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The Effect of the #FreeBritney Movement on Bipartisanship Legislation:
How a Pop Star's Battle for Freedom Exposed Corruption in the American Conservatorship
System

HONORS THESIS

Presented to the Pforzheimer Honors College at Pace University
in Partial Fulfillment of the Requirements for University Honors

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May 2022

Abstract

Pop singer Britney Spears was at the peak of her career when she was forcibly placed under a conservatorship arrangement by her father, Jamie Spears. Conservatorships, also referred to as guardianships in some states, are a legal arrangement in which a judge appoints a person or an organization to care for another adult who is unable to manage themselves or their finances. Conservators are responsible for managing the personal matters and/or estate of a conservatee, and the system is designed to act in the best interest of incapacitated individuals. For decades, conservatorships have been criticized by legal scholars and activists who have called for the urgent need for reform within the legal system. Varying state laws, a lack of federal regulation, and insufficient oversight of conservators are among the concerns that lead to abuse or exploitation under the legal arrangement.

The unique circumstances of Britney Spears' conservatorship case sparked mainstream attention to conservatorships. The #FreeBritney movement gathered attention and calls to free the pop star from the allegedly abusive arrangement. In response, United States lawmakers from across the political spectrum have shared support for Britney Spears, who has inspired lawmakers to create bipartisan legislation towards conservatorship reform. Each state in the United States has its own conservatorship laws and the federal government does not have nationwide regulations of conservatorships. Based on varying state laws and a lack of federal policies, the purpose of this paper is to analyze the inconsistencies in existing conservatorship laws and determine where these gaps leave room for alleged abuse to happen in the system, as well as the steps being taken to address concerns of reform.

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Introduction

American singer Britney Spears was at the height of her fame as an international pop star in 2008 when she found herself the subject of an abusive legal arrangement. The pop star solidified her status as a cultural icon during the 1990s and early 2000s, but her personal struggles became headline news in 2007 and 2008 (Stephens, 2021). Following a series of public mental health struggles, Britney Spears' father gained complete control of the singer's personal and financial affairs. Through a series of arcane legal maneuverings (Thompson, 2021), James (Jamie) Spears petitioned to a Los Angeles County Superior Court in California and obtained conservatorship over his daughter. The conservatorship granted Jamie Spears and his lawyer full control over Britney's personal life, property, and finances for over 13 years, until the arrangement was terminated in late 2021.

In the United States, all fifty states and the District of Columbia have some type of guardianship or conservatorship law, however each state has its own legal criteria, processes, and terminology for when a person is unable to care for themselves (Zammiello, 2021). According to California law (the state in which Spears was appointed conservatorship), conservatorship is defined as a legal process where a judge appoints a person or an organization, called the conservator, to care for another adult who cannot take care of themselves or their finances, called the conservatee (Stephens, 2021). Though the legal system has existed for decades, conservatorships came to mainstream attention due to Britney Spears' case. The unique circumstances of Britney Spears' conservatorship and her pleas to be freed from an "abusive" system resulted in the creation of the #FreeBritney movement. The fan-created #FreeBritney movement has captured the attention of fans and non-fans alike, media outlets, advocates of conservatorship reform, and American lawmakers. The #FreeBritney movement highlighted the

flaws of America's conservatorship system, which experts say is shrouded in secrecy, with high risks of abuse, and in desperate need of reform (Thompson, 2021).

As a fan of Britney Spears who first learned of conservatorships through the popularity of the #FreeBritney movement, I chose to focus on this topic for this paper to increase my understanding of the conservatorship system in the United States. For a long time, the area of conservatorship law has been little known, attracted little attention, and has not been widely cared about, despite decades of calls for reform within the American conservatorship system. I had been almost fully unaware of what conservatorship arrangements entail until Britney Spears started making headlines throughout her battle for freedom. This work fits into the larger context of the criminal justice and legal fields by highlighting the legal aspects of conservatorships and guardianships in the United States. Additionally, this paper highlights the long-standing criticisms of conservatorship arrangements and the urgent need for reform within the legal system. Throughout the United States, there are gaps in conservatorship laws between different states and little to no federal legislation regarding conservatorships. The legal arrangements are often unregulated and lack sufficient oversight, which allows room for conservatorship abuse and exploitation to occur. Based on the varying state laws and lack of federal regulation regarding conservatorships, the goal of this paper is to examine the gaps in these guidelines that allow room for abuse, exploitation, and corruption in the United States' conservatorship system.

Literature Review

Britney Spears and Her Conservatorship

Britney Spears first rose to prominence in the public eye as a teen pop sensation who dominated the media spotlight in the late 1990s through the 2000s. Once known as America's teen princess (Dunham, 2021), Britney Spears has solidified her status as a pop culture icon. Throughout her career, she has delivered countless pop culture moments from her catchy pop songs that topped global music charts, sold-out world tours and a successful Las Vegas residency, to the innumerably recreated matching denim ensemble with a superstar ex-boyfriend, and delivering a memorable performance at the 2001 MTV Video Music Awards with a live python wrapped around her neck (Stephens, 2020-2021; Zammiello, 2021). The superstar's personal life was in the public eye from early in her career, perhaps most notably between the years 2007 and 2008. In the mid-2000s, Spears had a series of public mental health struggles that were exploited by media outlets and the paparazzi. As a result, Spears had a very public breakdown amidst her personal struggles in 2007 (Stephens, 2020-2021). Nearly every news outlet across the United States circulated images and headline reports of Spears shaving her head, driving with her infant son in her lap, and attacking a paparazzi's car with an umbrella (Miller, 2020; McCallen and Ramdeen, 2021). Her increasingly erratic behavior and very public breakdowns resulted in Spears twice being admitted to psychiatric wards in 2008 and prompted Spears' father to place the then-26-year-old pop singer under a court-approved conservatorship. Following the second psychiatric hold, Jamie Spears petitioned for an emergency "temporary conservatorship" (Hoffower, 2021). The conservatorship went into effect in 2008 and granted Jamie Spears complete control of his daughter's personal life, medical decisions, and financial estate (Stephens, 2020-2021; Miller, 2020).

Britney Spears was under a conservatorship from February 2008 until the controlling legal arrangement was terminated in November 2021 (Mamo, 2021). California courts appointed Jamie Spears as the conservator of his daughter, which gave him full legal control of Britney's life and career over the 13-year period. The California courts define a conservatorship as a situation where a judge appoints a responsible person or organization (called the "conservator") to care for another adult (called the "conservatee") who cannot care for themselves or manage their own finances (Miller 2020; Mamo, 2021; Judicial Council of California, 2022). The Spears patriarch and his lawyer, Andrew Wallet, obtained conservatorship over Britney's person and property, and an abusive system allowed the conservators to exercise total control over her life. As conservator, Jamie Spears had the power to make decisions on matters including who Britney was permitted to see, restricting Britney's visitors, filing restraining orders on her behalf, negotiating business deals, deciding how she was able to spend her money, and overseeing her medical decisions, including forcing her to take psychiatric medication and deciding her birth control methods (Zammiello, 2021; Dunham, 2021; McCallen and Ramdeen, 2021). All aspects of the pop star's life were changed and her rights were stripped from her when the conservatorship went into effect, including the loss of her social life and custody of her children, no longer being in control of her fortune or financial decisions, and having no say in life-altering medical decisions.

What is a Conservatorship?

