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Judicial committee may recommend training changes in conservatorship matters

Judicial committee mulls whether to recommend that the state revamp training

by Paul Jones, Staff Writer

SAN FRANCISCO - A judicial committee may recommend the state revamp judge and attorney training in the wake of a disability rights group's allegations of problems with how California courts award parents and guardians control over developmentally disabled people.

That's the potential upshot of a meeting Friday by the Judicial Council's Probate and Mental Health Advisory Committee, where judges heard from attorney and disability rights advocate Thomas F. Coleman of the nonprofit Disability and Abuse Project. Coleman said he's uncovered numerous problems with the handling of conservatorship cases, and he wants a special task force to investigate alleged conflicts of interest in the manner in which courts treat developmentally disabled parties.

Conservatorship cases involve courts granting legal authority to guardians to take control over elements of a person's life, such as medical and financial matters. Developmentally disabled people are often subject to conservatorship cases when they reach legal adulthood and parents seek to continue caring for them. But some disability rights advocates, including Coleman's group, complain disabled people's rights are often undermined in court.

Specifically, Coleman claimed he has found problems in Los Angeles County Superior Court that include the court's decision to end the use of independent investigators who verify if a developmentally disabled person needs to be taken care of, and to what extent. He also said attorneys who are hired by courts to represent disabled parties

are pushed to provide sensitive information about their clients to the court in order to speedily resolve conservatorship matters.

"Any attorney is supposed to represent their clients' wishes and protect their clients' rights. These attorneys don't do that," he said. "A local court rule tells them they have a secondary duty ... to help the court resolve the cases ... They gather information about their clients' strengths, weaknesses, abilities and inabilities" and then present potentially damaging information to the court.

Statewide, Coleman said regional centers set up to assist disabled people are poorly equipped to provide important information about parties in conservatorship cases.

Contra Costa County Superior Court Judge John Sugiyama chairs the Probate and Mental Health Advisory Committee. Despite the Disability and Abuse Project's goal for a statewide task force to review court practices in conservatorship cases, Sugiyama and other judges said the money wasn't available, and indicated the committee wouldn't recommend such a task force to the Judicial Council. However, Sugiyama said he wanted to pursue the possibility of altering training for judges and attorneys to highlight some of the issues raised by Coleman.

"As you're aware, being a lawyer facing courtrooms that are being darkened, staff members that are being laid off, it's going to be very difficult for the judicial branch to find money to support a task force," Sugiyama said, urging Coleman to pursue the idea with lawmakers.

However, "This is what I suggest - one thing we can do immediately pertains to the training of judicial officers and court-appointed counsel," Sugiyama said. "That is something we can enforce. We can impose the requirement on judges overseeing limited conservatorships and court-appointed counsel."

The commission members also suggested pursuing new standards for regional centers, whose reports can influence the outcome of conservatorship cases.

Coleman said he'd work with the committee to develop changes that could help address some of the issues raised by his group. That could lead to the judicial branch formally enacting new training requirements to improve protection of disabled parties' rights.

However, outside of the meeting he said he still wants a broader review of the conservatorship system.

"I feel that they are sincerely interested in seeing reform occur in some areas," he said. But "the powers that be should be able to find the money to staff such a task force. A comprehensive review is long overdue and needed."

In 2006 the judicial branch created a task force to look into general conservatorships, which mainly involve senior citizens, he said.

Coleman said he and the Disability and Abuse Project were previously successful in pushing for changes to state law that clarified a disabled person's right to vote couldn't be removed simply because they required assistance filling out a voter registration form. AB 1311 was signed by Gov. Jerry Brown earlier this year. The group has also filed a Department of Justice complaint more generally alleging the state's voter competency laws amount to literacy tests. Coleman said he might consider pursuing a Department of Justice complaint if the conservatorship system isn't more broadly reviewed.



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