

# STATE ADULT GUARDIANSHIP LEGISLATION: DIRECTIONS OF REFORM – 2006

## Commission on Law and Aging American Bar Association

In 2006, at least eight states passed a total of 16 adult guardianship bills – as compared with 25 bills in 15 states passed in 2005. *California* passed an omnibus package of four bills to improve the administration of the adult guardianship system. *Wisconsin* enacted landmark guardianship and adult protective services reforms. *Florida* passed a gamut of amendments stemming from state reform recommendations. Also, states amended provisions concerning the powers and duties of guardians, guardian reporting and accounting, emergency procedures and transfer between jurisdictions. If you know of additional state guardianship legislation enacted in 2006, please contact Erica Wood, ABA Commission on Law and Aging, [ericawood@staff.abanet.org](mailto:ericawood@staff.abanet.org), 202-662-8693.

### A. California: Omnibus Conservatorship and Guardianship Reform Act

In November 2005, *The Los Angeles Times* published a hard-hitting exposé called *Guardians for Profit*. The series examined the work of private professional and public guardians in Los Angeles County and other select counties around the state. It was based on extensive interviews, as well as a review of more than 2,400 cases, including every case handled by a professional guardian (called “conservator”) in Southern California between 1997 and 2003. There are about 500 professional guardians in the state, responsible for some \$1.5 billion in funds and critical decision-making for at least 4,600 vulnerable Californians. Professional guardians handle about 15% of the guardianship cases in Southern California. Among the key findings concerning professional guardianship in LA County were that:

- Some professional guardians actively solicited cases, filed petitions, carried heavy caseloads, in some cases ignored incapacitated clients or even plundered estates, charged hefty fees and were not always closely monitored by the court.
- More than half of the cases examined began with an “emergency” appointment, which gives short shrift to procedural safeguards in place for regular guardianship proceedings.
- In at least 50 instances, professional guardians used their authority to benefit themselves or their friends/relatives.

- Probate courts were swamped with cases and short of staff.
- The county public guardianship program was swamped with cases and short of staff, forcing it to reject more than four of five cases referred.
- The much lauded California system of probate court investigators, whose job it is regularly to check on incapacitated persons under guardianship, was swamped with cases and short of staff, causing investigators to fall behind in making required visits.

The series received nationwide attention and spurred action in California, including legislative hearings, introduction of several substantial legislative measures, and creation by Chief Justice Ronald M. George of a statewide Probate Conservatorship Task Force charged with making recommendations to improve the management of probate conservatorship cases in California trial courts. In September, 2006, Governor Arnold Schwarzenegger signed into law an Omnibus Conservatorship and Guardianship Reform Act, a package of four bills making extensive changes in the state's guardianship ("conservatorship") system, as highlighted below, from a summary by Daniel A. Pone, Senior Attorney, Administrative Office of the Courts, Office of Governmental Affairs. Contact him for further information at [daniel.pone@jud.ca.gov](mailto:daniel.pone@jud.ca.gov).

A.B. 1363 – makes reforms including enhanced court review and expansion of duties of the court investigators:

- ✓ Increases frequency of court review from one year after appointment and biennially thereafter to six months after appointment and annually thereafter, unless court determines that the conservator is acting in the best interests of the conservatee, in which case the review would be in two years, with a status investigation one year prior to the next scheduled review.
- ✓ Expands duties of court investigators to include new investigations six months after appointment, status investigations at one-year intervals, as well as in proposed temporary appointments. Expands scope of investigations to include interviews of not only the proposed conservatee, but also the petitioner, conservator, spouse, other relatives, friends, neighbors. Requires that investigations be without prior notice to the conservator unless court orders otherwise. Requires that investigator's report be mailed to relatives unless the court orders otherwise. Provides that upon investigator's request, the conservator must make available for inspection and copying the conservator's books and records concerning the conservatorship.