The idea of looking after someone who is disabled or incompetent is one of the oldest features of mental health law. Conservatorship comes from the state's *parens patriae* power, or its duty to act as a parent for those considered too vulnerable to care for themselves (Stephens, 2020-2021). All fifty states in the United States and the District of Columbia have some kind of

guardianship or conservatorship law. The definition and terms for conservatorships vary among states, with each state having its own legal criteria, processes, and terminology for conservatorships. Generally, conservatorship is a relationship created by state law in which a court gives one person or entity, known as the conservator or guardian, the duty and power to make personal and/or property decisions for another alleged incapacitated person, also known as a ward or conservatee (Teaster et. al., 2005; Hurme, 2007). Some states use the term conservatorship interchangeably with the term guardianship, while other states, including California, treat “conservatorship” and “guardianship” as different concepts (Zammiello, 2021). A third party is appointed as conservator or guardian when a judge decides an adult individual (aged 18 years or older) lacks the capacity or competence to make decisions on their own behalf or handle their own personal or financial affairs (Teaster et al., 2005; Heisz, 2021). Though legal terminology varies from state to state, there are two main types of guardianships in the United States: guardianship of the person, which affects personal interests, and guardianship of the estate, which is focused on property and financial interests (Kelly et al., 2021). In some states, guardianship of the estate is considered within the scope of conservatorships, where a conservator is authorized to make decisions regarding the real or personal property of an adult who the court determines to be incapable of making those decisions. In other states, however, a conservator’s decisions are limited to specific situations (Kelly et al., 2021). The lack of federal regulations and mandates for conservatorships makes it difficult not only to keep reliable data of existing conservatorships across the country but also allows states to have laws that differ greatly without federal oversight.

In order to become a conservator, the interested individual must first file a petition with the appropriate court and explain the circumstances that call for a conservatorship (Kulas, 2016).

According to the Judicial Council of California, a number of people can file for a conservatorship of the person and/or estate, including a spouse or domestic partner, family member, friend, local or state agency, or even a potential conservatee themselves (McCallen and Ramdeen, 2021). In the state of Florida, the governing statute says that a petition for conservatorship may be filed by “any person who would have an interest in the property or estate” of the potential conservatee “or any person who is dependent on said absentee for his or her maintenance or support” (Kulas, 2016). The California courts also allege that the court is guided by the best interests of the conservatee in the appointment of a conservator. If the proposed conservatee has the mental and physical ability to express their preference and has nominated someone, the court will appoint that person as conservator unless it is deemed not to serve the proposed conservatee’s best interests (Judicial Council of California, 2022). If the proposed conservatee has not or is unable to nominate anyone, the law provides a list of preferences that the court generally follows when determining whether these persons are qualified to serve as a conservator. In California, the order of preference is as follows: spouse or domestic partner, adult child, parent, sibling, any other person permitted by the law, public guardian (Judicial Council of California, 2022). If the person at the top of the list wishes not to serve as conservator, they are able to nominate someone else. If no suitable relative or friend is able to be a conservator, a private professional fiduciary may act as conservator. Regardless of the order of nomination preference, the overseeing judge has the deciding say in the selection of the conservator, and the judge makes this decision by considering the best interests of the proposed conservatee (Judicial Council of California, 2022).

The Purpose of Conservatorship Arrangements

After completing the long and complex process for setting up a conservatorship, which will be further discussed in the findings section, the conservator is awarded a number of duties and powers for maintaining the well-being of the conservatee. The purpose of the conservatorship according to California Probate Code is to protect the rights of persons who are placed under conservatorship, provide for the conservatee's health and psychosocial needs, provide for the proper management and protection of the conservatee's real and personal property, and consider the best interests of the conservatee (Stephens 2020-2021; California Probate Code § 1800, 2020). The Uniform Probate Code (UPC) was enacted in 1969 to create a model standard of laws to address issues of wills, trusts, and estates; however, it has only been fully adopted by some states (Zammiello, 2021). Section 5-314 of the UPC details the duties of a guardian in caring for an incapacitated ward. A guardian shall make decisions regarding the ward's support, care, education, health, and welfare, and exercise authority only to an extent warranted by the ward's limitations. According to Section 5-314 of the UPC, a guardian shall act in the ward's best interest at all times "and exercise reasonable care, diligence, and prudence" (UNIF. PROB. CODE § 5-314, 1969). Every state in the United States has a guardianship code that sets out an array of duties and powers of guardians, both for guardians of the person or the estate, though these codes vary. States that establish a public guardianship office – including Delaware, Florida, Virginia, New Jersey, Utah, and a number of others – have more detailed provisions on powers and duties, staffing, funding, recordkeeping, and review of conservatorships (Teaster et al., 2005). In some states, conservators have flexibility in their authority to make decisions such as selling property, investing assets, relocating the conservatee, or making major healthcare or end-of-life decisions, while other states require guardians to obtain a court order before taking these actions (Id.).

Once the court grants guardianship, the guardian is obligated by fiduciary duty to care for the conservatee. A fiduciary duty is defined as “a duty of utmost good faith, trust, confidence, and candor owed by a fiduciary to the beneficiary; a duty to act with the highest degree of honesty and loyalty toward another person and in the best interest of the other person” (Zammiello, 2021). The duties of a conservator of the person include arranging for the conservatee’s care and protection, deciding where the conservatee will live, and making arrangements for the conservatee’s meals, healthcare, clothing, personal care, housing, housekeeping, transportation, recreation, and well-being. In some states, including California, conservators have the duty to obtain approval from the court for certain decisions about the conservatee’s health care or living arrangements and report updates to the court about the conservatee’s status (Judicial Council of California, 2022). Conservators of the estate have the duty to manage the finances, control and protect all assets, collect income, pay the bills, and responsibly invest the money of the conservatee. Conservators of the estate also have the duty to account to the court and to the conservatee for the management of the conservatee’s assets. Conservatorships are a highly intrusive arrangement that severely impacts the individual civil liberties of a conservatee (Reynolds and Wilber, 1996). By appointing a proxy party to make decisions for an impaired adult, the conservatee is stripped of nearly all their rights and civil liberties. While conservatorships are designed to protect incapacitated individuals, the complex legal arrangements are also responsible for removing a conservatee’s rights. As a result, this “double-edged sword” could lead to abuse of the conservatorship (Stephens 2020-2021, p. 232).

Legal Issues

The complex nature of conservatorships is best understood when a potential conservator is properly educated in matters of fiduciary duty and legal liability that the arrangement consists

of (Zammiello, 2021). Some states provide certification programs for potential guardians to understand the commitment of becoming a guardian for an incapacitated person, while other states have very few requirements for becoming a guardian (Zammiello, 2021; Thompson, 2021). Conservator certification is a proactive measure for mitigating the risk of abuse or neglect of incapacitated individuals by guardians. However, in states without a certification process such as Florida, “[b]asically, almost anyone can become a guardian, and the system of monitoring and supervision of guardians across the country including Florida is highly, highly suspect” and Floridians are eligible to be certified as a professional guardian by simply taking a weekend-long course (Thompson, 2021, p. 8). Many states have few requirements for becoming a guardian; according to the National Council on Disability, 60-percent of courts do not review potential guardians’ credit histories, and about 40-percent of courts do not conduct a criminal background check. The risk of abuse in conservatorships is heightened without proper certification or allowing unqualified individuals to serve as guardians. Experts say the United States of America’s conservatorship system is shrouded in secrecy, which allows room for abuse and corruption, and is in desperate need of reform (Thompson, 2021). High-profile conservatorship cases like Britney Spears' have highlighted the potential for financial and personal exploitation of conservatees under the legal arrangements.

