

NEW MEXICO ADULT GUARDIANSHIP STUDY COMMISSION FINAL REPORT

SUMMARY OF FINAL RECOMMENDATIONS

Note: This summary is intended for reference purposes only. For a full explanation of the Commission's final recommendations, please see the Final Report, dated December 28, 2017.

Highest Priority Recommendations

1. Appropriate sufficient funds to implement a computerized system to automate the filing and monitoring of conservator reports.
2. Appropriate funds for the Administrative Office of the Courts to hire three fulltime auditors, at a total annual cost of \$76,455 per auditor, to assist the courts with monitoring conservatorships.
3. Appropriate funds for the Administrative Office of the Courts to hire two special masters, at a total annual cost of \$123,726 per special master, to hear grievances in guardianship and conservatorship proceedings.
4. Enact the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act and appropriate sufficient funding to fully implement its provisions.

High Priority Recommendations

Administrative reforms

- A. Require regular training for all current and future judges about the law that applies in guardianship and conservatorship proceedings and specialized training on how to effectively respond to the high emotion that often accompanies these cases.
- B. Create a flowchart and glossary of terms for the guardianship/conservatorship process.

- C. Create educational and training resources for non-lawyers involved in a guardianship or conservatorship proceeding.
- D. Establish a recurring, diverse commission, which would be appointed every four years to hold public hearings about the guardianship and conservatorship statutes, rules, and procedures in New Mexico and to make recommendations for continued improvement of the guardianship system.

Court rules or forms

- E. Require a professional guardian or conservator appointed by a court to be certified by a national organization, such as the Center for Guardianship Certification. This recommendation is not intended to preclude New Mexico from developing its own certification requirements.
- F. In an order appointing a conservator, require bonding or an alternative asset-protection arrangement to protect the interests of the person subject to conservatorship.
- G. In an order appointing a conservator, require the following reporting and financial accountability measures:
 - i. require conservators, upon appointment, to sign releases permitting the courts to obtain financial documents of protected persons;
 - ii. require annual reports to include bank and financial statements and any other documentation requested by the court auditor, with appropriate protections to prevent disclosure of confidential information;
 - iii. require conservators to maintain a separate trust account for each protected person to avoid commingling of funds; and
 - iv. require conservators to maintain financial records for seven years.
- H. Require mediation or facilitated family meetings in all contested guardianship and conservatorship proceedings.

- I. Require by court rule that a judge make specific findings of fact when appointing a guardian or conservator if the judge deviates from the protected person's advance directive, trust, will, or estate plan or the order of priority listed in the statute.
- J. Create and mandate the use of a coversheet in adult guardianship and conservatorship proceedings.
- K. Create a Court-approved waiver-of-liability form that clearly and fully explains that individuals do not have to sign a waiver before monies are released at the end of a conservatorship.
- L. Develop a rules-based process for selecting independent court appointees in guardianship and conservatorship proceedings.

Legislation

- M. Propose legislation to establish and fund an adult protected person oversight board to regulate certified, bonded, professional guardians and conservators and to communicate concerns about professional guardians and conservators to the courts.