

# **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

**By Emma Murphy**

## **Introduction**

*“[A] conservatee may be subjected to greater control of his or her life than one convicted of a crime.”<sup>1</sup>*

On June 23, 2021, Britney Spears shocked the world in her first public testimony regarding her thirteen-year conservatorship, which is a “legal arrangement that designates an individual as responsible for another's lifestyle and financial decisions when issues such as mental illness or disability prevent cogent decision-making.”<sup>2</sup> In her testimony, Britney explained: “I truly believe that this conservatorship is abusive.”<sup>3</sup> She described, among other things, not being able to see her kids as punishment for not cooperating, being isolated from her friends, being forced to take lithium against her will (which made her feel “drunk”), and not being able to remove her IUD despite wanting to get pregnant.<sup>4</sup> She passionately called for the conservatorship to end.<sup>5</sup>

Britney’s testimony came in the midst of a movement seeking to free her from her conservatorship known as #FreeBritney. The movement gained popularity amid rumors that Britney’s father and conservator, Jamie Spears, was forcing Britney to stay in a mental health facility against her will—a so-called “conspiracy theory” which Britney confirmed was true in her

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<sup>1</sup> Conservatorship of Roulet, 590 P.2d 1, 6 (Cal. 1979); *see also* Heidi Blake & Katie J.M. Baker, *Beyond Britney: Abuse, Exploitation, and Death Inside America’s Guardianship Industry*, BUZZFEED NEWS (Sep. 17, 2021, 1:02 PM), <https://www.buzzfeednews.com/article/heidiblake/conservatorship-investigation-free-britney-spears> (“Without being convicted of any crime, those declared incapacitated face some of the most severe measures that the courts can take against any US citizen.”).

<sup>2</sup> *See* Ellen Cranley, *The #FreeBritney Conspiracy Theory Says Britney Spears Is Being Held Against Her Will, and Her Mom Appears to Support It*, INSIDER (Apr. 20, 2019), <https://www.insider.com/free-britney-britney-spears-conspiracy-theory-held-against-her-will-2019-4>; Julia Jacobs & Sarah Bahr, *The Britney Spears Transcript, Annotated: ‘Hear What I Have to Say’*, N.Y. TIMES (June 24, 2021), <https://www.nytimes.com/2021/06/24/arts/music/britney-spears-transcript.html>.

<sup>3</sup> Jacobs & Bahr, *supra* note 2.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

June 23 testimony.<sup>6</sup> Britney’s conservatorship officially ended in November 2021.<sup>7</sup> Her case opened many people’s eyes to what a conservatorship is and the problems that individuals can experience while under them. Indeed, the conservatorship system has been described as a “vast, lucrative, and poorly regulated industry that has subsumed more than a million people, many of whom insist they are capable of making their own decisions, and placed them at risk of abuse, theft, and even death.”<sup>8</sup>

This Paper explores the Britney Spears conservatorship to illuminate larger problems with the conservatorship system as currently designed and to evaluate proposals for change to prevent what happened to Britney from happening to others. Part I explains what conservatorships are, including the divergence between the rights and protections that conservatees should have on paper and their experiences in actuality. Part II discusses Britney’s conservatorship, including the events leading to her being placed under it, the proceedings in which the conservatorship was put into place, the abuses that Britney apparently suffered during the conservatorship, and how the conservatorship was finally ended after thirteen years. Part III explores what can be done to reform the conservatorship system and prevent future abuses. It argues that there are a number of changes that can be made, including ensuring that the law is actually put into practice, adopting a guardianship registration system, and providing supported decisionmaking as an alternative to conservatorships. It further argues that now is the best time for legislatures to adopt conservatorship reforms given the attention paid to the Britney Spears case. Finally, Part IV briefly concludes.

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<sup>6</sup> Cranley, *supra* note 2; Jacobs & Bahr, *supra* note 2.

<sup>7</sup> Anastasia Tsioulcas, *Britney Spears’ Conservatorship Has Finally Ended*, NPR (Nov. 12, 2021, 5:16 PM), <https://www.npr.org/2021/11/12/1054860726/britney-spears-conservatorship-ended>.

<sup>8</sup> Blake & Baker, *supra* note 1.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

### **I. Background on Conservatorships**

“Conservatorships,” also known as “guardianships” in some states,<sup>9</sup> are defined as a “fiduciary relationship between a guardian [or conservator] and a ward or other incapacitated person [or conservatee], whereby the guardian assumes the power to make decisions about the ward's person or property.”<sup>10</sup> As California defines it, a conservatorship “is a court case where a judge appoints a responsible person or organization (called the ‘conservator’) to care for another adult (called the ‘conservatee’) who cannot care for himself or herself or manage his or her own finances.”<sup>11</sup> By definition, a conservatorship or guardianship “is almost always an involuntary procedure imposed by the state on the ward.”<sup>12</sup>

The origin of conservatorships goes back to ancient Roman law, and today their existence stems from states’ police powers.<sup>13</sup> The basic idea underlying the arrangement is to provide a “protective mechanism to protect a person who cannot take care of their own basic needs.”<sup>14</sup> While conservatees are often elderly, they may also be young people, such as people with disabilities.<sup>15</sup> Although the exact number of conservatorships and guardianships in the United States is unknown, it is estimated that there are at least 1.3 million.<sup>16</sup>

There are various types of conservatorships. One major distinction is between conservators of the person and conservators of the estate. Conservators of the person are responsible for caring

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<sup>9</sup> Anna-Drake Stephens, Student Article, “*Don’t You Know that You’re Toxic?*”: A Look at Conservatorships Through the #FreeBritney Movement, 45 LAW & PSYCH. REV. 223, 224 (2021). Since this Paper focuses on Britney Spears and her conservatorship, it will mostly use the “conservatorship” to refer to this legal arrangement.

<sup>10</sup> *Guardianship*, BLACK’S LAW DICTIONARY (11th ed. 2019).

<sup>11</sup> *Conservatorship*, CA. COURTS, <https://www.courts.ca.gov/selfhelp-conservatorship.htm?rdeLocaleAttr=en> (last visited Apr. 19, 2022).

<sup>12</sup> *Guardianship*, BLACK’S LAW DICTIONARY (11th ed. 2019).

<sup>13</sup> Abigail Abrams, *How Britney Spears’ Case Could Change the Future of Conservatorship*, TIME (June 25, 2021, 2:30 PM), <https://time.com/6075859/britney-spears-conservatorship-disability/>; Stephens, *supra* note 9.

<sup>14</sup> Abrams, *supra* note 13 (quoting Zoe Brennan-Krohn).

<sup>15</sup> Blake & Baker, *supra* note 1.

<sup>16</sup> Abrams, *supra* note 13; Blake & Baker, *supra* note 1.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

for the physical wellbeing of the conservatee, such as their food, clothing, shelter, and health care.<sup>17</sup>

In contrast, conservators of the estate are in charge of the conservatee’s financial wellbeing, such as paying bills and collecting income.<sup>18</sup> A conservatee may be placed under either or both, and, in the latter situation, the conservator does not need to be the same person for both types of conservatorships.<sup>19</sup> Additionally, there are both general conservatorships and limited conservatorships. General conservatorships give conservators broad powers over the conservatee, while limited conservatorships are narrower and tailored to the specific capabilities of the conservatee.<sup>20</sup> The former are generally implemented for the elderly or people who have been “seriously impaired,” while the latter are often used for individuals with developmental disabilities.<sup>21</sup> Finally conservatorships can be temporary<sup>22</sup> or permanent, with the latter being much more common.<sup>23</sup>

While there is variation depending on the type of conservatorship imposed, conservatorships have significant legal ramifications for the conservatee. Conservatorships have been described as a form of “civil death”<sup>24</sup> and a “deprivation of legal personhood.”<sup>25</sup> Most of the conservatee’s rights are typically transferred to the conservator, so the conservatee often loses the rights to vote, marry, possess guns, and make healthcare decisions (such as whether to take

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<sup>17</sup> *Conservatorship*, *supra* note 11.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* (“Someone may have a conservator while he or she recovers from a physical or mental condition that is temporarily disabling.”).

<sup>23</sup> *Id.* (“A conservatorship is usually a permanent arrangement.”).

<sup>24</sup> Julie Balovich, *In Their Best Interests: Are Guardianships Toxic to Constitutional Rights?*, 84 TEX. B.J. 974, 974 (2021).

<sup>25</sup> Courtney Majocha, *Free Britney?*, HARVARD L. TODAY (Aug. 13, 2021), <https://today.law.harvard.edu/free-britney/> (quoting James Toomey).

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

contraceptives and whether to be sterilized).<sup>26</sup> Essentially, the conservatorship “revert[s] an adult to the legal status of a child.”<sup>27</sup>

There is no federal law regarding conservatorships,<sup>28</sup> so arrangements vary by state.<sup>29</sup> There is a notable disparity between the protections afforded conservatees on paper in state laws and how those protections are exercised in practice. On paper, “America’s guardianship system was designed as a last resort to be used only in the rare and drastic event that someone is totally incapacitated by mental or physical disability.”<sup>30</sup> For example, conservatorships should be the “least restrictive alternative needed for the protection of the conservatee” before they are imposed.<sup>31</sup> Alternatives to conservatorships include a durable power of attorney<sup>32</sup> or the individual being able to “cooperate with a plan to meet his or her basic needs.”<sup>33</sup> If a conservatorship is the least restrictive means of helping an individual, most states encourage courts to adopt a limited conservatorship to address the needs of that person.<sup>34</sup> In appointing a conservator, the court must be guided by the “best interests” of the conservatee and should appoint the conservator proposed by the conservatee if they have the capacity to express that preference and the preference is in their

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<sup>26</sup> Abrams, *supra* note 13; Balovich, *supra* note 24, at 974; Blake and Baker, *supra* note 1.

<sup>27</sup> Lisa Zammiello, Comment, *Don’t You Know that Your Law Is Toxic? Britney Spears and Abusive Guardianship: A Revisionary Approach to the Uniform Probate Code, California Probate Code, and Texas Estates Code to Ensure Equitable Outcomes*, 13 TEX. TECH. EST. PLAN. COM. PROP. L.J. 587, 595 (2021).

<sup>28</sup> U.S. GOV’T ACCOUNTABILITY OFF., GAO-10-1046, GUARDIANSHIPS: CASES OF FINANCIAL EXPLOITATION, NEGLECT, AND ABUSE OF SENIORS 4 (2010) (“The federal government does not regulate or directly support guardians.”).

<sup>29</sup> See Blake & Baker, *supra* note 1; see also Stephens, *supra* note 9, at 224. For the sake of analysis, this Paper focuses mostly on California conservatorship law since that is the law the governed the Britney Spears conservatorship.

<sup>30</sup> Blake & Baker, *supra* note 1.

<sup>31</sup> CAL. PROB. CODE § 1800.3 (Deering 2021); see also Conservatorship, *supra* note 11 (“You must be sure that establishing a conservatorship is the only way to meet the person’s needs. If there is another way, an alternative to the conservatorship, the court may not grant your petition.”). This requirement is present in most other states as well, although in the alternative some states may look to whether a potential conservatee could harm themselves or others if not placed under a conservatorship. See Stephens, *supra* note 9, at 224–25; Majocha, *supra* note 25.

