

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To protect the rights of legally incompetent adults who are the subject
of a legal guardianship or conservatorship.

IN THE HOUSE OF REPRESENTATIVES

Mr. CRIST introduced the following bill; which was referred to the Committee
on _____

A BILL

To protect the rights of legally incompetent adults who are
the subject of a legal guardianship or conservatorship.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Free Britney Act”.

1 **SEC. 2. GRANTS TO STATES FOR STATE-EMPLOYED CASE-**
2 **WORKERS AND LEGAL GUARDIANS AND CON-**
3 **SERVATORS FOR LEGALLY INCOMPETENT**
4 **ADULTS.**

5 (a) IN GENERAL.—The Secretary may make grants
6 to eligible States, in accordance with this section, for the
7 provision of State-employed caseworkers, legal guardians,
8 and conservators for legally incompetent adults.

9 (b) ELIGIBILITY.—A State is eligible for a grant
10 under this section if the Secretary determines that—

11 (1) the State maintains an up-to-date database
12 of all legal guardianships and conservatorships that
13 have been established for legally incompetent adults
14 under State law;

15 (2) State law requires a caseworker who is a
16 State employee to be appointed for each individual
17 who is the subject of such a guardianship or con-
18 servatorship, and to be empowered, notwithstanding
19 any objection of the legal guardian of, or conservator
20 for, the individual, to communicate with the indi-
21 vidual, and to assist the individual in petitioning a
22 court to replace the legal guardian or conservator, as
23 the case may be, with a legal guardian or conser-
24 vator who is such an employee;

25 (3) State law guarantees that, notwithstanding
26 any such guardianship or conservatorship, such an

1 individual retains the right to communicate with
2 such a caseworker, and to petition a court as de-
3 scribed in paragraph (2); and

4 (4) State law requires any State employee re-
5 ferred to in paragraph (2) to meet such financial
6 disclosure requirements as the State may establish.

7 (c) GRANT AMOUNTS.—

8 (1) IN GENERAL.—The amount of the grant to
9 be made to a State under this section is the State
10 share of the amount made available to carry out this
11 section.

12 (2) STATE SHARE.—For purposes of paragraph
13 (1), the State share is the total number of legally in-
14 competent adults in the State who are under a legal
15 guardianship or conservatorship divided by the total
16 number of such adults in all States.

17 (d) USE OF GRANT.—A State to which a grant is
18 made under this section shall use the grant only to pay
19 the salaries of State employees who are serving as case-
20 workers for, legal guardians of, or conservators for legally
21 incompetent adults, and to cover related administrative ex-
22 penses.

23 (e) ANNUAL REPORTS.—Within 90 days after the
24 end of any fiscal year in which a grant is made to a State

1 under this section, the State shall submit to the Congress
2 a written report that specifies—

3 (1) how the funds were used;

4 (2) the number of adults under legal guardian-
5 ship or conservatorship in the State as of the end of
6 the fiscal year;

7 (3) the number of petitions described in sub-
8 section (b)(2) that were submitted to the courts of
9 the State in the fiscal year;

10 (4) the ratio of the number of individuals under
11 legal guardianship or conservatorship in the State
12 during the fiscal year to the number of State-em-
13 ployed legal guardians of, or conservators for, the in-
14 dividuals; and

15 (5) the number of individuals in the State who
16 were emancipated from a legal guardianship or con-
17 servatorship during the fiscal year.

18 (f) LIMITATIONS ON AUTHORIZATION OF APPROPRIA-
19 TIONS.—

20 (1) IN GENERAL.—For grants under this sec-
21 tion, there are authorized to be appropriated to the
22 Secretary not more than \$260,000,000, of which—

23 (A) \$160,000,000 shall be for States to
24 hire caseworkers for legally incompetent adults
25 pursuant to this section; and

1 (B) \$100,000,000 shall be for States to
2 hire legal guardians of, or conservators for, le-
3 gally incompetent adults pursuant to this sec-
4 tion.

5 (2) AVAILABILITY.—The amounts made avail-
6 able under paragraph (1) are authorized to remain
7 available until expended.