Due to its highly restrictive nature, conservatorship arrangements are only intended to be used when absolutely necessary to protect dependent persons from exploitation, abuse, or neglect (Reynolds and Wilber, 1996). Conservatorships are intended to be treated as a last resort option that are designed to last a lifetime; for example, they are commonly used for people who are old, ill, or infirm, such as those who are comatose, suffer from dementia or Alzheimer’s disease, or young adults with severe developmental or intellectual disabilities (McCallen and Ramdeen,

2021; Thompson, 2021). Younger adults may also be subject to conservatorships, usually due to a severe mental illness or severe substance abuse disorder (Hanson, 2021). When applied wrongfully, conservatorships deprive individuals, who are capable of self-agency, of individual civil liberties and human rights. When the guardianship system is unregulated or lacks sufficient oversight, the system allows leeway for abuse and misconduct violations to occur. Before asking the court to appoint a conservator, the individual requesting the conservatorship should be completely sure the arrangement is appropriate for the proposed conservatee. Similarly, potential conservators should have full knowledge of the responsibilities to ensure that a conservatee is properly protected and cared for (United States Senate Special Committee on Aging, 2018). Many guardians are not effectively educated on what the restrictive legal arrangement entails, and a lack of clear guidelines and education has resulted in guardianships being imposed without a full understanding of the arrangement (Zammiello, 2021; United States Senate Special Committee on Aging, 2018). Not fully understanding the necessary guidelines to ensure the wellbeing of an individual under a conservatorship arrangement is problematic because there are few safeguards to protect against individuals who choose to abuse the system once guardianship is imposed.

Conservatorship Abuse and Exploitation

Reports of conservatorship abuse have recently come to national attention. Instead of doing what is in the best interest of the individual in their care, corrupt guardians acting with little oversight have exploited their power to obtain control of vulnerable individuals and have then used that control for their own personal benefit (United States Senate Special Committee on Aging, 2018). Examples of guardianship abuse serve as reminders that the arrangement must only be implemented under circumstances that are absolutely necessary and that all

guardianships need to be subject to regular and substantive oversight. According to Thompson (2021), the conservatorship system “has been perverted from the laws that were supposed to help people into laws that are subverted into a money-making scheme” and cites that conservatorships are “all about money” that result in the abuse and exploitation of very vulnerable people.

Conservatorship arrangements should only be imposed in severe cases where there are no other viable alternatives to care for a vulnerable individual. The authoritative legal arrangement should be the absolute last resort, such as when family is not available, or when an individual is completely alone and very vulnerable; often, this does not happen, especially in scenarios when there are large amounts of money in question (Thompson, 2021). This was likely the case for Britney Spears’ situation, as she was left with no legal control of her large financial estate or assets that she earned throughout her career as a global pop superstar. Spears' father convinced a California judge to place her in a conservatorship following a series of public outbursts that led many to question her judgment. The California state paperwork noted “dementia” as the cause for Spears’ conservatorship, though some skeptics theorize the true cause was more related to Spears’ supposedly inappropriate choices in terms of how she was spending her money or who she was spending her time with (Thompson, 2021). In 2018 alone, ten years after the conservatorship was imposed, Britney paid \$1.1 million in legal and conservator fees, with approximately \$128,000 going to her father for his role as a conservator (McCallen and Ramdeen, 2021; Hoffower, 2021). Britney had consistently expressed her desire to end the conservatorship, and skeptical fans were convinced that her father upheld the conservatorship for self-serving reasons. Being in charge of Britney’s care earned Jamie Spears over \$100,000 annually as compensation. Additionally, Britney lacked access to her net worth of \$60 million

due to her legal status as a conservatee; her conservator was the only one who had access to Britney's money while the system was in place (Zammiello, 2021).

The #FreeBritney Movement

Experts cite Britney's conservatorship as unusual, considering how young she was when it was imposed and how long it lasted, despite its initial claims of being temporary. Throughout the 13-year duration of her conservatorship, the pop singer continued to work and earned millions of dollars, released four studio albums, headlined international tours and a four-year Las Vegas residency, launched clothing and perfume lines, landed a luxury fashion campaign, and even briefly served as a judge for a season on the US version of "The X Factor" (McCallen and Ramdeen, 2021; Hoffower, 2021). Her ability to continue working served as proof that the singer was not incapacitated as conservatorship law requires, and supporters of Britney argued that she should not be under an arrangement intended to protect the elderly and those who are seriously disabled (Stephens, 2020-2021). Fans questioned the singer's competence, expressed concern over her autonomy, and speculated that Britney no longer required the conservatorship. Fans argued that Spears' continued ability to work proved her ability to manage her own personal and professional affairs (Sprunt, 2021).

Supporters of Britney Spears have accused her father of exploiting his daughter by forcing her to stay under his care. In early 2019, when the singer canceled a planned concert residency in Las Vegas, concerned fans were convinced Britney Spears was put in a mental hospital against her will (Dalton, 2021). Fans of Spears united and began demanding that the court #FreeBritney. At first, the fans were dismissed as conspiracy theorists until the singer herself gave them validation in 2020 in a series of court filings. The fan-led #FreeBritney movement first gained widespread attention and trended on Twitter in 2019, but fansite

FreeBritney.net began questioning in 2009 the necessity of Britney's conservatorship. (Zammiello, 2021; Miller, 2020). The movement is based on the theory that Britney was “trapped” in her conservatorship, that the singer was being “held captive” by the legal arrangement, and that her father was exercising his power in an abusive manner (Zammiello, 2021). The issues highlighted by the #FreeBritney movement raised the question of why such a high-functioning conservatee, who has routinely expressed opposition to the conservatorship, is still placed under the conservatorship? Zammiello (2021) also highlights how the movement also called into question if the rumors of Jamie Spears’ conservatorship abuse are credible, what protections are in place for Britney and other individuals who find themselves in the same predicament? Conservatorships are often designed to last permanently once imposed, which makes it virtually impossible for many to get out of the conservatorship arrangements, even if they have been proven to be abusive or exploitative.

Reminiscent of mid-2000s media coverage, Britney Spears found herself in the center of the spotlight once again in 2021, but this time for reasons other than the infamous buzz cut or umbrella incidents (Stephens, 2020-2021). This time, instead of media outlets publicly mocking her, people were coming out in support of the singer and the #FreeBritney movement. In February 2021, *The New York Times* released an Emmy-nominated documentary titled *Framing Britney Spears*, which brought the pop star and her struggles under conservatorship into mainstream attention. The documentary exposed everything from Britney’s personal relationships to rampant misogyny in Hollywood and the media but most notably highlighted the star’s 13-year-long conservatorship and lengthy legal battle with her father (McCallen and Ramdeen, 2021; Hoffower, 2021). *Framing Britney Spears* captured international attention, from

fans to A-list celebrities showing support for the singer to U.S. lawmakers and reignited the attention of the #FreeBritney movement.

The legal drama of Britney Spears and her conservatorship has introduced many people to the concept of conservatorship. In addition to raising awareness for conservatorships, the #FreeBritney movement turned a trending Twitter topic into a serious conversation about the complexities of conservatorship law (Zammiello, 2021). Britney's case drew attention to the ongoing legal issue of conservatorship abuse due to her fame and gave the court a unique set of circumstances to consider when making decisions regarding her case. While the #FreeBritney movement introduced the general public to conservatorship law and raised concern about the potentially abusive legal arrangement, the concern of abusive guardianships has been long-standing in the legal community.