<sup>32</sup> See Majocha, *supra* note 25.

<sup>33</sup> See *Conservatorship*, *supra* note 11.

<sup>34</sup> See Majocha, *supra* note 25.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

best interest.<sup>35</sup> Throughout this process, the proposed conservatee has the right to oppose the conservatorship, to have a lawyer, and to have a trial by jury to decide whether a conservatorship is necessary.<sup>36</sup>

If a conservatorship is granted by the court, a court investigator should “stay[] involved” with the conservatee and report to the court periodically on how the conservatorship is going.<sup>37</sup> Under the conservatorship, conservatees do not necessarily lose the right to provide input in important decisions.<sup>38</sup> If the conservator has personal disagreements with the conservatee to the point where it impacts their ability to serve that person’s best interests, the conservator should step down and a new conservator should be appointed.<sup>39</sup> If the conservatorship is no longer necessary, it should end<sup>40</sup>—and most states simply require prima facie evidence of capacity to end it, a much lower standard than the clear and convincing evidence required to place someone under a conservatorship.<sup>41</sup>

In reality, however, “there’s a real gap between what the law aspires to and what actually happens in practice.”<sup>42</sup> People and judges seem to rarely consider alternatives to make sure that a

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<sup>35</sup> *Conservatorship*, *supra* note 11; *see also* Majocha, *supra* note 25 (“In general, those subject to conservatorships don’t have a right to a specific conservator of their choosing (or, in Ms. Spears’ case perhaps, a veto over particular conservators), but courts should, and I understand usually do, take into account the preferences of the individual subject to conservatorship in choosing one.”) (quoting James Toomey). If the conservatee is unable or unwilling to name a preference for their conservator, California has a list of preferences for who should serve as the conservator. *Conservatorship*, *supra* note 11.

<sup>36</sup> *Conservatorship*, *supra* note 11.

<sup>37</sup> *Id.*; *see also* Liz Day, Samantha Stark & Joe Coscarelli, *Britney Spears Quietly Pushed for Years to End Her Conservatorship*, N.Y. TIMES, <https://www.nytimes.com/2021/06/22/arts/music/britney-spears-conservatorship.html> (Nov. 2, 2021).

<sup>38</sup> *See* Stephens, *supra* note 9, at 227.

<sup>39</sup> *See* Majocha, *supra* note 25.

<sup>40</sup> *See* Stephens, *supra* note 9, at 225 (describing how conservatees can petition to end a conservatorship if they recover and can handle their own affairs).

<sup>41</sup> Majocha, *supra* note 25.

<sup>42</sup> *Id.* (quoting James Toomey). *But see* Beth Weems Bradley & Sarah Hearn Sexton, *Defending Conservatorships in the Face of the #FreeBritney Movement: Preserving Individual Liberties vs. Protecting the Vulnerable*, 58 TENN. B.J. 16, 17 (2022) (“While the opportunity for abuse always exists, many precautions would have to fail before an opportunistic character . . . could steal from and otherwise take advantage of an individual under the protection of the court.”).

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

conservatorship is the least restrictive way of helping an individual.<sup>43</sup> Additionally, even where a limited conservatorship could be sufficient, courts often nonetheless impose a general conservatorship.<sup>44</sup> In other words, “the human impulse to protect the most vulnerable in our society tilts the scales in favor of full guardianships that provide maximum protection against the harm of potential bad choices.”<sup>45</sup>

During the legal proceedings to place someone under a conservatorship, a potential conservatee may not have the opportunity to challenge the conservatorship and may not even need to be examined first.<sup>46</sup> In practice, the burden is on the potential conservatee to prove that they do *not* need a conservatorship,<sup>47</sup> which is difficult to prove without the help of a lawyer (which most potential conservatees cannot obtain because they are found to lack the requisite mental capacity to hire a lawyer).<sup>48</sup> In fact, “most guardianship proceedings last less than 15 minutes, even though they might involve stripping people of basic legal rights.”<sup>49</sup> These facts have led some to argue that guardianship proceedings lack due process.<sup>50</sup>

Once someone is placed under a conservatorship, in practice they do not have many safeguards to ensure the conservatorship is helping them—and there is “a general scholarly and

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<sup>43</sup> See Blake & Baker, *supra* note 1; Stephens, *supra* note 9, at 233. For example, families of children with disabilities often seek conservatorships when the child turns eighteen “simply so they can continue to make medical and educational decisions” without fully considering alternatives. Balovich, *supra* note 24, at 976. For courts, “there is a lot of evidence that simply having been diagnosed with a mental illness or dementia, or even sometimes just being old, makes it much more likely that a court will impose a conservatorship.” Majocha, *supra* note 25 (quoting James Toomey).

<sup>44</sup> See Majocha, *supra* note 25; see also Carter Barrett, *Britney Spears Left her Guardianship, But Others Who Want Independence Remain Stuck*, NPR (Jan. 9, 2022, 7:00 AM), <https://www.npr.org/sections/health-shots/2022/01/09/1065301762/britney-spears-left-her-guardianship-but-others-who-want-independence-remain-stu>.

<sup>45</sup> Balovich, *supra* note 24, at 974.

<sup>46</sup> See Blake & Baker, *supra* note 1. If someone is examined, the potential conservator is sometimes able to nominate the examiner. *Id.*

<sup>47</sup> Barrett, *supra* note 44.

<sup>48</sup> Majocha, *supra* note 25. Notably, however, some state laws do allow those lacking capacity to hire attorneys for the purpose of contesting a conservatorship. *Id.*

<sup>49</sup> *Id.* (quoting James Toomey).

<sup>50</sup> See Barrett, *supra* note 44.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

public agreement that current monitoring efforts are insufficient to detect and prevent guardianship abuse.”<sup>51</sup> Many conservators receive no training and are not required to be certified.<sup>52</sup> In states that require certification for professional conservators, family members seeking to be conservators are generally exempt from that requirement.<sup>53</sup> In fact, less than twenty percent of courts instruct conservators on their duties and responsibilities in their role.<sup>54</sup> Conservatees are not required to regularly appear in front of a judge throughout the duration of the conservatorship to discuss how it is going.<sup>55</sup> Courts also typically do not thoroughly review the periodic reports that they receive from court investigators.<sup>56</sup> While the conservatee has the right to be treated with respect for their personal preferences, their method of enforcing that right is “murky” and “[d]ecisions made under the guise of best interest are difficult to overcome, even when they violate a person's dignity of choice.”<sup>57</sup>

Additionally, in reality it is incredibly difficult for a conservatee to end a conservatorship and most conservatorships last for the duration of the conservatee’s life.<sup>58</sup> This is especially problematic given that it is “relatively easy” to get someone placed under a conservatorship.<sup>59</sup> Conservatees face a bit of a Catch-22: “If a conservatee functions well under conservatorship, it can be framed as proof of the arrangement’s necessity; if a conservatee struggles under

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<sup>51</sup> Majocha, *supra* note 25 (quoting James Toomey).

<sup>52</sup> See Blake & Baker, *supra* note 1 (“Other professions that yield such large financial rewards and power over the lives of vulnerable people—like law or medicine—typically require years of intensive training and excessive vetting. But guardianship generally demands neither.”).

<sup>53</sup> U.S. GOV’T ACCOUNTABILITY OFF., *supra* note 28, at 3.

<sup>54</sup> Stephens, *supra* note 9, at 232.

<sup>55</sup> See Serge F. Kovalski & Joe Coscarelli, *Is Britney Spears Ready to Stand on Her Own?*, N.Y. TIMES (May 4, 2016), <https://www.nytimes.com/2016/05/08/arts/music/is-britney-spears-ready-to-stand-on-her-own.html>.

<sup>56</sup> Blake & Baker, *supra* note 1.

<sup>57</sup> Balovich, *supra* note 24, at 976.

<sup>58</sup> Zammiello, *supra* note 27, at 626; see also Majocha, *supra* note 25 (“But a court has to actually end a guardianship, it doesn’t just happen automatically, and of course we know that in practice it often doesn’t happen at all.”) (quoting James Toomey).

<sup>59</sup> Stephens, *supra* note 9, at 231.



## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

conservatorship, the same conclusion can be drawn.”<sup>60</sup> Courts seem to “impose an implicit burden on the person trying to get out of the conservatorship to show why it is no longer necessary, when that really should be reversed, under the law.”<sup>61</sup> Moreover, the procedures to end a conservatorship are complex enough that they often require the help of a lawyer, but conservatees usually lack the legal capacity and control over their money that are needed to hire a lawyer.<sup>62</sup>

In addition to the law not being followed in practice, there are several other facets of conservatorships that lead to problems. For example, courts are fairly lax in vetting people applying to be conservators.<sup>63</sup> A study by the Government Accountability Office found that “an individual with a poor credit history or a criminal using a fake identity can easily gain certification” to serve as a conservator.<sup>64</sup> Additionally, conservators may have a conflict of interest that should—but does not—prevent them from serving in that role, which has led some to call the conservatorship system an “established network of overlapping financial and professional interests.”<sup>65</sup> Furthermore, there is little collaboration between federal and state agencies when conservatorship abuse occurs, which allows abuse to continue.<sup>66</sup> Finally, a lack of data regarding the number of individuals under conservatorships and instances of conservatorship abuse contributes to a lack of oversight.<sup>67</sup>

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<sup>60</sup> Ronan Farrow & Jia Tolentino, *Britney Spears’s Conservatorship Nightmare*, THE NEW YORKER (July 3, 2021), <https://www.newyorker.com/news/american-chronicles/britney-spears-conservatorship-nightmare> (quoting Jonathan Martinis).

<sup>61</sup> Majocha, *supra* note 25 (quoting James Toomey).

<sup>62</sup> See Barrett, *supra* note 44; Blake & Baker, *supra* note 1; Majocha, *supra* note 25.

<sup>63</sup> See Blake & Baker, *supra* note 1.

<sup>64</sup> U.S. GOV’T ACCOUNTABILITY OFF., *supra* note 28, at 24.

<sup>65</sup> See Blake & Baker, *supra* note 1. Los Angeles’ probate court in particular has been accusing of being “plagued by cronyism, with judges appointing advocates from a small list of favored lawyers.” Farrow & Tolentino, *supra* note 60.

<sup>66</sup> See U.S. GOV’T ACCOUNTABILITY OFF., *supra* note 28, at 4 (“With few exceptions, federal agencies and state courts neither notify other oversight entities when they declare an individual to be incapacitated, nor share information with each other in instances in which a guardian or a representative payee has abused a ward.”).