- ✓ Strengthens court oversight. Requires the Judicial Council to develop a standard accounting form and a simplified accounting form; and requires that all accountings be submitted on the Council forms. Clarifies and expands the types of supporting documentation submitted with each accounting. Sets out court actions upon material errors in the accounting, including possible suspension and removal. Requires that conservator's books and records be made available for inspection and copying by any person designated by the court, in order to verify the accounting.
- ✓ Strengthens procedural protections in temporary conservatorships including service of notice on the proposed conservatee and those named in the petition. Provides for a petition to terminate a temporary conservatorship. Requires the Judicial Council to adopt a rule establishing uniform standards for good cause exceptions to the five-day notice requirement. With limited exceptions, requires attendance of proposed conservatee at the hearing.
- ✓ Makes other changes including but not limited to provisions on conservator compensation, as well as court costs and fees. Requires Judicial Council to adopt a rule specifying qualifications and education in conservatorships and guardianships; develop a self-help educational video; study and make recommendations regarding performance standards in conservatorship cases; develop a form for notice of hearing, for notice of rights of the conservatee, and for objections to inventory and appraisal; and adopt a rule establishing uniform standards of conduct for conservators and guardians regarding fees that may be charged and asset management.
- ✓ Clarifies role of public guardians to require public guardians to apply for appointment if there is an imminent threat to an individual's health or safety or the estate. If there is no one else qualified and willing to act, the court must appoint the public guardian. The public guardians must begin investigations within two business days of receiving a referral. The public guardian also must meet new continuing educational requirements.

S.B. 1116 increases court oversight of moves of wards and conservatees and the sale of conservatees' personal residences.

- ✓ Concerning moves, includes provisions about notice of change of residence; safeguards in proposed removal of conservatee from personal residence; presumption that personal residence is the least restrictive setting; determination by conservator of appropriate level of care for the conservatee.

- ✓ Concerning the conservator's sale of conservatee's personal residence, includes provisions on procedures for sales and appraisals, requires a showing that there is no other alternative available, and specifies limits on the conservator's power to sell.

S.B. 1550 establishes a licensing and disciplinary scheme for professional fiduciaries in the Department of Consumer Affairs; and prohibits, effective July 2008, appointment of a professional fiduciary unless he or she is licensed under the act.

- ✓ A "professional fiduciary" is a person who acts as a conservator or guardian for two or more persons at the same time who are not related to the professional or to each other. Includes a person who acts as a trustee or agent under a durable power of attorney for health care or finances for more than three people or three families at the same time who are not related to the professional.
- ✓ Exempted from licensure are trust companies & employees, FDIC-insured institutions & employees, public officers or public agencies including public guardians, persons whose sole activity as a fiduciary is as a broker-dealer, broker-dealer agent or an investment adviser representative, licensed attorneys, certified public accountants and enrolled agents authorized to practice before the IRS.
- ✓ The new law sets out qualifications for licensure including criminal background checks, a licensing examination, specified experience and education (both pre-licensing and continuing).

S.B. 1716 allows the court to take appropriate action in response to informal ex parte communications or complaints concerning the fiduciary's performance of his/her duties and responsibilities and/or a person who is subject to a guardianship or conservatorship proceeding. It provides that the court may refer such complaints to a court investigator or take other responsive action. The court must disclose the ex parte communication to all parties and counsel unless necessary to protect the ward or conservatee.

## **B. Wisconsin: Landmark Reform**

In 2006, attorneys and other advocates for older people and peoples with disabilities in Wisconsin won a "triple crown" with the legislature's passage of three major pieces of legislation affecting guardianship, protective services and placement, and adult protection systems. The summary below was prepared by Betsy Abramson, a Wisconsin attorney and consultant, primarily in the area of abuse and neglect of vulnerable adults, with assistance from attorney Ellen Henningsen of the Coalition of Wisconsin Aging Groups' Elder Law Center and

Jane A. Raymond, Wisconsin Department of Health and Family Services, Advocacy and Protection Systems Developer. While this summary focuses exclusively on the new guardianship law, for an overview of all three measures, see [http://www.wisbar.org/AM/Template.cfm?Section=Wisconsin\\_Lawyer&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=59778](http://www.wisbar.org/AM/Template.cfm?Section=Wisconsin_Lawyer&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=59778).