The National Council on Disability and the National Center for State Courts estimate that there are 1.3 million active adult guardianship and conservatorship cases in the United States that manage a total of at least \$50 billion in financial assets for people who have had their rights stripped from them (Thompson, 2021; Hanson, 2021). The number of active conservatorships in the United States is merely an estimate, as the number of conservatorships is not tracked by a national database. The federal government does not mandate states to report the number of conservatorships. According to experts and research groups, some states are able to provide reliable data about conservatorships while others cannot. Many states don't have a statewide system for conservatorship data, which presents another challenge for tracking the number of conservatorships in the United States (Hanson, 2021). The lack of reliable data and available information regarding conservatorships is an issue that leaves the door open for abuse, exploitation, and misconduct to happen in American guardianship arrangements. The lack of

clear data, inconsistent oversight and mandates, and the varying conservatorship laws amongst states are areas that need to be addressed to achieve the overdue reform of the conservatorship system in the United States.

Methodology

Based on general research of Britney Spears' conservatorship case, I gained a basic understanding of the United States' conservatorship laws. To increase my understanding of how differing guidelines in conservatorship laws between the fifty states can allow for abuse and exploitation to happen, I continued my research by comparing the state conservatorship and guardianship laws of two different states. For the purposes of my research, I narrowed my focus to the laws in the states of California, the state in which Britney Spears was under conservatorship, and Florida, whose laws, on the surface, appeared significantly less elaborate. To conduct my research, I performed a content analysis of the California and Florida state conservatorship/guardianship laws that are available to access online. Areas in which I collected data include the legal standards of conservatorship and guardianship arrangements, the court process for appointing a guardian, the eligibility requirements of potential guardians, training processes to certify a conservator, and the oversight regulations in the states of California and Florida. The purpose of the data collection and content comparison of conservatorship laws between different states is to ultimately answer the question of where the gaps in existing guidelines leave the door open for corruption to happen in conservatorship arrangements.

Content analysis is a conventional research method in legal or social science disciplines, including Criminal Justice and Political Science. A content analysis is a detailed and systematic examination of the contents of a particular body of material for the purpose of identifying

patterns, themes, or biases. Typically, content analyses are performed on forms of human communication, such as books, newspapers, journal articles, legal documents, transcripts of conversation, films, television, art, music, or Internet posts (Ormrod & Leedy, 2016). For the purposes of this project, the types of sources I utilized include a selected sample of articles from popular news webpages, academic journals, and government websites. Based on the research material, I analyzed the content of the sources, looking for patterns and relevant themes as needed to answer my research question.

Findings

From researching more in-depth into conservatorships, I found that the existing American conservatorship and guardianship systems are widely corrupt due to inconsistencies in legislation. Due to a lack of precise regulation and oversight, the system allows room for abuse of vulnerable individuals to happen under the guise of a system that is designed to protect them. Although we are able to gather that abuse in the system does occur, as highlighted by Britney Spears' case, I want to be able to answer the question of *why* this abuse is allowed to occur based on *where* the gaps in legislation are. The question my research aims to answer is based on significantly varied conservatorship laws among the 50 states; discovering where the gaps exist in these guidelines that allow the conservators in different states to get away with exploitation or abuse. With a lack of federal legislation, regulation, and oversight, the states are able to design their own conservatorship laws that may look completely different from another state's. Some states have stronger regulations, while other states' systems resemble a free-for-all with loose guidelines that permit abuse or corruption. To help answer my research question, I focused on examining the differences in the state conservatorship laws of California and Florida.

Legal Standards

The legal standards of proof for conservatorship or guardianship determinations vary across state lines (Kelly et al., 2021), which is the first issue presented in regulating consistent probate law across the country. Both California and Florida set out standards in their laws regarding what a conservatorship or guardianship consists of in each respective state. In California, legal language refers to the system where a responsible person or organization is appointed to care for another adult as *conservatorships*. There are two main types of conservatorships in California: Probate conservatorships and Lanterman-Petris-Short (LPS) conservatorships. Probate conservatorships are based on the laws in the California Probate Code, and are the most common type of conservatorship. Probate conservatorships are further categorized as general conservatorships or limited conservatorships. General conservatorships are conservatorships of adults who cannot take care of themselves or their finances. The probate court may appoint a conservator of the person, a conservator of the estate, or both, depending on the needs of the conservatee. California's legislation notably specifies:

Being appointed conservator of the person does NOT automatically make that person the conservator of the estate. If someone wants to be conservator of both, the person and the estate, he or she must petition to be appointed as both. If someone is a conservator of the person and later decides that he or she needs to be appointed as conservator of the estate, he or she can file a new petition for conservatorship and, this time, request to be appointed as conservator of the estate (Judicial Council of California, 2022).

Conservatees in general conservatorships are often elderly people, but may also be younger people who have been seriously impaired, for example, following a car accident. Limited

Conservatorships are conservatorships of adults with developmental disabilities who are unable to fully care for themselves or their finances. Conservatees in limited conservatorships do not require the higher level of care or help that conservatees in general conservatorships need.

In California, probate conservatorship is restricted to adults, age 18 and older who meet the legal basis for requiring a conservatorship. The term guardianship is used in California to refer to the system that is available for minors. The legal criteria for establishing a conservatorship are based upon an individual who is unable to meet their needs for physical health, food, clothing, or shelter, or for persons “substantially unable to manage their financial resources” or resist fraud or undue influence (dmh.lacounty.gov, p. 3). The duration of probate conservatorships is indefinite, but a conservatee or conservator may petition the court for termination at any time. However, conservatorship arrangements are generally intended to last a lifetime. According to the Los Angeles Department of Mental Health, the conservator is often granted the exclusive authority to make most medical decisions, such as surgeries, but their scope of authority does not include making decisions for involuntary mental health treatment (dmh.lacounty.gov). In California probate conservatorships, the conservator is usually authorized to place the conservatee to live anywhere in California consistent with treatment needs, except in a mental health treatment facility.

According to the Judicial Council of California (2016), LPS conservatorships, also called mental health conservatorships, are intended to care for adults with serious mental health illnesses who require special care. A mental health (LPS) conservatorship designates responsibility to one adult (called the “conservator”) for a mentally ill conservatee. These conservatorships are used for people who need extremely restrictive living arrangements (such as living in locked facilities) and require extensive mental health treatment (including powerful

drugs to control behavior). Conservatees in LPS conservatorships cannot or will not voluntarily agree to the special living arrangements or treatment so the process must be started by a local government agency. LPS conservatorships are intended for people who are unable to provide for their own needs due to mental disorders or chronic alcoholism. Unlike probate conservatorships, LPS terminates after one year but may be renewed annually through a court hearing. People of all ages, including children and older adults, may qualify for LPS if they meet the legal criteria. The Los Angeles County of Mental Health sets the legal criteria of “grave disability” to qualify for LPS conservatorships, and individuals must have a primary mental health diagnosis and be assessed by a mental health facility that can recommend a conservatorship (dmh.lacounty.gov). The Office of the Public Guardian determines if a referral meets the legal criteria for a petition. The court makes the ultimate decision if an LPS conservatorship is established. Under this arrangement, the conservator is typically authorized to place the conservatee anywhere in California, including locked mental health facilities. For medical treatment, the court has the authority to recommend mental health treatment, including psychotropic drugs, even when against the will of the conservatee. The California conservatorship system is highly restrictive, giving the conservator and the court nearly complete control over a capacitated individual.