<sup>67</sup> See *id.* at 5 (“GAO previously found that many of the courts we surveyed did not track the number of guardianships that they were responsible for monitoring.”); *id.* at 5 (“Although we continue to receive new allegations from family members and advocacy groups, we could not locate a single Web site, federal agency, state or local entity, or any other

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

These shortcomings in the conservatorship system have had devastating consequences for some conservatees. In studying the conservatorship system, the Government Accountability Office reviewed “hundreds of allegations of abuse occurring nationwide between 1990 and 2010.”<sup>68</sup> The most common allegations involved financial exploitation and misappropriation of assets, with the study finding twenty cases in which conservators stole \$5.4 million from 158 conservatees.<sup>69</sup> One guardian stole over two million dollars from a 101-year-old conservatee with Alzheimer’s.<sup>70</sup> Another failed to make payments on the ward’s house and let it go into foreclosure—the ward was then forced to live in a homeless shelter, and the guardian sent a letter to the court claiming that the ward preferred living in shelters over living in her home.<sup>71</sup> Another was allowed to continue to serve as a guardian for four years after the court was alerted to thefts.<sup>72</sup>

Conservatees have been subjected to other abuses by their conservators as well. Some conservators have mentally abused their conservatees by isolating them from their loved ones.<sup>73</sup> One went so far as to sell the conservatee’s wedding ring and dispose of her personal belongings.<sup>74</sup> There have also been instances of conservatees being sexually abused by their conservator. One disturbing case involved a social worker and his wife sexually abusing their wards and forcing them to do farm work while nude (while they were billing Medicare for the “therapy” that they were performing).<sup>75</sup> In extreme cases, individuals have unnecessarily died during their

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organization that compiles comprehensive information on this issue.”); *id.* at 6 (“We also discovered that information about complaints or disciplinary action taken against guardians may not be publicly available. . . . [T]he exact number of allegations about abuse, neglect or exploitation by guardians remains unknown.”)

<sup>68</sup> *Id.* at 5. Other studies have found similar results. See Blake & Baker, *supra* note 1 (finding that conservators had stolen “tens of millions of dollars”).

<sup>69</sup> U.S. GOV’T ACCOUNTABILITY OFF., *supra* note 28, at 5, 7.

<sup>70</sup> *Id.* at 13. While the conservator was sentenced to pay back the victim, he had only paid \$4,3000 five years after his sentencing. *Id.*

<sup>71</sup> *Id.* at 12.

<sup>72</sup> *Id.* at 9.

<sup>73</sup> Blake & Baker, *supra* note 1.

<sup>74</sup> U.S. GOV’T ACCOUNTABILITY OFF., *supra* note 28, at 12.

<sup>75</sup> *Id.* at 10. The abuses in that case were discovered by children passing by on a school bus, not a court official. *Id.* at 16. At their sentencing, the judge compared the living condition at their group home to “a third world prison.” *Id.*

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

conservatorships. For example, a grandson serving as the conservator for his grandmother falsely claimed that she had terminal colon cancer and put her in hospice, where she died less than two weeks later due to the effects of morphine.<sup>76</sup>

While this Paper is in no way arguing that every conservatorship is abusive, these findings and stories demonstrate that the current conservatorship system allows for the possibility of serious abuses. One of the most famous abusive conservatorships is Britney Spears’.

### **II. Britney’s Spears’ Conservatorship**

Britney Spears is one of the most famous pop stars in the world. She began her career as an understudy on Broadway and a cast member on *The Mickey Mouse Club*.<sup>77</sup> After a number of hits the late 1990s and early 2000s, it seemed that Britney was on top of the world—but things soon fell apart for her.<sup>78</sup>

#### **A. Events Leading Up to Conservatorship**

In the early 2000s, Britney began to experience a public breakdown that would eventually lead to her being placed under a conservatorship. In 2002, Britney and Justin Timberlake announced that they had broken up, which “destabilized her” because she had internalized being half of the popular couple and her sex life subsequently received a lot of scrutiny by the media.<sup>79</sup> It was around this time period that Britney allegedly first exhibited “erratic” behavior in private, according to her sister Jamie Lynn.<sup>80</sup>

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<sup>76</sup> *Id.* at 7.

<sup>77</sup> Farrow & Tolentino, *supra* note 60.

<sup>78</sup> It is worth noting that much of the information about the conservatorship, especially court proceedings, was kept secret. This Paper relies on what Britney, her family, and those around her have said about the conservatorship. There is a possibility that additional information could be revealed that would undermine or contradict some of the facts as described in this Paper.

<sup>79</sup> *Id.*

<sup>80</sup> Hannah Yasharoff, *Jamie Lynn Spears’ Memoir: What She Says About Britney Spears, Conservatorship, Their Parents*, USA TODAY, <https://www.usatoday.com/story/entertainment/books/2022/01/18/jamie-lynn-spears-memoir-britney-spears-dad-pregnancy-announcement/6514249001/> (Jan. 19, 2022, 10:12 AM). In a recent memoir, Jamie

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

In 2004, Britney married Kevin Federline a mere four months after they started dating, which again received a lot of media attention. The marriage apparently caused a panic for her family since she had not entered into a prenuptial agreement, putting her “considerable fortune” in jeopardy.<sup>81</sup> The couple went on to have two sons (born in September 2005 and September 2006), and the paparazzi’s obsession with her continued as they hounded her for pictures with them.<sup>82</sup> This led to Britney engaging in some risky behavior, such as driving with her infant son on her lap to get away from the paparazzi.<sup>83</sup>

Britney filed for divorce from Federline in November 2006.<sup>84</sup> In 2007, Federline was awarded sole physical custody of their kids, which devastated Britney.<sup>85</sup> The tabloid covers featured pictures of her going out partying without her kids and people “widely assumed that Spears had endangered her children, but those who were around them disagree[d].”<sup>86</sup> Her housekeeper at the time explained: “The days she didn’t have the kids with her were hard. But, even then, she was never doing anything to hurt anyone.”<sup>87</sup> Similarly, the court-reported monitor supervising her visits with her kids later stated:

None of this was her fault. There were so many people involved in her life that caused all of this craziness with her. I don’t have anything derogatory to say about her. . . . It was probably one of the saddest cases that I’ve ever done in my entire life.<sup>88</sup>

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Lynn claims, for example, that Britney locked the two of them in a bedroom with a large knife in 2004. *Id.* Britney has denied that the incident ever happened and accused Jamie Lynn of lying to sell her book. *Id.*

<sup>81</sup> Farrow & Tolentino, *supra* note 60. Their marriage contract ultimately was not signed until Federline agreed to limit his stake in Britney’s estate. *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.* (quoting Robin Johnson).

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

After “driving to Federline’s house, trailed by photographers, and being refused access to her kids,” Britney infamously shaved her head and smashed a paparazzi’s car with an umbrella.<sup>89</sup>

During this time period, Britney was apparently becoming dependent on drugs and alcohol.<sup>90</sup> She was also allegedly being unduly influenced by her manager at the time, Sam Lutfi. While he claims to have been helping her become more independent—saying that “it blew her mind that she could just call the shots”<sup>91</sup>—others accused him of taking advantage of her. Britney’s mom, Lynne, accused him of crushing up pills and drugging Britney,<sup>92</sup> allegations which would later become “central to the establishment of the conservatorship.”<sup>93</sup> In sum, Britney’s behavior was “initially thought to be a publicity stunt, [but] was actually a well-viewed and publicized meltdown that occurred after failed marriages, loss of custody of her children, and increasing dependence on drugs and alcohol.”<sup>94</sup>

In January 2008, Britney was hospitalized twice under California Code 5150, which is an “emergency psychiatric hold, in which a person having a mental-health episode can be involuntarily hospitalized.”<sup>95</sup> The first occurred when Britney refused to give the children back to Federline, going so far as to lock herself in a bathroom with her younger son.<sup>96</sup> Her hospitalization was a goldmine for the press, with reporters gathering outside her house, helicopters flying overhead, and reporters following her ambulance to the hospital.<sup>97</sup> She was hospitalized again a few weeks later to “get help” after being “loaded into an ambulance, alone, and taken to U.C.L.A.

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<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> See Zammiello, *supra* note 27, at 611.

<sup>93</sup> Farrow & Tolentino, *supra* note 60.

<sup>94</sup> Don Drake, *Celebrities and the Case for Conservatorships and Guardianships*, CONNELLY LAW OFFICES, LTD. (June 27, 2021), <https://www.connellylaw.com/post/celebrities-and-the-case-for-conservatorships-and-guardianships>.

<sup>95</sup> Farrow & Tolentino, *supra* note 60.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.* One photographer posted a picture of Britney on a gurney online with the caption, “Cha-ching! Cha-ching!!” *Id.*

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

Medical Center, flanked by a police convoy the length of a football field,” but there were not a lot of details released on the circumstances that led to this second hospitalization.<sup>98</sup>

A family friend stated that it was during this second hospitalization (when Britney refused to see her parents) that her father, Jamie, decided to pursue a conservatorship.<sup>99</sup> Jamie then “led the effort to have Spears placed under a conservatorship.”<sup>100</sup>

### **B. Conservatorship Proceedings**

Jamie subsequently petitioned for Britney to be placed under a conservatorship, and the conservatorship proceedings moved with “remarkable speed”: a conservatorship was put in place before Britney was even released from the hospital.<sup>101</sup> From what people who knew Britney have said, it seems like she was opposed to being placed under a conservatorship and to her father serving as her conservator if she were placed under one.<sup>102</sup> Her father had previously been estranged for a number of years.<sup>103</sup> Some thought that he was more concerned with Britney’s career than her well-being—he (along with Lynne and Britney’s brother, Bryan) had been on Britney’s payroll for years and Britney was becoming “increasingly resentful of their efforts to influence her.”<sup>104</sup> Around this time, he apparently once referred to Britney as “a racehorse who ha[d] to be handled like one.”<sup>105</sup>

While in the hospital, Britney attempted to retain Adam Streisand as her attorney in the conservatorship proceedings, but the judge ruled that she lacked the requisite capacity to be able

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<sup>98</sup> *Id.*

<sup>99</sup> *See id.*

<sup>100</sup> Kim Renfro & Jacob Shamsian, *Meet the 15 Key Players Involved in the Britney Spears Conservatorship Case*, INSIDER (Aug. 10, 2021, 4:17 PM), <https://www.insider.com/britney-spears-conservatorship-case-key-players-lawyers-conservators-2021-7>.

<sup>101</sup> Farrow & Tolentino, *supra* note 60.

<sup>102</sup> *See* Stephens, *supra* note 9; Farrow & Tolentino; *supra* note 60.

<sup>103</sup> Day, Stark & Coscarelli, *supra* note 37.

<sup>104</sup> *See* Farrow & Tolentino, *supra* note 60.

<sup>105</sup> *See* Day, Stark & Coscarelli, *supra* note 37.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

to hire an attorney.<sup>106</sup> Streisand has since stated that his “sense was that she did have the capacity to pick a lawyer and that she could make a rational decision.”<sup>107</sup> Streisand also said that Britney wanted to challenge the arrangement, but was worried about losing access to her children if she did not accept it.<sup>108</sup> Britney then attempted to hire Jon Eardley as her attorney, and a recorded phone conversation between them included her telling him: “I basically just want my life back.”<sup>109</sup> Although Eardley filed motions to get the conservatorship case removed to federal court, the court again held that Britney lacked the capacity to hire an attorney and entered a restraining order against Eardley to prevent him from attempting to serve as Britney’s lawyer.<sup>110</sup> Britney’s inability to hire a lawyer in connection with these proceedings has been criticized.<sup>111</sup>

Since Britney could not hire a lawyer, the California probate court appointed Sam Ingham III as her attorney, and he would continue to serve as her lawyer until 2021.<sup>112</sup> Some questioned this decision, as “[s]everal sources close to the situation felt that Ingham was loyal to the conservatorship and to Jamie, despite nominally representing” Britney.<sup>113</sup> There have been allegations that Ingham would report Britney’s activities to Jamie.<sup>114</sup> More generally, concerns about Ingham’s representation have been raised by a claim that he once stated his ninety minute meeting with her was “at least three times longer” than his other meetings with her and by him telling the judge that he had not told Britney that there was not an order specifically preventing her

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<sup>106</sup> Farrow & Tolentino, *supra* note 60.

