

Texas Judicial Council admits widespread non-compliance by guardians of senior citizens and people with disabilities

by David Yates |

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AUSTIN - The Texas Judicial Council recently announced to the House of Representatives last week in Washington, D.C. that 43 percent of adult guardianship cases in the state of Texas are out of compliance with reporting requirements.

Adult guardianship cases include the elderly and people with disabilities who have become “wards” of the state. Their assets make up some \$4 to \$5 billion that pass through county probate courts in Texas, according to TJC data.

“The vast majority of the cases out of compliance were cases where the guardian was a family member or friend,” according to testimony by TJC Representative David Slayton, administrative director of the Office of Court Administration, in Austin.

“The findings from reviews of filed accounting and reports tell a more disturbing story.”

Slayton’s April 18 testimony comes on the heels of the Spectrum Institute’s class action complaint with the Supreme Court of Texas, alleging that the state’s adult guardianship program is in violation of the Americans with Disabilities Act.

“This is just the tip of the iceberg,” said Thomas F. Coleman, a civil rights attorney and legal director of the Spectrum Institute. “The testimony by Mr. Slayton, who is a representative of the Texas Judicial Council, is an admission that the judicial branch is violating its duty under the Americans with Disabilities Act to provide access to justice to people with disabilities under its protection.”

The Spectrum Institute is a nonprofit organization promoting equal rights and justice for people with disabilities, including cognitive decline among the elderly.

Slayton further informed the U.S. House of Representatives Special Committee on Aging that adult guardianship cases are overseen primarily by constitutional county judges who are not required to be law-trained and who also oversee the administration of counties, according to a press release.

"The project regularly found unauthorized withdrawals from accounts; unauthorized gifts to family members and friends; unsubstantiated and unauthorized expenses; and the lack of backup data to substantiate the accountings," Slayton said.

Such overlap of duties of county judges who also oversee the administration of counties is ripe for conflicts of interest, according to Coleman, who adds that reporting and monitoring are services that are supposed to be provided by the courts to seniors and people with disabilities who are wards in guardianship proceedings.

"Due to the nature of their disabilities, these wards are unable to monitor their own cases or to 'blow the whistle' to complain when their guardians disobey statutory reporting requirements," said Coleman who just re-filed his class action complaint to include the Texas Judicial Council testimony with the Supreme Court of Texas.

The number of active guardianships has increased by 37 percent in the past five years and is one of the fastest growing case types in the state, according to Texas Judicial Council data.

"There are not only breaches of accounting duties but also denial of access to justice, as required by the Americans with Disabilities Act, due to the failure of

the Texas judiciary to require courts to be compliant with the ADA,” said Coleman. “By law, courts are supposed to provide a service of ‘protection’ in guardianship cases.”

According to Slayton, the state’s guardianship adult program has been under investigation since 2015.

“The Guardianship Compliance Pilot Project has reviewed over 27,000 guardianship cases in 27 counties,” Slayton told the Senate Committee.

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