The state of Florida refers to the legal arrangement that cares for incapacitated individuals as *guardianship*, regardless of whether the individual is an adult or a minor. The term *conservatorship* exists in Florida but refers to a legal relationship where a court appoints someone to manage the estate of another person who qualifies as an “absentee,” or a person who has been reported missing or presumed dead while serving in the Armed Forces of the United States (FLA. STAT. § 747.01 (2021); Kulas, 2016). For the purposes of this section, I will refer to Florida’s guardianship statutes. Florida Probate Code sets the legal standards for Florida

Guardianship Law, which details a court-appointed guardian as the surrogate decision-maker to make personal and/or financial decisions for a minor or for an adult with mental or physical disabilities (flcourts.org). For adult guardianship, Florida law requires the court to find an individual's ability to make decisions so impaired in order to grant the right to make decisions to another person. In Florida, guardianship is allegedly only warranted when no less restrictive alternative—such as durable power of attorney, trust, health care surrogate or proxy—is found by the court to be appropriate and available for an impaired individual. Similar to California law, Florida law allows both voluntary and involuntary guardianships. A notable difference that I found is that California law sets out separate standards for voluntary and involuntary conservatorship, while Florida's standards are more uniformly categorized. Voluntary guardianship may be established for an adult who, though mentally competent, is incapable of managing their own estate and who voluntarily petitions for the appointment. However, unlike California, Florida law details the terms for limited guardianship and plenary adult guardianship. The least restrictive form of guardianship is intended, so limited guardianship is appropriate if the court determines the ward lacks the capacity to do some, but not all, of the necessary tasks to care for their person or property. Limited guardianship is also applied if the incapacitated individual does not have pre-planned, written instructions for all aspects of their life. A plenary guardian permits a court-appointed person to exercise total authority of legal rights and powers of the incapacitated adult ward who are unable to care for themselves.

Eligibility Requirements

The requirements for a guardian's eligibility, screening, training, and follow-up reporting vary from moderate to nonexistent between different states (Kelly et al., 2021). To determine eligibility for a conservatorship in California, an agency that provides comprehensive evaluation

or a facility that provides intensive treatment must determine that a prospective conservatee is gravely disabled, either because of a mental disorder or impairment by chronic alcoholism (American Bar Association, 2018). The professional may then recommend conservatorship of the person and/or the estate to the county investigatory authority. According to the California Judicial Council's *Handbook for Conservators*, which all conservators in the state are legally required to own, individuals must first qualify to become a conservator before they are permitted to handle the conservatee's affairs. Qualifying to serve as conservator in California includes signing an acknowledgment that confirms receiving a statement describing the duties and liabilities of the office of conservator and receiving a copy of the mandatory Handbook. Conservators must also sign an oath agreeing to complete conservator duties in accordance with the law, file paperwork with the court clerk, and may be required to obtain a bond, which is required in most estate cases to guarantee proper performance of duties (Judicial Council of California, 2016). After qualifying for the position and the judge appointing an individual, the conservator must obtain Letters of Conservatorship from the court clerk. The Letters show authority to act as conservator and prove that they were appointed and qualified to serve as conservator of the person, estate, or both.

The Florida eligibility requirements differ from the requirements listed in California's probate statutes. Florida statute 744.309 deals with who may be appointed guardian of an incapacitated individual. Any Florida resident over the age of 18 years is qualified to act as guardian of a ward. The law also specifies that no judge is permitted to act as a guardian, unless they are related to the ward by blood, marriage, or adoption, or have maintained a close relationship with the ward or the ward's family. Non-residents of Florida may qualify if they are directly related by blood to the ward, a legally adopted child or parent, someone related by lineal

consanguinity (direct blood relation) to a spouse, brother, sister, uncle, aunt, niece, or nephew of the ward, or the spouse of a qualified person. When dissecting this language, it suggests that nearly anyone can qualify to serve as a guardian, including a nephew's wife or the aunt of a ward's spouse, for example. Certain individuals are disqualified from serving as guardians to prevent conflicts of interest, including an incapacitated individual's employers, employees, and healthcare providers. This law also disqualifies people who have been convicted of a felony, are incapable or unsuitable of performing the duties of a guardian, and people judicially determined to have committed abuse, abandonment, or neglect against a child. The court also requires potential guardians to undergo credit history and criminal background investigations. Finally, every prospective guardian must complete an application to be appointed as a guardian, which must list the person's qualifications to serve as a guardian.

Court Appointment Process

Setting up a conservatorship is a long and complex process. Before asking the court to appoint a conservator, the person asking for the conservatorship should ensure that the highly restrictive arrangement is appropriate for the proposed conservatee with no other reasonable alternatives available. In California, the conservatorship process begins once all the necessary paperwork is filed with the court. The process for starting a probate conservatorship in California begins with an interested party making a probate referral to the Office of the Public Guardian; the interested party can also petition the court to become the conservator. The legal process may be started by the proposed conservator; the proposed conservatee; the spouse, domestic partner, a relative, or a friend of the proposed conservatee; another interested person; an interested state or local agency, an employee of the agency, or public officer (Judicial Council of California, 2022). Probate matters can take several months or longer to decide. For California's LPS

conservatorships, only designated mental health treatment facilities, agencies, or the courts can make a referral to the Public Guardian for LPS. LPS matters are set for hearing and usually decided within 30 days (dmh.lacounty.gov). According to the Judicial Council of California, the petitioner filing the case in court must complete a petition detailing information about the proposed conservator and conservatee, the reasons why a conservatorship is necessary, and explain why possible alternatives to a conservatorship are unsuitable for the case. After filing the petition, the petitioner must pay a filing fee and court investigator fee. The next step of the process is to inform the proposed conservatee and their relatives by personally delivering a citation and a copy of the petition. The court investigator must complete an investigation, which includes talking to the proposed conservatee and people who may be familiar with the conservatee's condition and an assessment of the conservatee's estate for the cost of the investigation. Finally, the proposed conservatee must go to the hearing unless excused due to an illness. At the hearing, a judge will determine if everyone has been properly notified and whether a lawyer needs to be appointed to represent the conservatee. The judge makes a decision on whether to grant or deny the conservatorship. If the judge grants the petition, an order appointing the conservator will be filed and Letters of Conservatorship will be issued. If a judge grants the conservatorship, the conservator must purchase a copy of the Handbook for Conservators from the court or download the manual online. The conservator can then assume the powers authorized under the law but must attend the training for conservators offered by the court. Each conservator will have the ongoing duty to report to the court for regular reviews and to meet with the court investigator.

In order to establish a guardianship in Florida, an interested party must file a petition with the local court where the alleged ward lives. This process is completed by hiring a local

attorney to draft the petition. Every prospective guardian in Florida must complete an application for appointment as guardian, listing the person's qualifications to serve as a guardian and the names of any wards for whom the person is currently acting as a guardian. Once the petition is filed, the court will appoint an attorney to represent the alleged incapacitated person.