<sup>107</sup> Kovaleski & Coscarelli, *supra* note 55.

<sup>108</sup> *See id.*

<sup>109</sup> Farrow & Tolentino, *supra* note 60.

<sup>110</sup> *See* Conservatorship of the Per. & Estate of Spears, No. B214749, 2011 WL 3111102, at \*3, \*9 (Cal. Ct. App. Feb. 2, 2011). Eardley also had disciplinary charges against him for “attempting to represent Spears without having obtained consent to do so.” Farrow & Tolentino, *supra* note 60. He was ultimately disbarred for writing bad checks on his client trust account. *Id.*

<sup>111</sup> *See* Farrow & Tolentino, *supra* note 60 (“Britney could have been found holding an axe and a severed head, saying ‘I did it,’ and she still would’ve had the right to an attorney. So, under guardianship, you don’t have the same rights as an axe murderer.”) (quoting Jonathan Martinis).

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

from getting married when the judge stated that he “may not want to tell her that.”<sup>115</sup> Others have questioned whether he took advantage of her with his legal fees since he was awarded as much as \$475 per hour to represent Britney even though the court’s typical maximum hourly fee was \$250.<sup>116</sup>

Britney was not at the conservatorship hearing, as the judge granted a petition to waive the requirement of notifying her about it.<sup>117</sup> A family friend said that the hearing was “maybe ten minutes” and no one testified during the proceedings.<sup>118</sup> Judge Reva Goetz, who granted the conservatorship, said that there were “lengthy confidential discussions” about Britney’s health and that it would be “incorrect to say that [Britney] was not meaningfully assessed or given opportunities for input.”<sup>119</sup> Given that most of the records surrounding this case were sealed (and still remain sealed), it is difficult to verify exactly how the proceedings occurred.

Ultimately, the court placed Britney under a conservatorship of both her person and her estate with Jamie as the conservator, as Judge Goetz deemed Jamie to be a “suitable and qualified person.”<sup>120</sup> Lynne had apparently told friends that she supported Jamie taking on the role because “it would be best for [Britney] to resent Jamie, rather than her, when it was all over.”<sup>121</sup> Britney also had several other co-conservators throughout the duration of the conservatorship. Andrew

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<sup>115</sup> *See id.*

<sup>116</sup> *See* Kovalski & Coscarelli, *supra* note 55. These higher fees may be justified, however, given the unique concerns posed by Britney’s fame and fortune.

<sup>117</sup> Farrow & Tolentino, *supra* note 60.; *see also* Don Thompson, *California Disability Rights Advocates Cite Britney Spears Case in Bid to Limit Conservatorships*, PBS (Jan. 20, 2022, 12:15 PM), <https://www.pbs.org/newshour/arts/california-disability-rights-advocates-cite-britney-spears-case-in-bid-to-limit-conservatorships> (“[Britney] was not present at the court hearing where her constitutional rights were assigned to her father, nor were less-restrictive measures attempted before putting her under a conservatorship.”).

<sup>118</sup> Farrow & Tolentino, *supra* note 60.

<sup>119</sup> *Id.*

<sup>120</sup> Day, Stark & Coscarelli, *supra* note 37; *see also* Maria Puente, *Will Britney Spears’ Dramatic Testimony Affect Other Cases, Laws on Conservatorship?*, USA TODAY, <https://www.usatoday.com/story/entertainment/celebrities/2021/06/25/how-britney-spears-plea-could-affect-cases-laws-on-conservatorship/7780943002/> (June 30, 2021, 5:22 PM).

<sup>121</sup> *See* Farrow & Tolentino, *supra* note 60.



## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

Wallet, an attorney, served as a co-conservator of her estate until March 2019.<sup>122</sup> In 2012, her fiancé at the time, Jason Trawick, was added as a co-conservator of her person.<sup>123</sup> In 2019, after Jamie stopped serving as conservator of her person due to health issues, Jodi Montgomery (a licensed personal fiduciary and care professional) was named conservator of Britney’s person.<sup>124</sup> In November 2020, Bessemer Trust was added as a co-conservator of Britney’s estate.<sup>125</sup>

It is worth asking at this point: Was a conservatorship necessary for Britney? Given the secrecy with which the conservatorship proceedings were held<sup>126</sup> and the fact that Britney’s medical condition has never been publicly disclosed,<sup>127</sup> it is difficult to say.<sup>128</sup> It certainly seemed justified at the time given the media coverage of her breakdown.<sup>129</sup> Today, most seem to agree that the conservatorship saved her life and her career.<sup>130</sup> However, it is difficult to ignore the

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<sup>122</sup> See Cranley, *supra* note 2.

<sup>123</sup> Puente, *supra* note 120; *Britney Spears’ Fiancé Becomes Co-Conservator*, ROLLING STONE (Apr. 26, 2012, 5:30 PM), <https://www.rollingstone.com/music/music-news/britney-spears-fiance-becomes-co-conservator-183822/>. He stepped down less than a year later when their engagement was called off. Ken Lee, *Jason Trawick Resigns as Britney Spears’s Co-Conservator*, PEOPLE (Jan. 11, 2013, 7:55 PM), <https://people.com/celebrity/jason-trawick-resigns-as-britney-spears-co-conservator/>.

<sup>124</sup> See Tsioulcas, *supra* note 7.

<sup>125</sup> *Britney Spears’ Conservatorship Is Over: The Full Legal Timeline And The #FreeBritney Movement, Explained*, WOMEN’S HEALTH (Nov. 12, 2021), <https://www.womenshealthmag.com/life/a33336398/britney-spears-conservatorship-timeline/>.

<sup>126</sup> See Zammiello, *supra* note 27, at 627 (“Because Britney’s case is highly publicized, information available to the public is limited.”); Farrow & Tolentino, *supra* 60 (noting that Jamie’s legal team sealed court hearings and “shroud[ed] the conservatorship in secrecy”).

<sup>127</sup> Kovalski & Coscarelli, *supra* note 55. On the petition to establish the conservatorship, Jamie (or someone on his team) checked a box to indicate that Britney suffered from dementia. Farrow & Tolentino, *supra* note 60. At the time, some believed that Britney was suffering from postpartum depression. *Id.* While that has not been confirmed, Britney has acknowledged that she suffered from perinatal depression during her first two pregnancies. Jaclyn Diaz, *Britney Spears Announces She’s Pregnant*, NPR (Apr. 11, 2022, 4:55 PM) <https://www.npr.org/2022/04/11/1092128404/britney-spears-pregnant>. There has also been speculation that she is bipolar because she was put on lithium, but that is not her normal medication. See Jacobs & Bahr, *supra* note 2.

<sup>128</sup> The secrecy surrounding the conservatorship might be in Britney’s best interests, at least initially. See Farrow & Tolentino, *supra* note 60 (“Some of the silence around the conservatorship may have been well-meaning: after so much invasiveness, people wanted to grant Spears her privacy.”).

<sup>129</sup> See Zammiello, *supra* note 27, at 589 (“Britney Spears’s journey into conservatorship appeared warranted in the court of public opinion.”).

<sup>130</sup> See, e.g., Stephens, *supra* note 9, 238 (“There is little doubt that this conservatorship was good for Britney in 2008.”); Zammiello, *supra* note 27, at 611 (“In 2008, the circumstances of Britney’s life, such as her public meltdown, met the requirements set forth in the California Probate Code as she was unable to care for herself, her kids, or her finances.”); Drake, *supra* note 94 (“But the question that needs to be asked is, would Spears have survived her out-of-control lifestyle if someone did not step in and bring this speeding train of a life to a halt before it wrecked for all to see?”).

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

financial incentives inherent in the conservatorship and some—including Jamie Lynn—have questioned whether the main concern was with saving Britney’s career or helping her.<sup>131</sup>

At any rate, the conservatorship was expected to be temporary. Lynne reportedly stated that the conservatorship would last “only a few months.”<sup>132</sup> Britney’s friends and those working with her also did not think that the conservatorship would be a long-term arrangement.<sup>133</sup> Later that year, however, the temporary conservatorship was made permanent.<sup>134</sup> Ultimately, the conservatorship would last thirteen years (including being extended in 2020)<sup>135</sup> and Britney seems to have been mistreated in a number of ways throughout its duration.

### **C. Abuses During Conservatorship**

Throughout Britney’s conservatorship, Jamie apparently misappropriated her money and subjected her to a number of mental abuses.

#### *i. Misappropriation of Finances*

After being placed under the conservatorship, Britney’s career rebounded incredibly quickly. Less than two months after being released from the hospital, Britney filmed a cameo on the television show *How I Met Your Mother*.<sup>136</sup> Within a year, she had released an album that topped the charts at number one and was preparing for a world tour with almost one hundred shows.<sup>137</sup> This comeback was featured in a documentary entitled *Britney: For the Record*.<sup>138</sup> Over

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<sup>131</sup> See Yasharoff, *supra* note 80 (“Though she believes the ‘only intent’ in establishing the conservatorship was to keep Britney Spears ‘safe at a time when she couldn’t do that for herself,’ Jamie Lynn Spears also points out that it ‘seemed that almost everyone on the team was more interested in keeping the money coming in than in getting her the help she needed.’”); see also Farrow & Tolentino, *supra* note 60 (“‘At the time, I thought we were helping,’ [Jaqueline Butcher, a former Spears family friend] said. ‘And I wasn’t, and I helped a corrupt family seize all this control.’”).

<sup>132</sup> Farrow & Tolentino, *supra* note 60.

<sup>133</sup> See *id.* (describing how a family friend and a photographer working with Britney expected that the conservatorship would be temporary).

<sup>134</sup> See Stephens, *supra* note 9, at 9.

<sup>135</sup> Puente, *supra* note 120.

<sup>136</sup> Farrow & Tolentino, *supra* note 60.

<sup>137</sup> Day, Stark & Coscarelli, *supra* note 37.

<sup>138</sup> Farrow & Tolentino, *supra* note 60.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

the course of the thirteen-year conservatorship, Britney released four albums, went on a global tour (which grossed \$131 million), and performed in a popular Las Vegas residency for four years.<sup>139</sup>

With her career booming, Britney’s finances were too. She reportedly made \$300,000 per residency show under a contract which “required she remain under the conservatorship.”<sup>140</sup> Her role as a judge on *The X Factor* paid \$15 million.<sup>141</sup> In 2015, she was the fifth highest-earning female musician according to *Forbes*.<sup>142</sup> Today, her net worth is estimated to be \$60 million.<sup>143</sup>

Some on Britney’s team have pointed to the fact that Britney had “just a few million dollars when the conservatorship was established” and her high net worth today as “evidence that [the conservatorship] looked out for her interests.”<sup>144</sup> In sealed court records obtained by the *New York Times*, however, Britney explained that she “was limited to a two-thousand-dollar weekly allowance, no matter how much she earned.”<sup>145</sup> Her credit card or assistant held her credit card and used it “at their discretion.”<sup>146</sup> In fact, “[h]er most mundane purchases, from a drink at Starbucks to a song on iTunes, [were] tracked in court documents as part of the plan to safeguard the great fortune that she ha[d] earned but [did] not ultimately control.”<sup>147</sup> Thus, Britney’s access to her money was severely curtailed under the conservatorship. Those on her payroll, however, benefited greatly from the conservatorship.