The new guardianship law, 2005 Wisconsin Act 387 (SB 391) effective December 1, 2006, was the work of a great number of dedicated members of the Wisconsin State Bar's Elder Law Section and others for nearly a dozen years. The work of the Section in creating the draft was a reflection of decades of practice by attorneys who recognized the statute's many problems. Their experience showed that the statute was badly organized, used antiquated terms and contained a "one legal standard fits all" regardless of whether guardianship of the person or guardianship of the estate was sought. It was also lacking in due process and presumed that all rights are removed unless a court specifically retains certain rights, failed to give appropriate deference to previously-executed powers of attorney, did not specify in sufficient detail the duties or responsibilities of guardians of the person or estate, and lacked procedure for removal of a guardian, reinstatement of rights and other post-appointment matters. Highlights of the new chapter (Chap. 54, Wis. Stats) include:

1. Definitions. The definitions section replaces antiquated terms such as "infirmities of aging" and adds new definitions for "least restrictive," "serious and persistent mental illness," "spendthrift" and "interested person." Significantly, the law ceases referring to individuals as a noun -- "an incompetent" -- and instead more sensitively creates a definition for an "individual found incompetent," as "an individual who has been adjudicated by a court as meeting the requirements of sec. 54.10(3), Wis. Stats."

2. Appointment Procedure. The new law greatly strengthens the due process protections for proposed wards by requiring the court, before appointing either a guardian of the person or guardian of the estate, to find that there is no less restrictive means of meeting the need for assistance. Because there are different reasons for appointing the two different types of guardian (guardian of the *person* and guardian of the *estate*) the provisions create different standards for the two different types of guardians.

The new law also will improve selection of a guardian, by listing new (additional) factors for a court to consider, including: whether a proposed ward had done any advance planning (e.g., a power of attorney, trust); whether appointment of a guardian is the least restrictive means of meeting the proposed ward's needs; the individual's preferences; the nature and extent of the individual's care and treatment needs as well as property and financial needs; whether the proposed ward is at risk of abuse, exploitation, neglect or violation of rights; whether the

individual can adequately understand and appreciate the consequences of any impairment; the individual's management of activities of daily living; the individual's understanding and appreciation of the nature and consequences of any inability he or she may have regarding personal needs or property management; any medication and the effect on the individual's behavior, cognition and judgment; and whether the disability is likely to be temporary or permanent.

The court must appoint as guardian of the estate or person the agent under a previously executed durable power of attorney or power of attorney for health care, respectively, unless this would not be in the best interests of the proposed ward. The new law also reverses the former presumption about powers of attorney so that a court now must identify specific reasons why a guardian should be appointed despite the existence of a previously-executed power of attorney. Also, it requires a proposed guardian to submit a sworn and notarized statement to the court indicating whether he or she has ever been convicted of certain crimes, filed for or received bankruptcy protection, or had certain professional licenses or certificates suspended or revoked. The relevance of the proposed guardian's history will then be determined by the court.

3. Limitations, Powers & Duties. Consistent with other states' trends, the law emphasizes limited guardianship and reverses presumptions of full guardianship by limiting the guardian to powers authorized by statute or court order and that are the least restrictive form of intervention. A ward retains all rights not assigned to guardian or otherwise limited by statute. The new law provides a standard of duty for the guardian, separating the guardian's relationship to the ward ("to exhibit the utmost truthworthiness, loyalty and fidelity") and the guardian's standard when acting on behalf of the ward ("...to exercise the degree of care, diligence and good faith...that an ordinarily prudent person exercises in his or her own affairs"), and provides immunity if the guardian does so.

