

The population of Idaho's citizens who are 65 and older is expected to grow by almost 36 percent by 2025. This "graying" of Idaho's population will increase the need for guardianships and conservatorships to protect those who do not have the ability to fully manage their own affairs.

Expanded Monitoring Efforts to Ensure Well-Being, Safety, and Proper Asset Management

Conservators are required to submit reports accounting for all assets of the person under conservatorship. These reports are reviewed at the Idaho Supreme Court by Certified Public Accountants to identify possible mismanagement, fraud, or misappropriation of funds controlled by the conservator. In FY2017, the clerks of the district courts submitted 2,911 accountings for review, totaling \$267,603,413 in assets under conservatorship.

Guardians are required to submit reports identifying the status of the person under guardianship including information on actions taken throughout the year, current functioning, and any concerns. In July 2014, the Guardianship and Conservatorship Committee (GC Committee) launched two pilots 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. Guardianship and Conservatorship Monitoring Coordinators (GC Coordinators) were hired in two districts 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 and conservatorship processes. One of the major duties of the GC Coordinators is to provide a professional review of the guardian's reports and follow up if there is a concern.

Following an evaluation that clearly demonstrated the effectiveness of the project, the legislature generously allocated funding in 2017 to expand the project to the entire state, ensuring every Idahoan under guardianship or conservatorship receives the protection and support of a trained coordinator. GC Coordinators have now been hired and trained in all seven judicial districts. With support from Idaho Supreme Court staff, coordinators in each district are working to effectuate the goals of the project and assist the courts in its duties defined by statute.

Alternatives to Full Guardianship and Conservatorship

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 that the public welfare is promoted by establishing an individualized guardianship or conservatorship that permits persons to participate as fully as possible in decisions affecting them. To further this objective, the GC Committee is identifying and implementing promising practices to facilitate limited guardianships and conservatorships, 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 the

person struggling with capacity issues may make their own decisions. The Idaho Supreme Court was recently awarded a grant from the American Bar Association Commission on Law and Aging, in collaboration with the National Center for State Courts, to enhance the work of the committee on its efforts to train and encourage all system stakeholders on supported decision making and less intrusive alternatives. Along with financial assistance for this effort, the proposal also contemplates extensive expert technical assistance and opportunities for information-sharing with sister states conducting the same work.

The Future of Guardianship and Conservatorships

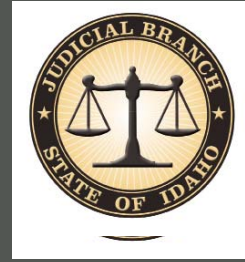
Never before has Idaho had such a large and growing population of elderly persons who are enjoying greater longevity. In addition to the sheer increase in numbers, trends within this population include significant increases in the number of individuals with dementia, individuals with developmental disabilities, and incidents of abuse in this vulnerable population. Idaho has seen the trend play out in a 6% increase in the number of petitions filed for guardianship or conservatorship from FY2016 to FY2017.

Thankfully, the Idaho Courts anticipated this trend and established practices to protect those individuals who need someone else to be their voice. However, there is more work to be done. Through collaboration and innovation, the GC Committee plans to:

- Expand and improve the work of the district guardianship and conservatorship monitoring coordinators to ensure local needs are met while ensuring consistency and standard practice;
- Improve the technology and content of on-line training for guardians and conservators;
- Provide outreach to stakeholders to assist in crafting individual orders and improve practices aimed at recognizing each individual's unique needs and differing abilities; and
- Evaluate emerging practices on a national, state, and local level to further protect Idaho's vulnerable citizens.

All of these promising practices, achievements, and future plans fundamentally recognize there is no "one-size-fits-all" solution for individuals struggling with decision making. It is the responsibility of the judiciary, community, stakeholders and others to craft a solution that ensures individuals retain all the fundamental rights possible while maintaining the safety and security of the person in need of assistance.

*For more information, contact Sara B. Thomas,
Administrative Director of the Courts
stthomas@idcourts.net // 208-334-2246*



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
Supreme Court
October 31, 2011
and revised
April 25, 2016