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<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> Kovaleski & Coscarelli, *supra* note 55.

<sup>143</sup> See Zammiello, *supra* note 27, at 594.

<sup>144</sup> Farrow & Tolentino, *supra* note 60.

<sup>145</sup> *Id.*; see also Day, Stark & Coscarelli, *supra* note 37.

<sup>146</sup> Day, Stark & Coscarelli, *supra* note 37.

<sup>147</sup> Kovaleski & Coscarelli, *supra* note 55.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

Jamie’s monthly salary as conservator was \$16,000 plus \$2,000 for office space.<sup>148</sup> He also received a percentage of all Britney’s deals, an arrangement which some have questioned given the potential for a conflict of interest.<sup>149</sup>

To manage Britney’s tour and her estate while she was under the conservatorship, Jamie hired the firm Tri Star, which was owned by Louise M. Taylor (to whom Jamie reportedly owed at least \$40,000 and who baptized Jamie in 2017).<sup>150</sup> This decision has since been questioned with respect to whether it was in Britney’s best interest.<sup>151</sup> Tri Star went beyond the work of a typical business manager, with one of its executives administering Britney’s medications according to a court investigator’s report.<sup>152</sup> Soon after, accounts for Britney were opened at Stonebridge Wealth Management, an “obscure” Tennessee firm co-owned by Taylor that would apparently provide financial advice to the conservatorship.<sup>153</sup> Ingham at the time expressed concern about the ties between Tri Star and Stonebridge according to a court filing, and this decision has similarly been questioned recently.<sup>154</sup>

Britney’s estate apparently spent a large sum of money in connection with Tri Star and Taylor. For example, Britney’s charitable foundation donated tens of thousands of dollars to Taylor’s “Christian counseling group” which had apparently “helped people abandon lesbianism,”

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<sup>148</sup> Day, Stark & Coscarelli, *supra* note 37.

<sup>149</sup> *Id.* (“The dual role of looking out for Ms. Spears’s best interests as conservator and reaping more profits each time she performed was ‘fraught with conflict,’ according to W. Michael Hensley, a probate lawyer in California who works as a fee examination expert and is not involved in the Spears case.”).

<sup>150</sup> See Liz Day, Emily Steel, Rachel Abrams & Samantha Stark, *Britney Spears Felt Trapped. Her Business Manager Benefited*, N.Y. TIMES (Dec. 19, 2021), <https://www.nytimes.com/2021/12/19/business/britney-spears-conservatorship-tri-star.html>.

<sup>151</sup> See *id.* (“Is the conservator making decisions in the best interest of the conservatee or the business manager who they owe a debt to? It reeks of conflict of interest.”) (quoting Anthony Palmieri, incoming president of the National Guardianship Association).

<sup>152</sup> *Id.*

<sup>153</sup> See *id.*

<sup>154</sup> See *id.* (“The question is whether Stonebridge was selected because it was best suited to serve Ms. Spears or because Ms. Taylor had a stake in the company, said Michael Ueltzen, a forensic accountant and certified fraud examiner.”). The response to Ingham’s court filing did not acknowledge Taylor’s interest in Stonebridge. *Id.*

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

despite Britney being a vocal supporter of the LGBTQ community and telling her charity prior to the conservatorship to stay away from religious causes.<sup>155</sup> Britney’s estate also paid some of Taylor’s personal legal fees and purchased ads in Hollywood trade publications praising Taylor.<sup>156</sup> Court documents are heavily redacted so it is unknown how much Tri Star received from the estate, and Tri Star has refused to tell Britney’s current lawyer how much it received.<sup>157</sup> Court documents show that in 2019 (after a second Vegas residency was cancelled), however, the compensation structure changed so that Tri Star would automatically receive at least \$500,000 per year, which Jamie approved despite protests from Ingham.<sup>158</sup>

Jamie’s lawyers—who were arguing *against* Britney’s wishes—were also paid out of Britney’s estate.<sup>159</sup> In 2018, Britney paid \$1.1 million in legal and conservator fees.<sup>160</sup> From October 2020 to February 2021, Jamie’s lawyers billed almost \$900,000 of work after retaining crisis-PR specialists to address the #FreeBritney movement (discussed in the next Section).<sup>161</sup>

In sum, those around Britney profited greatly off the conservatorship. As Elaine Renoire, president of the National Association to Stop Guardian Abuse, stated: “As long as she [was] bringing in so much money and as long as the lawyers and conservators [were] getting paid, there [was] little incentive to end it.”<sup>162</sup>

### *ii. Mental Abuses*

In addition to concerns about how Britney’s money was handled during the conservatorship, Jamie’s treatment of Britney more generally has been called into question.

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<sup>155</sup> See *id.* Interestingly, Jamie apparently donated 10% of his income to Taylor’s charity. *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> Day, Stark & Coscarelli, *supra* note 37.

<sup>160</sup> See Stephens, *supra* note 9, at 236.

<sup>161</sup> Farrow & Tolentino, *supra* note 60.

<sup>162</sup> Kovalski & Coscarelli, *supra* note 55.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

Britney’s relationship with her father, which was already strained prior to the conservatorship, deteriorated quickly during the conservatorship amid apparent power struggles between the two. Jamie allegedly called her “fat,” a “whore,” and a “terrible mother” according to a family friend.<sup>163</sup> The family friend also recalled Jamie repeatedly stating, “I am Britney Spears!” in a show of his power over Britney.<sup>164</sup> Jamie held Britney’s children over her head, telling her that she could only see her kids if she cooperated.<sup>165</sup> Jamie also isolated Britney by “g[etting] rid of anyone his daughter had been close to”<sup>166</sup> and stopping her from seeing her friends.<sup>167</sup> He tested her “numerous times weekly” for drugs.<sup>168</sup> Moreover, he allegedly spied on Britney by accessing her therapy notes, text messages, and communications with her attorney.<sup>169</sup> In sum, Jamie seems to have manipulated Britney and denied her any privacy.

Jamie also pushed Britney hard in her career. He allegedly forced her to perform against her will while she had a 104 degree fever, which she has since described as “one of the scariest moments of her life.”<sup>170</sup> Mistakes in rehearsals also led to “very harsh” consequences.<sup>171</sup> Britney apparently wanted to retire, but did not believe that she was able to do so under the conservatorship.<sup>172</sup> In 2019, after deciding not to do a second Vegas residency (a decision which she publicly explained at the time by stating that she wanted to spend time with her father after he was hospitalized and almost died),<sup>173</sup> Britney was apparently forced to go to a mental health facility

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<sup>163</sup> Farrow & Tolentino, *supra* note 60 (quoting Jordan Butcher).

<sup>164</sup> *See id.*

<sup>165</sup> *See id.*

<sup>166</sup> *See id.*

<sup>167</sup> *See Abrams, supra* note 13.

<sup>168</sup> Day, Stark & Coscarelli, *supra* note 37.

<sup>169</sup> Julius Young, *Britney Spears’ Conservatorship Saga Continues as Jamie Spears’ Attorney Asks Court to ‘Unseal’ her Records*, FOX NEWS, <https://www.foxnews.com/entertainment/britney-spears-conservatorship-saga-fathers-legal-fees> (Jan. 20, 2022); *see also* Farrow & Tolentino, *supra* note 60 (explaining how Sam Lutfi believed that Britney’s phone was monitored by her lawyers and that she would only call or text when she could get a hold of another phone).

<sup>170</sup> Day, Stark & Coscarelli, *supra* note 37.

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> *See Cranley, supra* note 2.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

as “punishment,”<sup>174</sup> which Britney discussed in great detail in a 2021 court hearing described below.<sup>175</sup> In 2020, Britney declared that she would not perform as long as Jamie was her conservator.<sup>176</sup>

People noticed changes in Britney’s demeanor during the conservatorship. Friends called Britney a “zombie” and paparazzi often caught her crying in her car.<sup>177</sup> Behind-the-scenes footage from Britney’s documentary showed her get “visibly tense” every time Jamie was in the room with her.<sup>178</sup> Britney, however, rarely spoke publicly about the conservatorship for the majority of its duration. In fact, interviewers were not allowed to ask her about the conservatorship<sup>179</sup> and her social media posts were screened to make sure she was not posting about the conservatorship.<sup>180</sup> She did make a couple of comments towards the beginning of the conservatorship, though. In a 2008 MTV interview, she stated: “Even when you go to jail, you know there’s the time when you’re going to get out. But in this situation, it’s never-ending.”<sup>181</sup> In her documentary, she further explained: “I just feel like you do something wrong, and you learn from it, you move on. But it’s, like, I’m having to pay for it for a really long time.”<sup>182</sup>

### **D. #FreeBritney and the End of the Conservatorship**

In private, Britney apparently tried to end the conservatorship and alert the public to what was happening several times. For example, Britney once gave her photographer a handwritten letter describing her story—including that she “had no rights” and that the conservatorship would

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<sup>174</sup> *Id.*

<sup>175</sup> See *infra* notes 222–226 and accompanying text.

<sup>176</sup> See Puente, *supra* note 120.

<sup>177</sup> See Farrow & Tolentino, *supra* note 60.

<sup>178</sup> See *id.*

<sup>179</sup> See Kovaleski & Coscarelli, *supra* note 55. In 2016, Britney addressed the conservatorship in an interview, but her comment was not aired. Puente, *supra* note 120.

<sup>180</sup> See Farrow & Tolentino, *supra* note 60.

<sup>181</sup> Kovaleski & Coscarelli, *supra* note 55.

<sup>182</sup> Farrow & Tolentino, *supra* note 60.

### **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

go on “as long as the people [were] getting paid”—and asked him to read it on television.<sup>183</sup> Her lawyers subsequently took the letter from him and stopped employing him.<sup>184</sup> In 2009, Britney tried to get people to sneak her a phone so that she could hire an attorney to end the conservatorship.<sup>185</sup> When she managed to get her hands on a phone, a friend stated that she “didn’t rat her out” because she “knew the abuse [Britney] would suffer.”<sup>186</sup> Britney did manage to get in contact with an attorney, John Anderson, who withdrew days later and wrote, “I can say no more; will do no more. That is the end for me.”<sup>187</sup>

The *New York Times* obtained confidential court records showing that Britney continued to oppose the conservatorship throughout its duration and ask for the court to terminate it.<sup>188</sup> In 2014, she sought to have her father removed as conservator due to his drinking.<sup>189</sup> She asked that he be required to submit to random drug testing, which the judge denied after asking, “[W]ho is she to be demanding that of anybody?”<sup>190</sup> The judge stated that she would “consider” ending the conservatorship in a year if Britney regularly saw a therapist and was off drugs, but “would not guarantee it.”<sup>191</sup>

In 2014, Britney told a court investigator that the conservatorship was an “oppressive and controlling tool against her.”<sup>192</sup> She also stated that she was “sick of being taken advantage of” since she was the one working and making money while everyone else lived on her payroll.<sup>193</sup> The court investigator wrote that the conservatorship was still in her best interests because of her

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<sup>183</sup> *See id.*

<sup>184</sup> *See id.*

<sup>185</sup> *See id.*

<sup>186</sup> *See id.* (quoting Jordan Butcher).