Additionally, an examining committee consisting of three medical professionals, including at least one physician or psychiatrist, will be appointed. Each medical professional will examine the alleged incapacitated person for physical and mental health, and functional ability. The professionals file a report of their findings with the court. Within 10 to 30 days of the committee filing their reports, the judge will conduct an Adjudicatory Hearing in which the judge will determine whether the person is in fact incapacitated. If the individual is deemed incapacitated, the judge will appoint a guardian, unless the court determines appointing such person is contrary to the best interests of the ward.

Potential guardians are required to undergo credit and criminal investigation in the state of Florida, as well as meet certain education requirements. Guardians who have a fiduciary responsibility to a ward, at their own expense are required to undergo a credit history investigation and a background screening. If appointed, a nonprofessional guardian may petition for reimbursement of the expenses of the credit history investigation and background screening. For nonprofessional guardians, a criminal history record check needs to be completed by undergoing a state and national criminal history record check using fingerprints. Professional guardians are required to complete an electronic fingerprint criminal history record check. A professional guardian, at their own expense, may use any electronic fingerprinting equipment used for criminal history record checks. The professional guardian shall pay the actual costs incurred by the Federal Bureau of Investigation and the Department of Law Enforcement for the

criminal history record check. I am unsure what the need or reasoning for this distinction is, but Florida code § 744.3135 describes in great detail the financial aspects of the background investigations. The section that details guardian educational requirements is considerably shorter than the former but details the necessary training that guardians are required to complete.

Training

Generally, there are very few requirements to be authorized to serve as a conservator or guardian. For example, 60% of courts across the United States do not review the credit histories of potential guardians (Thompson, 2021). Similarly, about 4 in 10 courts fail to conduct criminal background checks on potential guardians, according to reports from the National Council on Disability. In Florida, Floridians can become certified as a professional guardian by taking a weekend course. In California, conservators receive their training through online courses. The Letters of Conservatorship, which are required by California law for conservators to obtain, detail the “training” requirements and duties of conservators. Note, the term training is not explicitly stated in the Letters of Conservatorship, nor is there a section in California’s Handbook for Conservators (2016) that details the necessary training requirements. Some of the duties authorized by the judge are spelled out in the Letters, but most actions that affect the conservatee’s life are not listed.

In Florida, each court-appointed guardian of an adult must receive a minimum of 8 hours of instruction and training. This training covers:

- (a) The legal duties and responsibilities of the guardian;
- (b) The rights of the ward;
- (c) The availability of local resources to aid the ward; and
- (d) The preparation of habilitation plans and annual guardianship reports, including financial accounting for the ward’s property (FL § 744.3145).

Each person appointed as a guardian must complete the required number of hours of instruction and education through a court-approved organization within 4 months after their appointment as guardian, though the statute does not list the consequences if this condition is not met. Court-approved organizations may include, but are not limited to, community or junior colleges, guardianship organizations, and the local bar association or The Florida Bar (FL § 397.6978).

The expenses incurred by the guardian to satisfy the education requirement may be paid from the ward's estate, unless otherwise specified by the court. I found this section of the statute to be notable because it can be linked to the concerns of financial exploitation under conservatorship arrangements in the United States. According to Thompson (2021), the system of monitoring and supervision of guardians across the country, including Florida, is suspicious.

Oversight

When implemented correctly, conservatorship and guardianship arrangements can be valuable to ensure the continued care and well-being of individuals whom are too incapacitated to care for themselves. However, these arrangements require appropriate oversight to prevent abuse (U.S. Senate Special Committee on Aging, 2018). The oversight of guardianships across the nation is notoriously insufficient, in part because there are no federal regulations. Once a guardianship is imposed, a majority of an individual's rights are removed, so the court is responsible for monitoring the guardian and the arrangement in order to protect the individual from abuse, neglect, and exploitation by the guardian or others. In reality, the courts fail to monitor guardians and the legal arrangements, which has led to calls for improved oversight of guardianship arrangements across the United States.

Discussion

When a full conservatorship or guardianship order is imposed, the protected individual loses most of their basic rights, including the right to make medical decisions, to buy or sell property, to manage their own money, to marry, to choose where to live or to choose with whom to associate. Other than incarceration or civil commitment, potentially no other court process infringes upon an individual's personal liberties more significantly than the appointment of a guardian (U.S. Senate Special Committee on Aging, 2018). Most states impose few limits on who can petition and become a guardian. For example, although some states forbid a person convicted of a felony from serving as a guardian, background checks are not always required or imposed. This demonstrates that despite legislation that may exist, guardianship laws are not always accurately enforced. Calls for legal reform and improved oversight of guardianship arrangements are not new and date back to as early as the 1960s (U.S. Senate Special Committee on Aging, 2018). For decades, advocates for older adults and individuals with disabilities have called for the reform of guardianship laws across the globe (Kohn, 2021). In recent years, there has also been increased interest in encouraging less-restrictive alternatives to guardianship. Britney Spears' abusive conservatorship arrangement and the widespread #FreeBritney movement garnered national attention to conservatorship laws in the United States.

Britney Spears made headlines when she spoke out in a rare court appearance for the first time in June 2021 after nearly 13 years of silence (Yu, 2021). In a leaked audio recording of the court hearing to the Los Angeles Superior Court, Spears condemned the legal authority her father exercised over her finances and personal affairs. Spears called her court-appointed conservatorship "abusive" and urged the judge to terminate the arrangement. Spears alleged she

has been exploited, bullied, and abused during the 13-year conservatorship (Sprunt, 2021). Spears accused her father, Jamie Spears of abuse and expressed that he and the team behind the conservatorship “should be in jail” (Snapes, 2021; p. 3). During a subsequent hearing in July 2021, Spears reiterated her comments, which put a new lens on conservatorships, reinvigorating long-standing calls for legal reform (Yu, 2021). For example, the 39-year-old singer’s shocking remarks revealed that she had been forced against her will to leave an IUD birth control device in place and to take antipsychotic medication that she claims left her feeling “drunk” (Kurtz, 2021). In response to Spears’ claims, House Representative Nancy Mace (R-SC) highlighted the absurdity of essentially “forc[ing] a woman to basically sterilize herself under the guise of protection” (Sprunt, 2021, p. 12). In a plea to the judge to terminate the conservatorship, Britney Spears declared, “I just want my life back, and it’s been 13 years, and it’s enough” (Kurtz, 2021, p. 4).

Highly-restrictive conservatorship arrangements are only supposed to be implemented as a last resort when no sufficient alternatives are available. However, according to Kohn (2021), guardianship is often treated as a go-to intervention for individuals with cognitive disabilities or serious mental health problems, not a last resort. In the United States, guardianships are routinely granted and often without an independent evaluation of the individual’s needs and abilities. Kohn (2021) notes that courts often grant conservatorships without exploring less restrictive alternatives. Less restrictive legal devices exist, such as limited conservatorships or supported decision-making, which allow disabled individuals to maintain almost full autonomy over their choices (Yu, 2021). However, these options are often overlooked in favor of full conservatorships. For many individuals with intellectual and developmental disabilities, their needs can be met without depriving them of any legal rights (Yu, 2021). Conservatorship

arrangements have been criticized for facilitating elder abuse and undermining disability rights. In recent years, discussions about the legal device have led to the introduction of legislation intended to improve oversight.

