



JUDICIAL BRANCH OVERSIGHT OF GUARDIANSHIPS AND CONSERVATORSHIPS

Performance Audit, September 2011 Report Highlights



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PURPOSE

Review the performance of the Judicial Branch with respect to the appointment and monitoring of guardians and conservators.

BACKGROUND

- When the court appoints a guardian or conservator, the court removes the rights of individuals to make fundamental decisions about their own lives and places these rights in the hands of others.
- Statutes establish certain procedures courts must follow in establishing and monitoring guardianship and conservatorship cases.
- The Judicial Branch provides guidance to the courts on the administrative aspects of handling guardianship and conservatorship cases.
- Within each judicial district, the district court judge or magistrate responsible for hearing probate cases has primary responsibility for administering guardianship and conservatorship cases and ensuring that these cases comply with statutes and Judicial Branch policies.
- In Fiscal Year 2010, there were 2,025 new guardianship and conservatorship cases filed in Colorado.

OUR RECOMMENDATIONS

The Judicial Branch should:

- Ensure that courts obtain statutorily required background information from individuals nominated to serve as a guardian or conservator.
- Ensure that guardians and conservators provide sufficient information for the courts to assess whether the guardians and conservators are acting in the ward's best interests.
- Ensure that courts effectively administer guardianship and conservatorship cases.

The Judicial Branch agreed with most of these recommendations.

EVALUATION CONCERN

The courts' processes do not ensure that the rights, welfare, and assets of wards are adequately protected from the time the appointment of a guardian or conservator is sought until the appointment is terminated.

KEY FACTS AND FINDINGS

- The Judicial Branch has not ensured that the courts effectively administer guardianship and conservatorship cases.
- The Judicial Branch does not have sufficient controls in place to ensure that the courts:
 - Receive and consider all of the statutorily required background information from nominees prior to appointing them to serve as guardians and conservators.
 - Appoint attorneys to represent wards when required by statute.
 - Appoint and receive all information from court visitors, as required by statute, prior to making guardian and conservator appointments.
- The courts are deficient in obtaining required reports from guardians and conservators in the following three areas: (1) reports are not submitted by the guardian or conservator as statutorily required or as ordered by the court, (2) courts do not always follow up with guardians and conservators to obtain missing reports, and (3) guardians and conservators do not always respond to court follow-up measures.
- The courts are not always reviewing annual and final reports submitted by guardians and conservators. In addition, when the courts do review reports, their reviews may not be as thorough as needed to ensure that guardians and conservators are complying with court orders and acting in the best interest of the wards.
- Some professional guardians and conservators are not providing professional-level services.
- The Judicial Branch's case management system lacks basic information in several areas needed to track guardianship and conservatorship cases effectively.