8 (g) DEFINITIONS.—In this section:

9 (1) ADULT.—The term “adult” means a person
10 who has attained 18 years of age and is not in foster
11 care under the responsibility of a State.

12 (2) SECRETARY.—The term “Secretary” means
13 the Secretary of Health and Human Services.

14 (3) STATE.—The term “State” means the 50
15 States of the United States, the District of Colum-
16 bia, the Commonwealth of Puerto Rico, the United
17 States Virgin Islands, Guam, the Commonwealth of
18 the Northern Mariana Islands, and American
19 Samoa.

20 **SEC. 3. PROTECTION OF RIGHTS OF LEGALLY INCOM-**
21 **PETENT ADULTS WHO ARE THE SUBJECT OF**
22 **A LEGAL GUARDIANSHIP OR CONSERVATOR-**
23 **SHIP.**

24 (a) FINDINGS.—The Congress finds as follows:

1 (1) In a November 15, 2019 article, entitled
2 “Guardian stole more than \$500,000 from elderly
3 Pinellas man”, the Tampa Bay Times reported on a
4 private guardian who allegedly stole over \$500,000
5 from a ward over 11 months.

6 (2) In an August 2, 2019 article, entitled
7 “Florida professional guardian Rebecca Fierle: De-
8 voted or dangerous?” the Orlando Sentinel reported
9 on severe cases of alleged adult guardianship fraud
10 and abuse perpetrated by a private guardian, includ-
11 ing physical neglect, deliberate isolation of wards
12 from their families, financial exploitation, and using
13 “do not resuscitate” orders without permission.

14 (3) Private guardians are at risk for financial
15 conflicts of interest, because a ward’s assets, which
16 they usually control, are used to pay the guardian
17 for their services.

18 (4) Many persons declared incapacitated by a
19 judge and assigned to a private guardian have not
20 even appeared in court.

21 (5) A person deemed incapacitated lacks the
22 legal authority to petition to have their guardian re-
23 moved or replaced if they believe they are being vic-
24 timized.

1 (6) Pop icon Britney Spears has unsuccessfully
2 petitioned the judicial system to remove her father
3 as her conservator for years.

4 (7) Despite the fact that Ms. Spears has been
5 a successful working artist for the past decade, her
6 repeated requests to have her conservatorship re-
7 moved have been denied.

8 (8) The 14th Amendment to the Constitution of
9 the United States protects United States citizens
10 and residents from being deprived of “life, liberty, or
11 property, without due process of law”.

12 (9) The allegations in the Orlando Sentinel and
13 Tampa Bay Times, along with the inability of
14 Britney Spears to free herself from her father’s con-
15 trol, indicate that State guardianship and con-
16 servatorship systems can deprive a United States
17 citizen or resident of liberty and property without
18 due process.

19 (10) In order to restore due process guaranteed
20 by the 14th Amendment to the Constitution of the
21 United States, the Federal government must guar-
22 antee that a United States citizen or resident placed
23 under guardianship or conservatorship retains the
24 right to petition to have their private guardian or

1 conservator replaced with a State guardian who is
2 free from any financial conflict of interest.

3 (b) ESTABLISHMENT OF RIGHT.—An individual who
4 is the subject of a legal guardianship or conservatorship
5 established under State law has the right to—

6 (1) communicate with a caseworker referred to
7 in section 2(b)(2), notwithstanding any objection of
8 the legal guardian of, or conservator for, the indi-
9 vidual; and

10 (2) petition a court to replace any person who
11 is a legal guardian of, or conservator for, the indi-
12 vidual and who is not an employee of the State with
13 a legal guardian or conservator, as the case may be,
14 who is an employee of the State, notwithstanding
15 the terms of the guardianship or conservatorship, as
16 the case may be, and in any proceeding on such a
17 petition, the petitioner shall not be required to prove
18 wrongdoing or malfeasance by the legal guardian or
19 conservator, as the case may be, as a condition of
20 having the petition granted.

21 (c) PRIVATE RIGHT OF ACTION.—An individual who
22 is the subject of a legal guardianship or conservatorship
23 established under State law may bring an action in any
24 United States district court to enforce any right provided
25 by subsection (b). The court may provide the petitioner

1 in such an action with such relief as the court deems ap-
2 propriate.