



Councilmember Cheryl Davila  
District 2

CONSENT CALENDAR

April 24, 2018

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila, ~~and~~ Councilmembers Ben Bartlett ~~and~~ Kate Harrison

Subject: ~~Referral to the Commission on Aging to draft a letter to the Commission on Judicial Performance Council of California and to Alameda County District Attorney Nancy O'Malley in support of the Probate Court Reform Movement~~  
[Send a Letter to the Commission on Judicial Performance Council of California and to Alameda County District Attorney Nancy O'Malley in Support of the Probate Court Reform Movement](#)

RECOMMENDATION

~~Referral to the Commission on Aging to draft a letter to the Commission on Judicial Performance in support of the Probate Court Reform Movement's demand that the Commission on Judicial Performance 1) Investigate the predatory climate of the Probate Court, 2) Conduct an audit to assess the impact of Probate Court decisions on African American and minority families compared to Caucasian families, and 3) If malfeasance is discovered, demand restitution to families that have been harmed.~~

[Send a letter to the Judicial Council of California \(the policymaking body of the court system\), and to Alameda County District Attorney Nancy O'Malley to support the Probate Court Reform Movement's request for an investigation of predatory climate; conduct an audit and assess impacts of Probate Court decisions on African Americans and minorities families compared to Caucasians and to demand restitution if malfeasance are discovered.](#)

FISCAL IMPACTS OF RECOMMENDATION

None.

ENVIRONMENTAL SUSTAINABILITY

None.

BACKGROUND

A conservatorship in California is a probate court proceeding where a judge appoints a caretaker for an adult deemed unable to care for him or herself.

Conservatorship was designed to help families protect relatives unable to care for themselves. Mostly, this legal arrangement is established for older adults too impaired or enfeebled to manage their own lives. Conservatorship is also used to assist adults who are developmentally disabled or the victims of catastrophic illness or accident.

Despite this noble intent, the system can fail the very people it was designed to protect. Professional for profit conservators can petition for conservatorship of an individual, often without the knowledge and consent of the individual or their family. Judges grant approvals for conservatorships with little scrutiny in hasty hearings. Predatory conservators bill the estate of conservatees at enormous rates.

As a result, many vulnerable people have been stripped of their homes, estates, and personal freedoms. African Americans have been disproportionately impacted by this predatory system.

The probate court system is tasked with monitoring the behavior of conservators, including examining financial reports and ensuring that conservators are not abusing their authority. However, the courts are failing to carry out adequate oversight, leaving many Californians vulnerable to abuse.

The Probate Court Reform Movement consists of eighty three members that need justice and restitution for their families for loss to their estates.

~~[The Commission on Judicial Performance should closely investigate this matter.](#)~~

**CONTACT PERSON**

Cheryl Davila, Councilmember, District 2                      510.981.7120

[Attachments:](#)

[1: Letter to the Judicial Council of California](#)

[2: Letter to District Attorney Nancy O'Malley](#)

April 24, 2018

Judicial Council of California  
455 Golden Gate Avenue  
San Francisco, CA 94102

To the Judicial Council of California:

The Berkeley City Council has learned that our community members are being impacted by predatory conservators and insufficient judicial oversight.

We understand that many vulnerable people have been stripped of their homes, estates, and personal freedoms. African Americans have been disproportionately impacted by this predatory system.

We support the Probate Court Reform Movement's efforts to raise attention to this issue. We hope that you will: 1) Investigate the predatory climate of the Probate Court, 2) Conduct an audit to assess the impact of Probate Court decisions on African-American and minority families compared to Caucasian families, and 3) If malfeasance is discovered, demand restitution to families that have been harmed.

Respectfully,

The Berkeley City Council

April 24, 2018

District Attorney Nancy O'Malley  
Alameda County District Attorney's Office  
1225 Fallon Street, Suite 900  
Oakland, CA 94612

Dear District Attorney Nancy O'Malley:

The Berkeley City Council has learned that our community members are being impacted by predatory conservators and insufficient judicial oversight.

We understand that many vulnerable people have been stripped of their homes, estates, and personal freedoms. African Americans have been disproportionately impacted by this predatory system.

We support the Probate Court Reform Movement's efforts to raise attention to this issue. We hope that you will: 1) Investigate the predatory climate of the Probate Court, 2) Conduct an audit to assess the impact of Probate Court decisions on African-American and minority families compared to Caucasian families, and 3) If malfeasance is discovered, demand restitution to families that have been harmed.

Respectfully,

The Berkeley City Council