The new statute then clearly and distinctly separates the duties from the powers, and identifies which of the latter require court approval. The statute makes these listings separate for a guardian of the *estate* and a guardian of the *person*. Highlights include a limited gifting provision (only after notice and court approval) and provisions related to consent to psychotropic medication, participation in research and experimental treatment. The law also provides procedures for transfers of foreign guardianship.

4. Procedural Due Process. New due process provisions include providing the proposed ward with additional rights regarding the required physical/psychological examination, the right to remain silent during the examination, the right to request an additional examination, and a required court order to force the [proposed] ward to submit to an examination.

Additional protections are provided through required appointment of a *guardian ad litem* in more situations, e.g., temporary guardianships, any action to expand, review or terminate a guardianship or to review the conduct of a guardian. The new statute also lists the duties of a *guardian ad litem*, including interviewing the proposed guardian and/or stand-by guardian to determine fitness to serve and reviewing any existing powers of attorney, interviewing any previously appointed agent and reporting to the court whether a previously-executed power of attorney is adequate to preclude the need for guardianship and attend all court hearings.

In a change from current statute, the new statute makes it the petitioner's responsibility to ensure that the individual sought to be protected attends the hearing unless the *guardian ad litem*, after a personal interview with the individual, waives attendance and certifies in writing to the court why the individual person is unable to attend. This should not be done lightly. The *guardian ad litem* is required to consider the ability of the individual to understand and meaningfully participate, the effect of attendance on his or her physical or psychological health and the individual's wishes. If the individual is unable to attend only because of residency in a facility, physical inaccessibility or lack of transportation, the hearing must be moved, upon request, to where the individual resides.

The law also tightens up provisions related to the imposition of temporary guardianships. It specifies the process, requiring the appointment of a *guardian ad litem* in all cases. It requires a hearing, to be held no earlier than 48 hours after filing unless good cause is shown. The court must specify the powers delegated to a temporary guardian, and a temporary guardian may not sell real estate or expend more than \$2,000 unless court approves and orders bond.

5. Post Appointment Provisions. The new measure requires a guardian of the estate to file the estate's inventory within 60 days, provides that reviews and modifications of guardianships may be requested by wards age 18 and over, the guardian or anyone on the ward's behalf, if at least 180 days has passed since the last request or if there are exigent circumstances. It also requires the appointment of a *guardian ad litem* in these matters and a hearing with the ward present, right to counsel and jury trial. Finally, recognizing the great deal of abuse of vulnerable adults, including by their guardians, the new statutes lists all in one place the specific criteria for removal of guardian, cause for court action against a guardian, and remedies.

### **C. Florida: Gamut of Changes**

The Florida legislature passed two guardianship bills in 2006 – one incorporating the recommendations of the Guardianship Task Force and others; and a second with a focus on monitoring and less restrictive alternatives. The highlights below rely on a summary by Edwin

M. Boyer, Boyer & Jackson, Sarasota FL, as well as the House of Representatives Staff Analysis accompanying each bill.

1. HB 457 – Task Force Recommendations. The 2003 legislature created a Guardianship Task Force within the Department of Elderly affairs to recommend specific statutory and other changes in guardianship. The Task Force report was submitted in 2005. HB 457 enacts many of the recommendations of the Task Force, as well as the Florida State Guardianship Association, the Statewide Public Guardianship Office and the State Long-Term Care Ombudsman Program. Key elements relating to adult guardianship include:

- Professional guardians. Under existing law, professional guardians are required to register with the Statewide Public Guardianship Office annually. HB 457 redefines “professional guardian” to remove a requirement for compensation. A professional guardian is any guardian that serves three or more wards (non-relatives) at one time. It also provides that the Office’s director may suspend or revoke registration if a guardian violates the provisions of the code.
- Emergency guardianship. The bill creates new requirements for reporting by emergency temporary guardians. It also extends the automatic expiration of the guardian’s authority from 60 to 90 days, with a possible 90-day extension.
- Guardian qualifications and requirements. The bill makes credit and criminal investigation requirements for both private and professional guardians more comprehensive and more frequent, and includes inkless electronic fingerprints. In addition, it requires that guardian education requirements must be completed within four months instead of one year from appointment.
- Rights of incapacitated person. New language emphasizes the importance of an incapacitated person’s right to services maximizing the quality of life. The bill also clarifies rights that cannot be delegated to a guardian; and provides that if the right to contract is removed, the right to marry is subject to court approval.
- Counsel for respondent. The bill specifies that a court-appointed attorney for an alleged incapacitated person must be on the attorney registry compiled by the circuit’s indigent services committee; and that appointments must be made on a rotating basis. Court appointed attorneys must complete eight hours of education.
- Examining committees. The bill includes new provisions concerning members of examining committees, prohibiting members from being associated with or related to counsel for the

