#FreeBritney: Lessons for People with IDD and Their Families

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#FreeBritney: Lessons for People with IDD and Their Families

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What is guardianship?

• Determined by state law
• Generally: a formal process of going to court to determine whether someone is “incapacitated” (unable to make their own decisions) and needs a judge to appoint someone else (a guardian) to make some or all decisions for them
• Should not be ordered or pursued if less restrictive options will work.
What are concerns about guardianship?

• “I don’t feel that I can live a full life. . . [W]e can sit here all day and say . . . conservatorships are here to help people. [But] there are a thousand conservatorships that are abusive as well.” – Britney Spears, Variety, 7/23/21

• “I felt like a prisoner, but I didn’t do anything wrong.” – Jenny Hatch, in U.S. Congressional testimony, 9/28/21

• “I should have never been under guardianship, because I was always independent . . Don’t judge me before you get to know me. Everyone needs help sometimes.” – Ryan King, The New York Times, 6/22/21
What are more concerns?

• Ms. Spears “expressed serious opposition to the conservatorship earlier and more often than had previously been known, and said that it restricted everything from whom she dated to the color of her kitchen cabinets.” – The New York Times, 6/22/21

• “I am Britney Spears!” – Attributed to Ms. Spears’ father by Jaqueline Butcher, former family friend, The New Yorker, 7/13/21

• Ms. Spears “described how she had been isolated, medicated, financially exploited, and emotionally abused. She assigned harsh blame to the California legal system . . . She added that she had tried to complain to the court before but had been ignored, which made her ‘feel like I was dead,’ she said—’like I didn’t matter.’” – The New Yorker, 7/13/21
What about mental health crises?

• “And, when someone struggles with mental illness, family members may have to take strict actions that might not make sense to outsiders.”

• “She was angry, breaking things. And people wouldn’t know the context—that it was because they held the kids over her.”

Jacqueline Butcher, Friend of Lynne Spears

- The New Yorker, 7/13/21
Guardianship Alternatives
Powers of Attorney (POAs)

- Legal document
- Voluntary
- Do not have to go to court
- Choose who makes some or all decisions
- Flexibility; can change your mind
- Capacity needed to choose person, not to understand underlying decision
Guardianship Alternatives
Psychiatric Advance Directives (PADs)

- Legal document
- Describe choices for care
- Choose who makes decisions
- Voluntary
- Do not have to go to court
- Flexible
- End when mental health crisis ends
“The whole process was maybe ten minutes...No one testified. No questions were asked.” Jacqueline Butcher, Friend of Lynne Spears, *The New Yorker*, 7/13/21

**Temporary Guardianship**
- Expires without court involvement
- Limit to areas of need
- Plan for the future
What about fear of financial abuse?

• “[Guardianship] is a safety net for those who are both susceptible to financial exploitation and other harm that could come to them,” said Sally Hurme, a board member for the National Guardianship Association, which represents guardians. - The New York Times, 7/10/21

• “[Her father] and [mother] were terrified for their daughter, multiple people said; they were worried that [a friend] might be siphoning money from Spears, or that he might encourage impulsive choices that would leave her in serious debt.” - The New Yorker, 7/13/21

• “I shouldn’t be in a conservatorship if I can work and provide money and work for myself and pay other people – it makes no sense…What state allows people to [say]… ‘You can’t spend your money unless you do what we want you to do.’” - Britney Spears, Variety, 6/23/21
Guardianship Alternatives
Existing Banking Options

- Supported decision-making
- Joint accounts
- Direct deposit
- Automatic billing
- Money management classes
- ABLE Accounts

National Disability Institute
Guardianship Alternatives
Special Needs Trusts

- Tool for saving without losing public benefits
- Choose your trustee – can be a family member, friend, or professional
- Trustee decides how to invest and manage funds in the trust
Guardianship Alternatives
Representative Payees

- Appointed by Social Security Administration
- Manage Social Security benefits like SSI and SSDI
- Do not have to go to court
More on Civil Rights

• “I was told right now in the conservatorship, I’m not able to get married or have a baby, I have a (IUD) inside of myself right now so I don’t get pregnant. I wanted to take the (IUD) out so I could start trying to have another baby.” – Britney Spears, Variety, 6/23/21

• “My full rights were taken away: the right to vote, the right to get married, the right to choose where I wanted to live, the right to choose my socialized environment . . . I was not able to go to church. I was not able to do any volunteer work at all.” – Michael Lincoln-McCreight, Vice, 7/8/21
Health Care Decisions

• “I can’t go somewhere unless I meet people I don’t know every week in a office identical to the one where the therapist was very abusive to me... I don’t owe them to go see a man I don’t know and share him my problems.” – Britney Spears, Variety, 6/23/21

• “’This conservatorship is doing me way more harm than good,’ she said, detailing how her legal guardians have dictated where she lives, works and receives therapy...[and] forced her to take medication against her will.” – Britney Spears, Time, 6/28/21
• “Among those with intellectual and developmental disabilities, people ages 18-22 are the age group most likely to be under guardianship. Educators routinely recommend guardianship for teenagers leaving school, creating a ‘school-to-guardianship pipeline,’ according to a 2019 report from the National Council on Disability.” – Time, 7/25/21

• “Too often schools have told family members that a student with ID/DD must have guardianship if they want a family member or friend to assist with one’s IEP when the student turns 18.” – Family member in Michigan, 2019 NCD Report, p.32

• “Students are not informed, parents are uninformed, and educators are uninformed . . . It’s a triple whammy.” – Former educator, 2019 Report, p.35
Alternatives in Education

• Supported Decision-Making & FERPA release-of-information forms
• Educational powers of attorney
• Additional Options, depending on State Law
Questions?
Contact Us

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