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September 4, 2019

Honorable Gavin Newsom
Governor of California
Capitol Building, First Floor
Sacramento, CA 95814

RE: SB 303 (WIECKOWSKI) – REQUEST FOR SIGNATURE

Dear Governor Newsom:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, **supports SB 303 and requests your signature.**

For persons with disabilities who also may be unable to manage their financial affairs and therefore have had a conservator appointed for them, there are probably two things that are most vital to them: their home and their public benefitsⁱ, often their only ongoing source of income. A person's home often represents a lifetime of sacrifice and a place of security. It is also the place where a person should be able to live in the least restrictive environment in their community and placement in an institution. The disposition of one's home can forever relegate a person to confinement in an institution, for if the individual has no home, the alternative is often only institutional care. For that reason, the determination to sell a conservatee's home should be held to the highest standard. SB 303 requires that a conservator notify the court of a proposed sale of a residence before a sale. It also makes the determination on whether a conservatee should be removed from their home, and whether the home should be sold, subject to an exacting standard: *clear and convincing evidence*. This standard provides that only a compelling reason will satisfy losing one's home.

The Judicial Council, in its opposition to this bill, states that the enhanced standard would increase the number of conservatees who remain in inappropriate and potentially unsafe homes. It is difficult to imagine that in the face of a conservatee subjected to living in an “inappropriate, potentially unsafe home” the court could determine that the conservatee should be required to stay in that home under this standard if there is indeed evidence of that danger. Certainly, the bill does not compel that outcome. It does require, however, that the examination into the conservatee’s circumstances be subject to a closer scrutiny than the current requirements that often needlessly relegate a conservatee to spending their final years in an institution. The additional rigor this bill places on the determination of whether to make a forced sale of a conservatee’s home and the conservator’s obligations related to the sale ensures that a conservatee has the opportunity to reside in the least restrictive environment.

The Judicial Council’s assertions to the contrary, this bill does nothing to interfere with the conservator’s ability or obligation to perform the duties of a conservator. Only if it is assumed that the conservator or the court does not perform their required duties under this bill would it follow that conservatees would be at greater risk. In our experience we have seen someone — either an unscrupulous family member or a conservator’s family member — buy the house for an unfairly reduced price, leaving the conserved person evermore institutionalized at Medi-Cal’s expense. The court, under this bill, would have the benefit of the enhanced protections to protect that outcome.

In the end, conservators and the courts must be demanding in protecting the conservatee’s interest in their, in all likelihood, most valuable resource and to avoid their banishment to an institution. This bill provides that enhanced protection.

Protecting a conservatee’s government insurance or public benefits, such as Social Security and SSI benefits, which are intended to pay for the necessities for the recipients, should not be used to compensate conservators for their services (except as otherwise allowed by state or federal law). This bill makes clear that only those portions of public benefits that are allowed to be used for fees may be used for fees, for example, the \$43 that Congress has authorized as payment for representative payees of the beneficiary.

These two protections for conservatees will help ensure that their home and benefits will be protected to the greatest extent possible. For these reasons, DRC supports this bill and requests your signature.

Very truly yours,

A handwritten signature in black ink, appearing to read "Curtis Child". The signature is fluid and cursive, with the first name "Curtis" and last name "Child" clearly distinguishable.

Curtis Child
Legislative Director
Disability Rights California

cc: Honorable Bob Wieckowski, California State Senate
April Bird, Legislative Aide, Office of Senator Wieckowski
Tam Ma, Deputy Legislative Secretary, Office of Legislative Affairs
Anthony Williams, Legislative Secretary, Office of Legislative Affairs
Andi Liebenbaum, Judicial Council of California

ⁱ Federal exempt benefits include, for example: Social Security benefits; veterans' benefits; Supplemental Security Income Benefits (SSI); Service Members' Pay; Railroad Retirement Benefits; Federal Emergency Management Agency Federal Disaster Assistance. See, e.g., *Crawford v. Gould* (Ninth Cir. 1995) 56 F.3d 1162, holding that Social Security benefits could not be taken from patient personal deposit accounts maintained for each patient at California's State Psychiatric Hospitals to reimburse the hospitals for the cost of patient care and maintenance. ["Return to Main Document"](#)