petitioner or proposed guardian and from thereafter being appointed as guardian; increasing educational requirements; and clarifying report requirements. Also, if a majority of examining committee members conclude that the person is not incapacitated, the court must dismiss the petition.

- Visits to incapacitated person. Existing law included no requirements to guardian visits to incapacitated persons under their care. The new provisions mandate quarterly visits by professional guardians and specify areas of assessment.
- Monitoring of guardians. The new law sets out a host of oversight requirements: (1) inclusion of mental health condition as well as treatment and rehabilitation needs in the guardian's annual report; provisions concerning proof of payment for expenditures and disbursements; authority for the clerks of court to audit accountings; a deadline for filing of the final report upon termination; and a requirement that the inventory reflect any trusts of which the incapacitated person is a beneficiary. The bill also amends the removal provisions, setting out a rebuttable presumption that a guardian who is a relative is acting in the person's best interest. In addition, the Statewide Public Guardianship Office must investigate the "practices of each office of public guardian related to the managing of each ward's personal affairs and property."
- Guardian power. The bill permits a guardian to appoint a professional guardian as a surrogate guardian if the guardian will be unavailable. Also, the bill permits guardians, with court approval, to amend trusts in connection with estate planning (but the court retains "oversight" of the assets transferred to the trust; and to challenge trusts.

2. HB 191 – Guardian Authority, Less Restrictive Alternatives and Monitoring. This bill includes three basic changes to protect the interests of incapacitated persons:

- Consideration of less restrictive alternatives. The new measure clarifies that a guardian may not be appointed if the court finds there is a less restrictive alternative, and provides that the court must consider and find whether such an alternative exists. The amendments also specify that when an interested person files a verified statement asserting a good faith belief that the alleged incapacitated person's trust, trust amendment or durable power of attorney is invalid, and gives a reasonable factual basis, the instrument is not considered an alternative to appointment of a guardian. However, this does not preclude the court from determining that certain authority granted by a durable power of attorney remains in effect.
- Trust contests. The new provisions allow a guardian to sue to modify a trust previously created by the ward and which may not be in the ward's best interest. This is an exception to

the prohibition in Florida law on filing an action against a trust prior to that trust becoming irrevocable -- giving the guardian a new tool to address the effects of earlier exploitation. The court must first find that the guardian's action is in the ward's best interest. (An additional amendment concerning trusts provides that if the guardian creates or amends revocable trusts or creates irrevocable trusts of property of the ward's estate for tax planning and estate planning purposes, the court retains oversight of the assets transferred to the trust.)

- Appointment of court monitor. A 2003 Florida Supreme Court Commission on Fairness, Committee on Court Monitoring, recommended steps for stronger court oversight, and HB 191 incorporates some of the Committee recommendations. Florida law allows the court to appoint a court monitor "upon inquiry from any interested person" or on its own motion, to investigate concerning the welfare of the ward and report to the court. The new law requires that the order appointing the monitor be served on the guardian, ward and others; and that the monitor's report be verified, and served on these parties as well. It allows the court to take further protective actions in response to the monitor's report. The amendments also permits the court to appoint an emergency court monitor without notice in the event of imminent danger, for 60 days or upon finding of no probable cause, with a possible extension of 30 days. Upon review of the monitor's report, the court must determine whether there is probable cause for further action -- and if so, must issue an order to show cause to the guardian or other respondent. The law provides for actions the court may take prior to and following the hearing on the show cause order.