The Uniform Law Commission (ULC) created model legislation that, if adopted by states, could help prevent others from finding themselves in a similar predicament to Britney Spears. The Uniform Law Commission is an American non-profit group that drafts nonpartisan legislation that brings clarity and stability to critical areas of state statutory law across jurisdictions (Uniform Law Commission, n.d.). The ULC promotes uniformity in areas of state law where uniformity is desirable and practical. For example, the proposed conservatorship legislation would make it more difficult to impose guardianships and easier to terminate them, require courts to be more proactive in removing guardians and terminating guardianship, prohibit courts from denying individuals access to counsel of their own choosing, and limit the ability of guardians to deplete a ward's assets (Kohn, 2021).

The National Council on Disability (NDC), an independent federal agency responsible for advising the federal government on issues that affect people with disabilities, has called for reform of guardianship laws. The NDC has called for better oversight of guardianships across the nation. They also advocate for increased support for people who could make their own decisions if they had proper assistance, improved measures to make sure people have due process in guardianship proceedings, and clearer standards for determining whether someone lacks the capacity to make their own decisions (Thompson, 2021). The determination of a person's mental capacity is currently up to the sole discretion of a judge. In other words, just one person with little to no statutory guidance on how to make such a determination controls the full autonomy of an incapacitated person (Zammiello, 2021). The National Council on Disability also

recommends establishing requirements that courts opt for less-restrictive alternatives before resorting to a guardianship. According to the NCD, most state statutes require the consideration of less-restrictive alternatives, but courts and others in the conservatorship system do very little to enforce this requirement (United States Senate Special Committee on Aging, 2018).

The U.S. Senate Special Committee on Aging (“the Committee”) is a bipartisan committee composed of seventeen U.S. senators from both the Democrat and Republican parties. The Committee recognizes that in order to protect individuals from guardianship abuse, exploitation, and neglect, governments and courts must be vigilant in their enforcement of laws and procedures that provide oversight of these relationships. In 2018, the Committee created a report containing a list of recommendations for courts and policymakers that would improve outcomes for individuals subject to guardianship arrangements. This report focuses on three key areas to protect the well-being of individuals placed under guardianship which includes increased oversight of guardians and guardianship arrangements, promoting alternatives to guardianship and the restoration of rights for individuals, and the need for more reliable guardianship data (United States Senate Special Committee on Aging, 2018).

To improve oversight of guardians and guardianship arrangements, the Committee recommends enhanced monitoring, background checks, improved collaboration (between the court and federal agencies or community organizations), and increased training on guardian responsibilities. The Committee recommends states encourage courts to promote alternatives to guardianship through state statutes and public awareness campaigns. To encourage the use of less-restrictive alternatives and promote restoration of rights, the Committee also recommends required comprehensive training for judicial officials, attorneys, and guardians to increase understanding and appreciation of less-restrictive alternatives to guardianship. According to the

Committee, state laws need to be strengthened to ensure individuals seeking restoration of rights are guaranteed unbiased legal representation and access to resources for timely consideration by the courts. They also advocate for the nationwide adoption of the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA), drafted by the Uniform Law Commission in 2017, which calls for the need greater uniformity in state guardianship laws to ensure better protections and control for individuals being considered for guardianship and those looking to restore their rights. To provide policymakers and other stakeholders with improved data regarding the guardianship system, the Committee recommends implementing statewide registries, creating a single location to collect and disseminate data, which allows for a more cohesive collection of data. Few states are able to report accurate or detailed guardianship data, and figures related to the number of individuals in guardianship arrangements are largely unavailable (United States Senate Special Committee on Aging, 2018). Reliable data would help policymakers make informed decisions on ways to improve the guardianship system. The Committee also recommends that federal agencies increase their data collection and increase federal support to state court systems or other state entities to create cohesive data collection efforts. Currently, comprehensive data regarding guardianship in the United States are substantially lacking, which hinders policymakers' and advocates' efforts to understand gaps and abuses in the system (Sprunt, 2021) and to find ways to address these concerns.

The conservatorship that oversaw Britney Spears' life for thirteen years generated efforts among policymakers to reform state laws governing legal guardianships (Cagnassola, 2021). In addition to the U.S. Senate Special Committee on Aging's recommendations, several other lawmakers across the United States have increased their attention to reforming guardianship laws in the United States. For example, California Assemblyman Evan Low (D-CA) introduced a bill

after watching the 2021 *The New York Times* documentary special “Controlling Britney Spears,” which he claims saw unanimous, bipartisan support throughout the process. Defending the bill, Assemblyman Low stated the system “is failing people from every walk of life, whether they are a global superstar whose struggles unfortunately play out in public or a family unsure of how to take care of an elderly parent” and added, “it’s painfully clear that we can and should do better” (Cagnassola, 2021, p. 2). Similarly, in September 2021 California Governor Gavin Newsom (D-CA) signed into law a set of changes that includes greater oversight of professional fiduciaries, such as those who controlled Spears’ life and financial decisions. The new California law will increase scrutiny of financial, physical, or mental abuse violations, which could result in \$10,000 fines, and finally allow people placed under a conservatorship to choose their own attorneys. California lawmakers previously passed a series of reforms to the state’s conservatorship system in 2006, which were never implemented by the courts due to budget cuts from the recession in 2008—which coincidentally is the same year Spears was placed in the conservatorship.

Other states have made recent changes to conservatorship laws, seeking to protect assets and provide less severe alternatives to conservatorships (Cagnassola, 2021). In New Jersey, lawmakers introduced legislation that allows virtually anyone who claims to have concern for the financial or personal well-being of another adult to petition to strip that individual of their decision-making power. Oregon is offering resources to protect people under guardianships, such as providing free legal help to anyone under the control of a guardianship. Currently, incapacitated people do not have a right to choose legal representation in most states, which sets up people without means for potential abuse, according to Senator Michael Dembrow (D-OR). High-profile cases of guardianship exploitation in Nevada and New Mexico have prompted these states to overhaul their existing conservatorship legislation.

The need for improved federal regulation of guardianships has been a long-standing concern of guardianship reform advocates. *Framing Britney Spears* prompted federal lawmakers from across the ideological spectrum to issue support for the pop star's battle for freedom. In 2021, House Representatives Charlie Crist (D-FL) and Nancy Mace (R-SC) unveiled their Freedom and Right to Emancipate from Exploitation Act, colloquially known as the FREE Act. Drawing inspiration from Britney Spears' fight to end her court-ordered conservatorship, the bipartisan legislation aims to protect those under legal guardianships and conservatorships from abuse and exploitation (Stracqualursi, 2021). Through a four-pronged approach to protect Americans under guardianship and conservatorship from abuse and exploitation, the FREE Act would:

- (1) Grant a person under a legal guardianship or conservatorship the right to petition the court to have their court-appointed guardian replaced with a public guardian or conservator without needing to prove misconduct or abuse.
- (2) Guarantee that individuals under guardianships are assigned an independent case worker to monitor signs of abuse, and inform the incapacitated individual of their rights.
- (3) Require case workers and public guardians disclose their finances to avoid conflicts of interest.
- (4) Provide much needed transparency by requiring states to submit annual reports on the state of guardianship and conservatorship in their states. An updated database on how many people are under guardianships or conservatorships would fix the issue of the untracked number of conservatorships in the United States. (Stracqualursi, 2021; Kurtz, 2021; Crist, 2021).

