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Colorado probate courts fail to protect those at risk, audit finds



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Colorado's probate courts have not followed laws enacted to protect vulnerable adults and children from abuse by guardians and conservators, state auditors reported Monday.

They reported that in one case, a probate court failed to contact a guardian for 10 years about the ward he was appointed to protect. In another, the court learned that a protected person had died in 2003 only when auditors called to ask about the absence of financial reports.

In a random sample of 55 cases, state auditors also found a conservator who spent 423 percent of the amount estimated in the financial plan for the protected person and another who spent nearly \$1,000 at retail stores, documenting the purchases only in a line on a bank statement.

And in a section detailing the courts' occasional failure to obtain background checks before appointing guardians and conservators, the auditors noted that in one Colorado case, "a professional conservator stole more than \$2 million from the ward's estate." Their report did not name the conservator. This audit, like other state audits, provided details about individual cases but no names.

"Overall, we found that the courts' processes do not ensure that the rights, welfare and assets of wards are adequately protected," the auditors reported.

Colorado Supreme Court Chief Justice Michael Bender, who represented the judicial branch as the report was presented to Colorado's Legislative Audit Committee, told legislators he is "severely, substantially concerned" about the reported problems — and will make sure they are addressed.

"We understand the problem," he said, "and we're going to make it a priority."

This is not the first time that state auditors have found Colorado's probate courts failed to monitor guardians and conservators. They reached a similar conclusion in a 2006 audit.

Last year, The Denver Post reported in a series of stories that Denver's probate-court files included protected wards who had been dead for years and guardians who had not been contacted for five years or more.

The Post reported that the court had lost track of an HIV-positive, sexually active ward; let a guardian charge money for reading poetry to a woman with Alzheimer's disease; and failed to notice that a conservator was taking flights to see his girlfriend with his brother's money.

Probate courts appoint guardians and conservators on behalf of adults and children who are judged incapable of making important decisions for themselves. Guardians can make health, welfare and housing decisions. Conservators manage the protected person's assets.

The courts monitor the people they appoint by requiring periodic reports — a requirement set by state law. Yet the auditors found that in the six judicial districts they examined, guardians and conservators provided just 52 percent of the required reports.

And in many cases, the courts then did nothing to get the missing reports. In the end, the courts “obtained only 64 percent of all the plans and reports that conservators and guardians were statutorily required to submit,” the auditors reported.

The courts' inattention to statutory reporting requirements allowed their appointees to make large, questionable expenses on behalf of people they were supposed to protect.

In one case, “the conservator spent \$11,780 on guardianship fees for seven months prior to the court's appointment of a guardian,” the auditors reported. “There was no documentation to show why the conservator was paying for a guardian that had not yet been appointed by the court.”

The auditors also found that the judicial branch lacks basic information needed to evaluate the performances of conservators and guardians.

For example, public administrators appointed to handle decedents' estates also can be appointed to manage an incapacitated adult's assets. But while public administrators in four districts charge \$165 to \$240 an hour for their services, the courts do not know how much money they earn as conservators because “they report their income from all such services in aggregate each year,” the auditors reported.

Moreover, the judicial branch's computer system is not set up to check how many wards a single guardian has been appointed to protect or how much money any conservator is managing on behalf of his or her appointees.

State court administrator Gerald Marroney, who sat beside the chief justice during the audit presentation, said the probate courts have made progress since the 2006 audit.

But their efforts have been hampered by budget and staff cuts, he said, as well as demands on other courts, which account for 99 percent of Colorado's cases.

“We're fundamentally stressed in terms of resources,” he said.

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