



Disability and Guardianship Project

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April 7, 2016

Honorable Matthew B. Durrant
Chair, Utah Judicial Council
P.O. Box 140210
Salt Lake City, UT 84114

Re: HB 101 Encourages Violations of the Americans with Disabilities Act

To the Utah Judicial Council:

Now that HB 101 has been signed into law, the burden of implementing the law shifts to the Judicial Branch. We are enclosing a copy of the letter we sent to Governor Herbert expressing our concerns about the bill. Please consider our views as the Judicial Council formulates any standards, rules, or trainings to guide judges in deciding whether to process a guardianship case without appointing an attorney for the respondent. Judges should be made aware that a decision not to appoint an attorney may violate Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. (See “Sitting Ducks” at: www.spectruminstitute.org/guardianship/sitting-ducks-utah.pdf)

We are enclosing a brochure about a White Paper we submitted to the Department of Justice regarding the duty of courts to appoint an attorney for litigants with cognitive disabilities as a necessary accommodation under the ADA. Appointed counsel may be the only way to ensure that a respondent has meaningful participation in his or her case. The full White Paper, titled *Due Process Plus*, and related exhibits are available online at: <http://spectruminstitute.org/white-paper/>

We recently filed a report with the Washington State Supreme Court – *The Justice Gap* – that may be helpful to the Utah Judicial Council as it considers the implications of failing to appoint counsel for guardianship respondents. The full report is available online at: <http://spectruminstitute.org/gap/> We specifically call your attention to Exhibits 24-27 which contain materials regarding the appointment of counsel as an appropriate ADA accommodation for litigants who have cognitive disabilities. (<http://spectruminstitute.org/gap/exhibits/exhibits-contents.pdf>)

In a separate letter, we will be writing to you about ways we believe the ADA accessibility webpage of the Utah Courts website can be improved.

We would appreciate hearing from you if we can assist the Utah Judicial Council in any way.

Respectfully submitted:

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Enclosures: “Sitting Ducks” Essay
The Justice Gap brochure
DOJ White Paper brochure