#### **D. Virginia & Idaho: Guardian Powers After Ward's Death**

Both Virginia and Idaho tackled the issue of guardianship powers following the death of the incapacitated person, if there is no executor or administrator immediately in place. The Virginia measure pertains only to public guardians, while the Idaho law targets all guardians generally. In *Virginia*, *HB 856* allows public guardians or conservators to make funeral, cremation or burial arrangements after the death of an incapacitated person if the next of kin do not wish to make the arrangements and the public guardian or conservator has made a good faith effort to locate the next of kin. *Idaho SB 1322* similarly authorizes the guardian – or if no guardian at the time of the death of the individual, the conservator – to dispose of the deceased person's remains, including creation, if a hierarchical list of relatives and others fail to exercise their right to do so within 40 days of the death.

#### **E. Maine: Emergency Guardianship**

Maine addressed emergency situations, for which the statute and eventually the court must make a difficult balance between procedural safeguards and prevention of irreparable harm. An emergency guardianship, sometimes established without full procedural protections, may open the door for a plenary and permanent appointment. In the landmark case *Grant v. Johnson*, 757 F. Supp. 1127 (D. Or. 1991), a federal district court declared the Oregon temporary guardianship statute unconstitutional in that it did not provide minimum due process protections. Following the *Grant* decision, a number of states revised their temporary guardianship provisions.

Maine's HP 1475/LD 2087 clarifies and strengthens emergency procedures by: (1) defining the need for a temporary guardian or conservator as preventing "serious, immediate and irreparable harm to the health or financial interests of the person. . .;" (2) providing for notice orally and in writing to the respondent and designated others prior to filing a petition; and (3) providing that notice is not required if it would put the person at substantial risk of abuse, neglect or exploitation, would not be effective or for other good cause.

#### **F. Idaho: Guardianship Jurisdiction**

Our mobile society frequently creates complex jurisdictional issues in adult guardianship, including: (1) If more than one state is involved, which state should have initial jurisdiction; (2) If the ward is moved to another state, how should the guardianship be transferred; and (3) To what extent should a court in one jurisdiction recognize and enforce a guardianship order in another jurisdiction?

These issues are addressed to some extent by provisions in the Uniform Guardianship and Protective Proceedings Act and the National Probate Court Standards, but gaps remain. Thus, the National Conference of Commissioners on Uniform State Laws has appointed a Guardianship Jurisdiction Drafting Committee for a Uniform Guardianship and Protective Proceedings Jurisdiction Act. Once the model act is completed and is approved by the National Conference (and recognized by the ABA House of Delegates), it will be important for states to consider its adoption, so that maximum reciprocity will be achieved.

However, in the meantime, while the committee deliberates, states continue to act. In 2006, *Idaho SB 1326* enacts a set of provisions on "Foreign Guardianships and Conservatorships." The new law includes specific procedures for receipt and acceptance by the court of a guardianship and a conservatorship from another jurisdiction; as well as the converse -- transfer of guardianships and conservatorship to another jurisdiction. In both cases, the law provides for a petition; notice to the ward, named relatives and to the other jurisdiction; and allows the court to hold a hearing on its own motion or the motion of the ward or any interested

person. The act specifies that the court must determine that the transfer “is in the best interest of the ward” and directs the court to “coordinate with the foreign court.”

In receiving a case *from* another state, the court must request the foreign court: (1) certify that it has no knowledge that the guardian engaged in malfeasance, that report filings have been satisfactory and that bond requirements have been performed; and (2) forward copies of all relevant filings. The court must give full faith and credit to the foreign court’s determination of incapacity and the powers and duties of the guardian, but may modify the provisions of the guardianship to bring it into compliance with state law or rules. A transfer may not be “for the purpose of avoiding or circumventing the provisions to the guardianship order.” The court must review the provisions of the guardianship within a reasonable period of time after the transfer.