<sup>187</sup> *See id.*

<sup>188</sup> *See Day, Stark & Coscarelli, supra* note 37.

<sup>189</sup> *See id.*

<sup>190</sup> *Id.*

<sup>191</sup> *Id.*

<sup>192</sup> *See id.*

<sup>193</sup> *See id.*



## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

“complex finances, susceptibility to undue influence and ‘intermittent’ drug issues” but called for a “pathway to independence and the eventual termination of the conservatorship.”<sup>194</sup>

In 2020, Britney told the judge that she was “afraid of her father.”<sup>195</sup> She sought for the case to be unsealed and a wealth management company to be added as a conservator of her estate, which was when Bessemer Trust was added as a co-conservator.<sup>196</sup>

While Britney privately fought to end the conservatorship, her fans engaged in a public campaign to do the same. The #FreeBritney movement began in 2009 when a fan started a website that was critical of the conservatorship.<sup>197</sup> The movement gained steam in 2019 when rumors began to spread that Britney was being held in a mental health facility against her will.<sup>198</sup> In 2020, an unnamed source contacted the creators of a podcast dedicated to Britney and provided further support for that rumor by claiming that Britney had been in a mental health facility since her father “pulled the show” (meaning her second Vegas residency) when she refused to take her medications.<sup>199</sup> Fans began to scour Britney’s social media looking for signs of distress.<sup>200</sup> In 2021, the *New York Times* released an Emmy-nominated documentary, *Framing Britney Spears*, which further increased the visibility of the movement.<sup>201</sup>

People who knew Britney began to voice support for #FreeBritney, including her former manager<sup>202</sup> and a therapist who had evaluated her as part of the conservatorship proceedings, who

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<sup>194</sup> *Id.*

<sup>195</sup> *Id.*

<sup>196</sup> Puente, *supra* note 120.

<sup>197</sup> See Kovalski & Coscarelli, *supra* note 55.

<sup>198</sup> See Stephens, *supra* note 9, at 9.

<sup>199</sup> See Zammiello, *supra* note 27, at 591 (quoting Gil Kaufman, *#FreeBritney: Why the Movement Started and How Its Leading Voices Are Keeping It Going*, BILLBOARD (Sept. 10, 2020), <https://www.billboard.com/articles/news/9445049/free-britney-spears-movement-started>.)

<sup>200</sup> For example, one fan commented on Britney’s TikTok “if you need help wear yellow in your next video,” and Britney subsequently posted a video on Instagram wearing her “favorite yellow shirt.” See Farrow & Tolentino, *supra* note 60.

<sup>201</sup> ‘*Framing Britney Spears*’, N.Y. TIMES (Nov. 2., 2021) <https://www.nytimes.com/article/framing-britney-spears.html>.

<sup>202</sup> Drake, *supra* note 94.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

in 2021 remarked on a podcast: “I don’t know why she still has a conservatorship.”<sup>203</sup> Britney’s mom sought to at least remove Jamie as the conservator, arguing that his relationship with Britney “ha[d] dwindled to nothing but fear and hatred”<sup>204</sup> and was “toxic.”<sup>205</sup> Meanwhile, Jamie’s team sought to discourage the #FreeBritney movement. For example, the conservatorship won a defamation suit in 2019 against a blogger who was the “primary driver” of the movement after he claimed that Jamie was “controlling [Britney’s] social media account to make her appear more troubled and more in need of help than she actually [was].”<sup>206</sup> Within Britney’s team, Jamie got rid of anyone who “could threaten the conservatorship.”<sup>207</sup>

As the movement became more visible, the public began to similarly debate at length whether the conservatorship should be ended. Supporters of #FreeBritney pointed to “her apparent stability and success,” such as her being allowed to testify in a deposition for the first time since the conservatorship was implemented.<sup>208</sup> They also pointed out that there were “less intrusive ways” of supporting her than a conservatorship.<sup>209</sup> Those in favor of the conservatorship argued that the conservatorship was “not a cage but a protective bubble that allow[ed] her to worry about her true passions: music and her children.”<sup>210</sup> They also argued Britney was being manipulated by her boyfriend, Sam Asghari (who they claimed was interested in taking her fortune), and that the public did not know the full story, such as her medical diagnosis.<sup>211</sup>

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<sup>203</sup> See Farrow & Tolentino, *supra* note 60 (quoting James Spar).

<sup>204</sup> Renfro & Shamsian, *supra* note 100.

<sup>205</sup> See Farrow & Tolentino, *supra* note 60.

<sup>206</sup> See Drake, *supra* note 94.

<sup>207</sup> See Farrow & Tolentino, *supra* note 60 (quoting Jordan Butcher).

<sup>208</sup> See Kovalski & Coscarelli, *supra* note 55.

<sup>209</sup> Puente, *supra* note 120.

<sup>210</sup> Kovalski & Coscarelli, *supra* note 55.

<sup>211</sup> See Farrow & Tolentino, *supra* note 60.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

In the midst of these debates, Ingham sought to be more open with the case, requesting that future court hearings be unsealed.<sup>212</sup> He called the public scrutiny of the case “a reasonable and even predictable result of [Jamie’s] aggressive use of the sealing procedure over the years to minimize the amount of meaningful information made available to the public.”<sup>213</sup> On June 23, 2021,<sup>214</sup> there was a court hearing regarding the conservatorship that received a lot of attention because Britney was scheduled to testify. While a lawyer representing the conservatorship sought to seal the transcript of Britney’s testimony, the judge denied the motion.<sup>215</sup>

At the hearing, Britney gave a twenty-three minute statement, during which she “sound[ed] lucid and furious, [and] talk[ed] so fast that the judge interjected repeatedly to tell her to slow down.”<sup>216</sup> In her statement, Britney began by stating that she had not been to court “in a long time” because she did not think that she was “heard on any level” at a 2019 hearing.<sup>217</sup> She stated that “keeping the conservatorship going . . . made her feel like [she] was dead” and “[l]ike [she] didn’t matter.”<sup>218</sup> She clarified that she had not known that she could petition for the conservatorship to be ended.<sup>219</sup> She also explained that she had not spoken publicly about the conservatorship because she “honestly [did not] think anyone would believe” her.<sup>220</sup> She stated:

I’ve lied and told the whole world “I’m OK, and I’m happy.” It’s a lie. I thought . . . maybe [if] I said that enough maybe I might become happy. Because I’ve been in denial. I’ve been in shock. I am traumatized. You know, fake it till you make it. But now I’m telling you the truth, OK? I’m

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<sup>212</sup> *Id.*

<sup>213</sup> *Id.*

<sup>214</sup> On June 22, 2021, Britney called 911 to report conservator abuse, but the county sealed the records of the call. *See id.*

<sup>215</sup> *See id.*

<sup>216</sup> *Id.*

<sup>217</sup> Jacobs & Bahr, *supra* note 2. According to the *New York Times*, at the 2019 hearing, Britney told the court that “she had felt forced by the conservatorship into a stay at a mental health facility and to perform against her will.” *Id.*

<sup>218</sup> *Id.*

<sup>219</sup> *Id.*

<sup>220</sup> *Id.*

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

not happy. I can’t sleep. I’m so angry it’s insane, and I’m depressed. I cry every day.<sup>221</sup>

Regarding the rumors that really lit a spark under the #FreeBritney movement, Britney explained that after deciding that she did not want to do a second Vegas residency,<sup>222</sup> Jamie told her that she was being sent to a rehab program for which she would pay \$60,000 per month.<sup>223</sup> She stated that she did not want to go and that she “cried on the phone for an hour and [Jamie] loved every minute of it” because he enjoyed “[t]he control he had over someone as powerful as [her]—he loved the control, to hurt his own daughter, one hundred, thousand percent.”<sup>224</sup> At the rehab program, she said that “[i]f [she] didn’t do any of [her] meetings and work from eight to six at night, which is 10 hours a day, seven days a week, no days off, [she] wouldn’t be able to see [her] kids or [her] boyfriend.”<sup>225</sup> She also said that her therapist there put her on lithium, which “scared” her and made her “fe[el] drunk.”<sup>226</sup>

Britney described feeling like a “slave” and being “worked for [her] dad for the past [expletive] 13 years, trying to be so good and pretty, so perfect when he work[ed] [her] so hard.”<sup>227</sup> She described doing her world tour “out of fear” of her father.”<sup>228</sup> Britney expressed extreme displeasure with the amount of control that Jamie exercised over her, stating: “All I want is to own my money, for this to end, and my boyfriend to drive me in his [expletive] car.”<sup>229</sup> In one of the most talked about parts of her testimony, Britney stated:

I wanted to take the I[U]D out so I could start trying to have another baby.  
But this so-called team won’t let me go to the doctor to take it out because

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<sup>221</sup> *Id.*

<sup>222</sup> She said that the decision not to do a second Vegas residency was “like lifting literally 200 pounds off of [her] . . . because it was really, really hard on [her] and it was too much. [She] couldn’t take it anymore.” *Id.*

<sup>223</sup> *See id.*

<sup>224</sup> *See id.*

<sup>225</sup> *See id.*

<sup>226</sup> *See id.*

<sup>227</sup> *Id.*

<sup>228</sup> *Id.*

<sup>229</sup> *Id.*

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

they don’t want me to have . . . any more children. So basically, this conservatorship is doing me way more harm than good.<sup>230</sup>

Britney said that she believed that her father and everyone else involved in the conservatorship “who punished [her] when she said no” to the second Vegas residency should be in jail.<sup>231</sup> She stated, “I truly believe this conservatorship is abusive. . . . There is [sic] 1,000 conservatorships that are abusive as well.”<sup>232</sup> She also said, “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. The laws need to change.”<sup>233</sup> Britney ultimately asked to be able to hire her own lawyer—at which point Ingham said that he would be willing to step aside if that was the court’s decision.<sup>234</sup> Additionally, while acknowledging that she needed “a little therapy,” she asked for the conservatorship to be ended without her being evaluated so that she could have “[her] life back.”<sup>235</sup>

After the June 2021 hearing, things moved relatively swiftly to end the conservatorship: Bessemer Trust resigned as co-conservator; Ingham resigned so that Britney could hire Matthew Rosengart (a “go-to lawyer for celebrities”<sup>236</sup>); Jamie agreed to step down;<sup>237</sup> and Britney filed to end the conservatorship.<sup>238</sup> On November 12, 2021, Britney’s conservatorship was officially ended after thirteen years without further medical or psychological evaluations of her, and she regained control of her life.<sup>239</sup> All of the assets in the conservatorship estate were transferred back

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<sup>230</sup> *Id.*

<sup>231</sup> *Id.*

<sup>232</sup> *Id.*

<sup>233</sup> *Id.*

<sup>234</sup> *Id.*

<sup>235</sup> *See id.*

<sup>236</sup> Renfro & Shamsian, *supra* note 100.

