

Resolution 3
In Support of The Guardian Accountability and Senior Protection Act

WHEREAS, the number of elderly persons will increase over the next 20 years and this demographic trend is likely to result in a substantial increase in court cases regarding the protection of vulnerable elderly persons, including guardianship, conservatorship, and elder abuse proceedings; and

WHEREAS, state court systems and individual courts have recognized the need to improve the process for considering petitions for guardianship and/or conservatorship of adults and the monitoring of guardianship and/or conservatorship orders; and

WHEREAS, research by the National Center for State Courts has identified problems and pointed out promising practices regarding the monitoring of guardianship and conservatorship cases; and

WHEREAS, the Report of the Conference of Chief Justices and Conference of State Court Administrators Joint Task Force on Elders and the Courts recommended that each state court system: (1) collect and report the number of guardianship and conservatorship cases that are filed, pending, and concluded each year; (2) implement improved procedures for monitoring the performance of guardians and conservators and the well-being of incapacitated persons; and (3) explore ways in which technology can assist them in documenting, tracking, and monitoring guardianships; and

WHEREAS, the 2010 Conference of State Court Administrators White Paper entitled *The Demographic Imperative: Guardianships and Conservatorships* called for the establishment of a Guardianship Court Improvement Program to assist courts throughout the nation to improve consideration of petitions for guardianship and/or conservatorship of adults and monitoring the performance of guardians and conservators and the well-being of incapacitated and vulnerable persons; and

WHEREAS, the delegates from ten national organizations participating in the Third National Guardianship Summit adopted a far-reaching set of recommended standards for performance and decision-making for guardians and conservators, as well as additional recommendations for action by courts, legislatures and other entities; and

WHEREAS, the Senate Special Committee on Aging has requested a series of reports from the Government Accountability Office over the past seven years (GAO 04-655, GAO-06-1086T, GAO-10-1046, and GAO 11-678) and held a series of hearings regarding problems in the monitoring of guardianship and conservatorship orders, the lack of cooperation and coordination by the Social Security Administration and Department of Veterans Affairs with state courts regarding conservatorships, financial exploitation, and abuse and neglect of seniors by their guardians and conservators; an

WHEREAS, these Government Accountability Office reports have recognized a substantial federal interest in guardianship, conservatorship, and elder abuse issues and the need for federal financial assistance to states to collect comparable data regarding guardianships and test and evaluate innovative procedures and practices to prevent, detect, and address abuse and exploitation; and

WHEREAS, some federal executive branch agencies have noted the need to address the exploitation and abuse of elders more effectively; and

WHEREAS, there are currently no grant programs within the federal government to assist state courts to meet the above referenced responsibilities or test innovative methods for conducting background checks, and utilizing technology for simplifying reporting procedures and facilitating the review of fiduciary performance; and

WHEREAS, the Court Improvement Program, established in 1993 for improving the consideration and outcomes of child protection cases, has been effective in reducing judicial delay in those cases; enhancing the ability of judges and attorneys to handle the complexity of these cases; and strengthening the review and monitoring of these cases, while respecting the independence of the state judiciaries; and

WHEREAS, it is anticipated that similar results would accrue from a Guardianship Court Improvement Program for guardianship and conservatorship cases; and

WHEREAS, the proposed Guardian Accountability and Senior Protection Act (S. 1744) would establish a Guardianship Court Improvement Program and pilot programs to test effective methods for conducting background checks on individuals before they are appointed as a guardian or conservator and to promote the widespread adoption of information technology to better monitor, report, and audit conservatorships of protected persons;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators urge the Congress to enact the Guardian Accountability and Senior Protection Act and appropriate sufficient funds to fully carry out the provisions of that Act.

Adopted as proposed by the CCI/COSCA Elders and the Courts Committee at the 2012 Midyear Meeting on February 1, 2012.