According to the two lawmakers, the legislation is narrowly crafted to attract further bipartisan support (Stracqualursi, 2021). The two Representatives agree that the greatest chance of legislative success is with bipartisan and bicameral support of the bill. The proposal of the FREE Act legislation is notable because it stems from an issue that united lawmakers of both

political parties in Congress. Partisan gridlock between the opposing political parties is common on Capitol Hill, and members on opposite ends of the political spectrum working together on a legislative issue is generally a rare phenomenon. According to Representative Crist, the Democrat co-drafter of the legislative bill alongside Republican Representative Mace, “The fact that we have a Democrat and Republican doing this in concert in Congress today is pretty extraordinary. We don’t see enough of that.” Crist also holds that reforming abuse in the conservatorship system is “not a right versus left issue,” but instead, “this is a right versus wrong issue” (Kurtz, 2021, p. 4). Similar comments from Mace suggest, “It’s a rare sighting in Congress — especially when we are just so divided and our nation is divided” (Kurtz, 2021, p. 5). If passed into law, the FREE Act would not only have freed Britney Spears from her abusive conservatorship, but would also restore freedom to the countless number of seniors and persons with disabilities currently being abused or exploited by a broken system.

Other lawmakers across the political spectrum have expressed support for Spears’ battle for freedom from the controversial conservatorship. Despite widespread bipartisan support on Capitol Hill for Britney Spears, it remains unclear how Congress will tackle the issue of reforming conservatorships. Given that conservatorships are primarily controlled by the states, not the federal government, it is difficult to determine the next steps Congress will take. However, there is still plenty of action for Congress to take, such as improving the poor data tracking. Advocates suggest Congress could also offer states incentives and technical assistance with developing electronic filing and reporting systems to collect basic data about guardianship. The lack of a centralized data collection system makes it difficult to assess the scope of conservatorships in the United States (Sprunt, 2021). Scholars argue that guardianship abuse violates federal laws like the Americans with Disabilities Act (ADA), which could open the door

for broader federal involvement. Recommendations include the Department of Justice issuing guidance to states about their legal obligations to the ADA, or the Department of Health and Human Services federally funding community health advocate programs designed to support those who require supported decision-making (Sprunt, 2021). While states are responsible for appointing and monitoring guardianships in order to protect individuals from abuse, neglect, and exploitation, the federal government also plays an important role in the guardianship system. However, it is imperative that the federal government does more to strengthen its role in preventing misconduct in guardianships across the nation. Increased federal safeguards to protect persons under guardianship from abuse and exploitation are necessary and long overdue. The United States is in dire need of more uniform laws and improved legislation in the intrusive and abusive guardianship system.

Conclusion

The high-profile conservatorship of Britney Spears and her pleas to be freed from the abusive legal arrangement highlighted the need for improved guardianship legislation in the United States. The fan-created #FreeBritney movement introduced many to the concept of conservatorships and emphasized the complexities of conservatorship law. Spears' notable case and her status as a high-profile celebrity captured the attention of fans, advocates of guardianship reform, and United States lawmakers. As a step towards implementing the much needed reform in conservatorship laws, members of Congress have proposed the FREE Act, which is designed to protect individuals under legal guardianships and conservatorships from abuse and exploitation. House Representative Nancy Mace (R-SC) commended Spears for her courage to speak out against her conservatorship experience and for bringing national attention to the abuse

other Americans can face under such legal arrangements. Mace also described the singer's situation as a "nightmare" and suggested that if such abuse "can happen to Britney Spears, it can happen to anyone in this country" (Stracqualursi, 2021, p. 4). Conservatorship and guardianship arrangements are not unique to Spears; the legal tool has long-affected people who do not have her platform or profile. Elderly people, people with intellectual and developmental disabilities, and people with significant psychiatric disabilities are most susceptible to being placed under conservatorship arrangements. By speaking out against conservatorship abuse, Britney Spears provided a voice to a population of vulnerable persons whose experiences of abuse and exploitation are often overlooked.

In addition to improved federal oversight and regulations, less restrictive alternatives to conservatorship arrangements are one of the key recommendations in the fight for reform. Conservatorship and guardianship arrangements are highly intrusive legal arrangements that are intended to be used as a last resort when no other viable legal avenues are available to someone in need of assistance. In reality, guardianship is often treated as the go-to intervention for individuals deemed unable to care for themselves or handle their own affairs. Each case is unique, but advocates recommend that complex individuals who require support to make decisions deserve the necessary support, rather than assigning someone to make those decisions for them. Guardianship arrangements have been described as a civil death, where an individual no longer exists as a legal person once somebody else is permitted to completely control their decisions (Sprunt, 2021). The legal court-appointed tool of guardianship or conservatorship significantly infringes an individual's personal liberties (U.S. Senate Special Committee on Aging, 2018). Basic human rights are permanently stripped away from those appointed a

guardian under the guise of protection, and critics and politicians such as Rep. Nancy Mace (R-SC) argue that this design should be illegal (Snapes, 2021).

While advocates of conservatorship reform argue that the legal arrangements are often predatory and harm those they are designed to protect (Cagnassola, 202), not all conservatorships are bad or ill-conceived (Martin, 2021). Conservatorship and adult guardianship arrangements can be valuable tools to protect individuals who are genuinely unable to manage their own assets and personal decisions. Though the cases of alleged conservator abuse have captured national attention, not all conservators are ill-intentioned or attempting to exploit the person under their care. However, it is important to reiterate that conservatorships should be used only as a last resort when no other legal options are sufficient to someone in need of assistance. All involved parties in a conservatorship case must do everything they can to ensure that the conservatorship is necessary and that the appropriate conservator is appointed (Martin, 2021). Additionally, courts need to implement strict oversight over conservators to ensure that the conservatorship is being handled properly and in the best interests of the incapacitated person. Advocates also recommend enhanced monitoring, background checks, and increased training for potential guardians. State and federal lawmakers also hold the responsibility to ensure that legislation is designed to protect those under legal guardianships from abuse and exploitation.

The abolition of conservatorship arrangements is not the recommended solution to remedy guardianship abuse and the exploitation of incapacitated individuals. Reform is long overdue and significant improvements must be made to the laws that deal with legal conservatorship and guardianship arrangements. As Britney Spears' conservatorship experience highlighted, conservatorships can be a nightmare for the individuals that are placed under the arrangement and have their rights stripped away from them. The current guardianship system is

broken, and it is essential for the United States government to implement federal safeguards to protect persons under guardianship from abuse and exploitation (Crist, 2021). Britney Spears' case shined a light on long-standing concerns from reform advocates. For decades, advocates have underscored the potential for financial and civil rights abuses of individuals placed under guardianship or conservatorship, which typically includes elderly people and people with intellectual, developmental, and mental health disabilities (Sprunt, 2021). Despite these long-standing concerns, comprehensive data regarding guardianship continues to be substantially lacking, which only hinders policymakers and advocates' efforts to understand gaps and abuses in the system and find ways to address these issues.

Policymakers from opposing political parties have joined together in agreement that the American guardianship system needs to be fixed. Britney Spears' battle for freedom from an abusive, unnecessary conservatorship arrangement not only garnered shared support from lawmakers from both political parties, but lawmakers from across the political spectrum have united under rare circumstances to pass bipartisan legislation for conservatorship reform. The greatest chance of legislative success comes from bipartisan cooperation from both sides of Congress. While the outcomes of the proposal of the FREE Act bill are still yet to be determined, it is in the best interest of all for the members of Congress to unite, despite political differences, and enact legislation that would protect millions of vulnerable Americans from abuse and exploitation. While the issue of conservatorship abuse is a pressing political matter, it is not a Republican or Democrat issue, but rather a human rights issue.

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