<sup>237</sup> Tsioulcas, *supra* note 7. After Jamie stepped down, John Zabel, a certified public accountant, became the conservator of her estate and stayed on after the conservatorship was ended to help her transfer assets into her trust. *Id.* Zabel was chosen by Britney and her lawyer. *Britney Spears: Singer’s Conservatorship Case Explained*, BBC (Nov. 12, 2021), <https://www.bbc.com/news/world-us-canada-53494405>.

<sup>238</sup> Rachel Chang, *Britney Spears’ Conservatorship: A Complete Timeline*, BIOGRAPHY (Aug. 24, 2021), <https://www.biography.com/news/britney-spears-conservatorship-timeline>.

<sup>239</sup> *See id.*

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

to her after an ex-FBI agent testified under oath that she found a “pattern of misconduct” in the handling of Britney’s finances that raised possible “criminal implications.”<sup>240</sup>

Since the ending of the conservatorship, Britney has filed a lawsuit against Jamie, alleging that he “engaged in self-dealing, financial and business mismanagement, . . . engaged in abusive and bullying conduct toward [Britney], [and] deprived [her] of fundamental civil liberties.”<sup>241</sup> She specifically alleged that Jamie earned \$6 million during the conservatorship and that the lawyers earned \$30 million.<sup>242</sup> At the time this Paper was written, the case was still in the initial stages. On a more positive note, Britney has since announced that she is pregnant with her third child.<sup>243</sup>

Britney has thanked the members of the #FreeBritney movement, stating: “I honestly think you guys saved my life.”<sup>244</sup> She expressed concerns about the conservatorship system as a whole, saying: “I’m a very strong woman. So I can only imagine what the system has done to [other] people. . . . Hopefully my story will make an impact and make some changes in the corrupt system.”<sup>245</sup>

### **III. Moving Forward: Proposals for Change**

In light of Britney Spears’ ordeal, there has been a movement to reform conservatorships. For example, some members of #FreeBritney have started calling for other celebrities to get out of their conservatorships, including Nichelle Nichols from *Star Trek*, who has allegedly been under an “abusive conservatorship” since 2018 under which her son serves as conservator for her person

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<sup>240</sup> Nancy Dillon, *Britney Spears Gets Full Fortune Back, Heads to Trial Against Dad*, ROLLING STONE (Jan. 19, 2022, 6:30 PM), <https://www.rollingstone.com/music/music-news/britney-spears-conservatorship-battle-father-trial-1287263/>.

<sup>241</sup> *Britney Spears: My Dad and Lawyers Took More than \$36 Million During Conservatorship*, TMZ (Jan. 18, 2022, 6:29 PM), <https://www.tMZ.com/2022/01/18/britney-spears-conservatorship-money-6-million-bullying-alcohol/>.

<sup>242</sup> *Id.*

<sup>243</sup> Diaz, *supra* note 127.

<sup>244</sup> Josephine Harvey, *Britney Spears Says She Hopes Her Story Will Effect Change in a “Corrupt System”*, HUFFPOST, [https://www.huffpost.com/entry/britney-spears-conservatorship-corrupt-system\\_n\\_61945f09e4b044a1cbff4318](https://www.huffpost.com/entry/britney-spears-conservatorship-corrupt-system_n_61945f09e4b044a1cbff4318) (Nov. 17, 2021).

<sup>245</sup> *Id.*

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

and estate.<sup>246</sup> Notably, Amanda Bynes’ conservatorship was also ended approximately four months after the end of Britney’s.<sup>247</sup>

Although #FreeBritney and the lessons learned from Britney’s conservatorship may initially seem pertinent mostly to the conservatorships of other celebrities, they are also relevant for conservatorships involving normal people. Admittedly, her fame<sup>248</sup> and her work during the conservatorship<sup>249</sup> are unique from the situations of most conservatorships. At its heart, though, “Spears’ story is extraordinary because of who she is . . . , but the essence of her story is not unusual.”<sup>250</sup> Indeed, “her story shows that even a person with exceptional resources and an

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<sup>246</sup> Stephanie K. Baer, *Britney Spears Fans Have a New Purpose: Freeing Nichelle Nichols from her Conservatorship*, BUZZFEED NEWS (Jan. 10, 2022, 9:42 PM), <https://www.buzzfeednews.com/article/skbaer/free-britney-nichelle-nichols-conservatorship>. The concern that the conservatorship is abusive stems from a recording of Nichols screaming for her son to take his hands off her and a deposition by a former conservator who expressed concerns about her son having control. *Id.*

<sup>247</sup> Moises Mendez II, *Thanks to #FreeBritney, Another Female Entertainer Is Freed from Conservatorship*, FAST COMPANY (Mar. 22, 2022) <https://www.fastcompany.com/90734161/thanks-to-freebritney-another-female-entertainer-is-freed-from-conservatorship>. Bynes’ lawyer said that Amanda had started the process to end the conservatorship prior to Britney’s conservatorship ending, calling the timing “coincidental.” Annabel Nugent, *Amanda Bynes Decision to End Conservatorship Is Not Inspired by Britney Spears, Says Actor’s Lawyer*, INDEPENDENT (Feb. 26, 2022, 9:59 AM) <https://www.independent.co.uk/arts-entertainment/films/news/amanda-bynes-britney-spears-conservatorship-b2023868.html>. Bynes’ parents both supported the end of her conservatorship, and the court hearing to end it was only five minutes. See Baer, *supra* note 246; Nugent, *supra*.

<sup>248</sup> See Zammiello, *supra* note 27, at 594 (“Britney’s case is unique because of her fame and fortune, so the court must consider how Britney’s position as a pop star will affect the protections needed in order to provide an efficient conservatorship.”).

<sup>249</sup> See Puente, *supra* note 120 (“You don’t often see conservatorships for individuals who are working and successful in their careers—success in domains of life such as work or school suggests a level of capacity that seems incongruent with legal incapacity.”) (quoting Amanda Fialk); Majocha, *supra* note 25 (“Britney Spears’ case is idiosyncratic in how young and apparently functional she is, though conservatorships can be imposed wherever a mental illness (or really anything else) inhibits functioning.”) (quoting James Toomey); Day, Stark & Coscarelli, *supra* note 37 (“The arrangements are supposed to be a last resort for people who cannot take care of their basic needs, such as those with significant disabilities or older people with dementia, yet Ms. Spears has been able to perform and profit for more than a decade.”); Zammiello, *supra* note 27, at 595 (describing a “high-functioning” ward as someone who “who can care for themselves, generate income, and has the acuity to understand the nature of the conservatorship despite living with functional limitations”); Stephens, *supra* note 9 (“While it is not uncommon for people under conservatorship to be productive, yet not considered to be legally competent, the secrecy of Britney’s conservatorship adds to the suspicion of exploitation.”).

<sup>250</sup> Balovich, *supra* note 24, at 974; see also Abrams, *supra* note 13 (explaining that Britney’s testimony about her experiences under the conservatorship were “not unusual for many conservatorships in the United States”).

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

outsized media platform can be disempowered under a court-monitored situation designed to protect her.”<sup>251</sup>

To prevent other abusive conservatorships from being created and help others already in abusive conservatorships, what can be done? To be clear, this Paper is not arguing for conservatorships to be abolished. Conservatorships are necessary for some individuals, such as those in a vegetative state.<sup>252</sup> Additionally, conservatorships can help people when they are on a path to self-destruction.<sup>253</sup> Furthermore, conservatorships “play an important role in protecting elderly and dependent adults from elder abuse and undue influence.”<sup>254</sup>

Keeping in mind that conservatorships play an important role in our society in caring for individuals who cannot take care of themselves and that the majority of conservatorships are likely not abusive, some scholars have argued that the first step towards preventing bad conservatorships is for courts to actually follow the law.<sup>255</sup> As discussed in Part I, the protections for potential conservatees and the way those protections are implemented in practice vary widely.<sup>256</sup> For supporters of this proposal, the “biggest challenge . . . lies in turning law into practice.”<sup>257</sup> In support of this view, they point to the fact that laws have been changed but the changes have not

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<sup>251</sup> Balovich, *supra* note 24, at 976; *see also Crist, Mace Introduce FREE Act to Protects Americans in Conservatorships from Abuse and Exploitation*, U.S. CONGRESSMAN CHARLIE CRIST (July 20, 2021), <https://crist.house.gov/news/documentsingle.aspx?DocumentID=2418> [hereinafter *Crist, Mace Introduce FREE Act*] (“If a young vibrant wealthy celebrity like Britney Spears can be exploited for 13 years by a court system anyone can.”) (quoting Rick Black, Director of the Center for Estate Administration Reform).

<sup>252</sup> *See* Majocha, *supra* note 25.

<sup>253</sup> *See* Drake, *supra* note 94 (“As for those individuals and groups who advocate against conservators and guardians citing the loss of that person’s civil rights, these same people would most likely be the first ones to demand answers if the individual was permitted to engage in continued self-destructive behaviors that led to their death.”).

<sup>254</sup> Puente, *supra* note 120 (quoting Troy Martin).

<sup>255</sup> *See* Zammiello, *supra* note 27, at 623 (“Proposing major change will not meet the goals of protecting wards from abuse, because current laws offer sufficient protections.”); *id.* at 628 (“Additions or changes to the current laws are not necessary, instead stricter enforcement and improved review will protect the ward from being trapped in an abusive guardianship.”).

<sup>256</sup> *See supra* notes 30–62 and accompanying text.

<sup>257</sup> Blake & Baker, *supra* note 1.



## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

made a practical difference because they are not being enforced.<sup>258</sup> This proposal has a lot of value because it would increase the protections for potential conservatees and make it easier for conservatorships to be ended. Some have argued, however, that “there are serious problems with the system even when everyone is acting in good faith” and that actual reform of conservatorship laws is necessary.<sup>259</sup>

Some proposals for change have focused on the process for placing someone under a conservatorship. Many of these are modest proposals such as better educating people about alternatives to conservatorships,<sup>260</sup> providing better training for court officials dealing with these cases,<sup>261</sup> ensuring that potential conservatees are notified about conservatorship proceedings,<sup>262</sup> and conducting more effective conflict of interest checks among lawyers and expert witnesses.<sup>263</sup> These proposals seem relatively uncontroversial and would be helpful because they would help ensure that people who do not need conservatorships are not placed under them and that the process for putting people under conservatorships is more fair.

More controversially, some have called for prospective wards to have mandatory legal representation, analogizing to criminal cases.<sup>264</sup> In the words of one expert in the area, the debate about providing legal representation goes to the “core” of what a conservatorship is:

[I]s it, first and foremost, stripping someone of rights, always regrettable but sometimes necessary, just as in the criminal law? Or is it about helping people who cannot help themselves, and whose very reasons for being unable to help themselves may cause them not to understand how much help they need?<sup>265</sup>

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<sup>258</sup> See Barrett, *supra* note 44.

<sup>259</sup> See Abrams, *supra* note 13.

<sup>260</sup> See Abrams, *supra* note 13.

<sup>261</sup> See Blake & Baker, *supra* note 1.

<sup>262</sup> See *id.*

<sup>263</sup> See *id.*

<sup>264</sup> See Barrett, *supra* note 44; Blake & Baker, *supra* note 1.