A transfer of a case *to* another state occurs in cases in which the ward “has moved permanently to another jurisdiction” – that is, if the ward has resided there for more than 12 consecutive months, if the guardian notifies the court that the ward intends to move or has moved there permanently, or if the court receives notice of a guardianship petition filed there. The court must transfer the guardianship if the guardian is in good standing, is not moving the ward to circumvent the court order, and the transfer is in the ward’s best interests. The court must notify the foreign court of any significant problems, indicate satisfactory report filings and compliance with bonding requirements; and must forward copies of all filings to the foreign court. To coordinate the transfer, the court may delay the effective date, make the transfer contingent upon the acceptance of the guardian in the other court, recognize concurrent jurisdiction for a reasonable period, or make other arrangements.

#### **G. Virginia: Additional Measures**

In addition to the provisions on powers to make arrangements following the death of the incapacitated person, Virginia enacted three additional small pieces of legislation:

- Public Guardian – Provider of Other Guardianship Services. SB 217 provides that a public guardianship program designated as such by the Virginia Department for the Aging under state law also may serve as a guardian or conservator for other individuals not under the public guardianship program.
- Transitioning Minors. HB 855 provides that when a petition is brought by a parent of a respondent who is under age 18, it may be filed six months before the person turns 18. This allows for a smooth transition and closes any gap in guardianship coverage. Previously, a parent of a child with mental retardation, developmental disabilities or other condition

causing diminished capacity could not file until the child’s 18<sup>th</sup> birthday, and for the period in which the petition was pending, there was no one with decision-making authority.

- Social Security Number Sealed. HB 1583 concerns information listed on the petition. Instead of the respondent’s Social Security number being listed, it will now be shown in a sealed filing – thus helping to prevent identity theft and other exploitation.

## H. Georgia: Potpourri of Provisions

Georgia’s SB 534 is what some legislative mavens might term a “clean up bill” (otherwise known as a “wrinkle bill” to iron things out) – enacting a number of small “fixes” in procedures concerning priority for appointment, payment of costs of the proceeding, evaluation in appointment of emergency guardians, review of petition for emergency conservatorship, sanctions for county guardians, bonds for public guardians, and more.

## I. Clarifications

- Kansas SB 354 requires that guardians and conservators in voluntary cases as well as involuntary cases must file reports and accountings.
- Hawaii SB 2608 specifies that the major guardianship reforms enacted in 2004 shall not affect any action begun prior to January 1, 2005.

### State Adult Guardianship Legislation at a Glance: 2006

State	Bill	Provisions
California	AB 1363	Enhances court review & expands duties of court investigators.
California	SB 1116	Increases court oversight of ward moves & sale of home.
California	SB 1550	Establishes licensing & disciplinary scheme for professional fiduciaries.
California	SB 1716	Allows court to take action in response to informal ex parte complaints & communications.
Florida	HB 457	Enacts recommendations of Guardianship Task Force.
Florida	HB 191	Enacts amendments concerning less restrictive alternatives, guardian modification of ward trusts, and court monitors.

Georgia	SB 534	Clarifies procedures in adult guardianship law.
Hawaii	SB 2608	Specifies that 2004 changes do not affect actions begun before Jan. 1, 2005.
Idaho	SB 1322	Authorizes guardian to dispose of deceased ward's remains if relatives do not do so.
Idaho	SB 1326	Enacts provisions on foreign guardianships & conservatorships.
Kansas	SB 354	Requires guardians/conservators in voluntary cases to file reports & accounts.
Maine	HP 1475/ LD 2087	Clarifies & strengthens emergency procedures.
Virginia	HB 856	Allows public guardians or conservators to make funeral, cremation or burial arrangements if relatives do not so do.
Virginia	SB 217	Concerns public guardianship programs serving other individuals not under program.
Virginia	HB 855	Concerns petitions for guardianship of transitioning minors.
Virginia	HB 1583	Provides for sealing of respondent's Social Security number instead of listing on petition.