

### **Disability, Abuse, and Limited Conservatorships: The Role of Court Investigators and Court-Appointed Attorneys**

#### Initial petition:

The court investigator and court-appointed attorney should assume that the proposed conservatee may be a trauma victim – namely a survivor of abuse or neglect that occurred during his or her childhood. Half of all children with disabilities may have been victims of abuse or neglect prior to the age of 18. The perpetrators are usually someone in the close network of support – a parent, household member, relative, neighbor, care provider, service provider, or someone at school. If the parent is not the perpetrator, the parent has either failed to or has otherwise not been able to adequately protect the child from abuse if it has occurred. This may or may not involve neglect. This should be of concern to the court – and to the investigator and attorney by extension – since the parent is either the petitioner or the proposed conservator in a proceeding that is intended to protect the conservatee. The conservator will be placed in a position of control – with little supervision – for many years and perhaps several decades. The case will probably never come back to court for any active review. So the court needs to weed out inappropriate or unqualified persons seeking to be conservators during the initial proceeding. This is a critical function of a court investigator and a court-appointed attorney. These court officers need proper training on disability and abuse, interviewing and communicating techniques for interactions with people who have cognitive and communication disabilities, ADA accommodation protocols, and abuse investigation procedures. Such training is currently not happening. There needs to be periodic and random auditing by an agency independent of the court to make sure proper training is being conducted, as well as periodic and random audits to make sure that such attorneys and investigators have received the trainings and are engaging in proper procedures as they perform their duties. The Legislature should authorize an office of the Department of Developmental Services to perform these audits.

#### Biennial reviews:

The court, and its investigators, need to treat the mandatory biennial reviews more seriously, at least for the purpose of spotting possible abuse or neglect. A phone call should be made to the doctor or therapist of the conservatee to check on the status of the conservatee. Plus contact with the neighbors and extended family should occur, even if only by telephone, to see if anyone has any adverse information to report. Random audits of biennial reviews should be done by an agency independent of the court, such as a legislatively authorized office of the Department of Developmental Services, to make sure that biennial reviews are being conducted in a timely and thorough manner.