<sup>265</sup> Majocha, *supra* note 25 (quoting James Toomey).

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

As noted above, courts have recognized that the limitations on conservatees’ rights are comparable to those of a convicted criminal<sup>266</sup> and Britney during the conservatorship expressed that it was worse than being in jail.<sup>267</sup> There are some benefits to ensuring that prospective conservatees who do not want a conservatorship have legal representation, such as to provide them with someone who can suggest adequate alternatives (since families generally do not know about them)<sup>268</sup> and who can handle the complicated task of opposing the conservatorship.<sup>269</sup> The biggest issue with this proposal would seem to be funding. For example, the public conservatorship program in California is already full and beyond what is effective, and demand for it is increasing.<sup>270</sup> Requiring the state to provide lawyers for all potential conservatees would be a further strain on the system, and could lead to dangerous delays in conservatorship cases because a lawyer may not be available to work on a particular case right away. If the other reforms discussed above are put in place, then prospective conservatees may not always need a lawyer in these cases because the process should be fairer and they should actually receive the protections offered by the law.

Other potential reforms have focused on requirements for the person seeking to serve as the conservator, such as calling for a cap on the number of wards that an individual can have under their care and adopting higher education standards for conservators.<sup>271</sup> More significantly, some have argued that conservators should need to complete a training and be registered in a “guardianship registration system” in order to ensure that “all guardians are properly equipped with knowledge and resources before taking on the responsibility of guardian.”<sup>272</sup> This proposal

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<sup>266</sup> See *supra* note 1 and accompanying text.

<sup>267</sup> See *supra* note 181 and accompanying text.

<sup>268</sup> See *supra* note 43 and accompanying text.

<sup>269</sup> See *supra* note 48 and accompanying text.

<sup>270</sup> See Scarlet Hughes, *Opinion: Britney Spears’ Conservatorship Was Atypical. Most Lack Funds*, E. BAY TIMES, <https://www.eastbaytimes.com/2022/01/18/opinion-britney-spears-conservatorship-was-atypical-most-lack-funds/?fr=operanews> (Jan. 18, 2022, 5:38 AM).

<sup>271</sup> See Blake & Baker, *supra* note 1.

<sup>272</sup> See Zammiello, *supra* note 27, at 625.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

seems more doable and beneficial than the one calling for mandatory representation for potential conservatees. It would be helpful because many conservators currently do not receive any training on their responsibilities,<sup>273</sup> which allows people who are not qualified to serve in these roles and leads to even those who are qualified not adequately performing their jobs. Requiring completion of training would help alleviate these issues. Additionally, such a system could also help courts engage in meaningful monitoring over conservatorships.<sup>274</sup> As explained in Part I, courts have been criticized for failing to actually oversee conservatorships,<sup>275</sup> so a registration system could help courts keep better track of the conservatorships for which they are responsible and how each is going. The biggest issue with this proposal again seems to be funding, but the cost is likely less than that of providing legal representation for each potential conservatee because some states have programs like these in place already.

Finally, others have called for states to adopt additional alternatives to conservatorships, most notably calling for “supported decisionmaking.”<sup>276</sup> Under supported decisionmaking, a trusted network helps the individual make decisions rather than a single conservator making decisions for the person.<sup>277</sup> The individual still gets to make the final decision.<sup>278</sup> Supported decisionmaking arrangements can be done informally, codified in notarized agreements, or recognized by court in some states.<sup>279</sup> Numerous jurisdictions have adopted supported decisionmaking: Alaska, Colorado, Delaware, Illinois, Indiana, Louisiana, Nevada, North Dakota, Rhode Island, Texas, Washington, Wisconsin, and Washington D.C.<sup>280</sup> While the movement

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<sup>273</sup> See *supra* notes 52–54 and accompanying text.

<sup>274</sup> See Zammiello, *supra* note 27, at 625.

<sup>275</sup> See *supra* notes 55–56 and accompanying text.

<sup>276</sup> See Puente, *supra* note 120.

<sup>277</sup> See Blake & Baker, *supra* note 1.

<sup>278</sup> See Barrett, *supra* note 44.

<sup>279</sup> See Abrams, *supra* note 13.

<sup>280</sup> See Thompson, *supra* note 117.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

towards supported decisionmaking is still too recent to effectively evaluate its success, evidence has shown that it “is popular with seniors and those most likely to be subjected to conservatorships.”<sup>281</sup> While more study is needed to see whether supported decisionmaking is a viable alternative to conservatorships, it seems promising because there is less potential for abuse with multiple people providing advice for the individual and the individual getting to make the final decision. To be clear, supported decisionmaking would not be appropriate for everyone, but it could be a way of adequately balancing the tension between providing help for individuals while still allowing them some autonomy.

As mentioned above, the biggest issue with a lot of these proposals would seem to be funding. In order to implement changes to the conservatorship system, courts would generally need more money.<sup>282</sup> The funding issue is a legitimate concern, but arguably this is the most opportune time to act given the media attention paid to #FreeBritney.<sup>283</sup> Now is the time when the public is likely to be most supportive of providing additional funding for conservatorship reform, making now the time when politicians are likely to be most supportive of providing additional funding for conservatorship reform. There is some precedent for this, as an exposé by the Associated Press on guardianships and conservatorships led to meaningful reforms in 1987.<sup>284</sup>

Indeed, several legislatures have adopted new legislation recently to address Britney’s conservatorship. For example, California, New Mexico, and New Jersey have passed new legislation “placing more restrictions on conservatorships and, in the case of California, allowing

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<sup>281</sup> See Majocha, *supra* note 25 (quoting James Toomey).

<sup>282</sup> See Zammiello, *supra* note 27, at 623 (“The best way to effect change is to promote equitable enforcement of the laws by directing resources to the court system.”); Hughes, *supra* note 270 (calling for increased funding for the public conservatorship system).

<sup>283</sup> See Puente, *supra* note 120 (“Critics of California’s conservatorship system hope the global preoccupation with the Spears case will help move lawmakers to make conservatorships harder to impose and easier to escape—under the principle that such restrictions violate the civil rights of people with disabilities.”); Tsioulcas, *supra* note 7 (“Politicians on both sides of the aisle have used the attention around Britney Spears to champion reforms.”).

<sup>284</sup> See Zammiello, *supra* note 27.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

conservatees to choose their own lawyers.”<sup>285</sup> The California legislation, which was nicknamed the “Free Britney” bill, calls for a formal review of the state’s conservatorship system, as well as “[e]nable[s] the court to better review the appropriateness of a conservatorship and investigate allegations of physical or financial abuse of a conservatee by a conservator.”<sup>286</sup> In fact, California has considered numerous bills on the topic,<sup>287</sup> which further supports the idea that now is the best time for legislatures to act. Even the federal government—which currently has no role in the conservatorship system<sup>288</sup>—has considered legislation on the topic of conservatorships, including a bill entitled the Freedom and Right to Emancipate from Exploitation (“FREE”) Act which would provide “federal safeguards through a four-pronged approach to protect Americans under guardianship and conservatorship from abuse and exploitation.”<sup>289</sup>

In proposing and passing these pieces of legislation, individual legislators have invoked #FreeBritney, which is further proof that legislatures are most likely to adopt conservatorship reform now. For example, a sponsor of the California legislation that was passed stated, “California’s conservatorship 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.”<sup>290</sup> Representative Crist, a co-sponsor of the federal FREE Act explained: “Under the FREE Act, we would free Britney along with the countless number of

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<sup>285</sup> Mendez, *supra* note 247.

<sup>286</sup> *Gov. Newsom Signs Conservatorship Reform Bill Authored by Assemblymember Evan Low, Senators Ben Allen and John Laird*, EVAN LOW (Oct. 1, 2021), <https://a28.asmdc.org/press-releases/20211001-gov-newsom-signs-conservatorship-reform-bill-authored-assemblymember-evan> [hereinafter *Gov. Newsom Signs*].

<sup>287</sup> Another California bill, Bill 1663, that did not get passed would have “require[d] that before granting a conservatorship, judges first document that all other alternatives including supported decision-making have been considered” and made it “easier to end probate conservatorships by mandating a periodic review.” *See* Thompson, *supra* note 117.

<sup>288</sup> *See supra* note 28 and accompanying text.

<sup>289</sup> *Crist, Mace Introduce FREE Act*, *supra* note 251. These four prongs would be: providing the right to petition to replace a private guardian with a public one; assigning an independent caseworker to monitor and inform wards of rights; requiring financial disclosures to make sure that conservators do not have a financial conflict of interest; and increasing transparency by states by requiring states to submit annual reports. *Id.*

<sup>290</sup> *Gov. Newsom Signs*, *supra* note 286.

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

seniors and persons with disabilities being abused and exploited by the broken system.”<sup>291</sup> The other co-sponsor, Representative Mace added: “Britney Spears’ conservatorship is a nightmare. If it can happen to her, it can happen to anyone. To see a woman like Britney Spears have her most basic human rights permanently stripped away from her under the guise of ‘protection’ should be illegal.”<sup>292</sup> While it might be easy to dismiss these statements as legislators trying to appeal to their younger constituents who were involved with the #FreeBritney movement, all of these statements were made by legislators who actually sponsored legislation that would respond to the concerns raised by the Britney Spears conservatorship case, demonstrating that they recognize the need for and are willing to try to bring about conservatorship reform.

### **IV. Conclusion**

Britney Spears once sang: “All eyes on me in the center of the ring, just like a circus.”<sup>293</sup> This line aptly describes the incredible publicity given both to the events giving rise to her conservatorship and its ending. In 2008, Britney was definitely having a breakdown and needed help. While it is difficult to say whether a conservatorship was the least restrictive means of helping her, the conservatorship she was placed under was poorly designed due to the potential for conflicts of interest and it was allowed to continue for too long given Jamie’s financially and mentally abusive practices. Although #FreeBritney started as a conspiracy theory on the internet, it now has the potential to bring about serious changes in the conservatorship system.

Admittedly, conservatorships are complicated because they “require a balancing of an individual’s right to autonomy and an individual’s need to be protected.”<sup>294</sup> That is a tough balance

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<sup>291</sup> *Crist, Mace Introduce FREE Act*, *supra* note 251.

<sup>292</sup> *Id.*

<sup>293</sup> BRITNEY SPEARS, *Circus*, *on* CIRCUS (Jive Records 2008).

<sup>294</sup> *See* Stephens, *supra* note 9; *see also* Drake, *supra* note 94 (“These cases present a Hobbesian choice between allowing the individual to continue down the path of self-destruction versus the potential of destroying family relationships—usually the only place where they can find the love and support they need. Yet, it’s a choice that needs

## **“Gimme More” Protections in Conservatorships: Using #FreeBritney to Propose Conservatorship Reform**

to strike, and this Paper does not completely resolve how to strike it. The stakes for individuals under conservatorships are high, though, and this Paper will hopefully provide at least a starting point for a discussion of how the conservatorship system can better address conservatees’ needs. Britney may be free, but judges and lawmakers need to take a close look at what happened and adopt meaningful changes to prevent a similar incident from happening again.

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to be made when someone's well-being is at stake and living with the guilt of doing nothing becomes equally devastating.”)