MCLE SELF-STUDY ARTICLE

ASSEMBLY BILL 1663 "PROTECTIVE PROCEEDINGS": LESS-RESTRICTIVE ALTERNATIVES TO CONSERVATORSHIP

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I. SYNOPSIS

Assembly Bill No. 1663 (2021-2022 Reg. Sess.) (A.B. 1663), "Protective Proceedings," is new legislation that became effective January 1, 2023. It makes multiple important amendments to the Probate Code and the Welfare and Institutions Code. California joins an increasing number of states that have made less-restrictive alternatives to conservatorship a legislative priority. Supported decision-making (SDM) is one of them. The idea is that adults with a disability, which could include dementia, retain their autonomy and make their own decisions, albeit with support. SDM can be informal or memorialized in an SDM agreement. California had the benefit of not needing to start from scratch and, indeed, many of the provisions of the new law accord with those in the 2017 Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA).

Still, a critical reading of A.B. 1663 reveals some areas that raise questions. For example, if the SDM agreement can be revoked anytime, even orally, without formality, are these agreements too fragile? Should supporters have an expressly fiduciary relationship with the supported adult with a disability? Will supporters receive compensation? Should they? Are third parties required to honor an SDM agreement? If not, what incentives are there to do so? Is there limited immunity for good-faith reliance? Will the envisioned Conservatorship Alternatives Program get funded? Is it a bit like a legal clinic? Should effective data collection have been a provision in the bill? These and other issues are addressed in this article.

II. BACKGROUND

In California, guardianship (conservatorship)[01] reform has been brought into sharp focus by the "Save Britney"[02] campaign. According to 2011 estimates (accurate data is lacking), between one and three million people then living in the United States had a guardian appointed for them at one point in time.[03]

Interest in guardianship reform is not new. The ABA has counted nearly 400 guardianship bills nationwide from 2011 to 2021,[04] many resulting in a complete overhaul of the respective statutes. Many of them were motivated by actual or perceived abuses of guardianship.

III. A HISTORY OF ABUSE, NEGLECT, AND INDIFFERENCE

In 1987, "a year-long investigation by The Associated Press of courts in all 50 states and the District of Columbia found a dangerously burdened and troubled system that regularly puts elders' lives in the hands of others with little or no evidence of necessity, and then fails to guard against abuse, theft and neglect."[05] While the U.S. Government Accountability Office has profiled numerous cases of guardians who financially exploited or neglected older adults, a 2016 report acknowledged that the extent of the problem is not known due to lack of reporting.[06]

The 2020 black comedy thriller movie, *I Care a Lot*, which is about a guardian who drains her elderly wards of their money, created a buzz among estate planners, many of whom commented in blog posts about what was pure fiction and what was not.[07]

Hyperbole aside, even well-meaning people may inadvertently contribute to the problem. An examination of care pathways in hospitals and nursing homes revealed that guardianship petitions are often instituted for patients with variable degrees of capacity for the convenience of the institution or caregiver, sometimes just to ensure that somebody pays the bill.[08]

However, legislative reform, especially for SDM, was not spearheaded by elder rights advocacy groups, but by disability rights activists with a focus on young adults transitioning from being under the care of their families to independence.[09] The possible implications of such reform for persons with dementia will be discussed further below.

A. Stakeholder Agendas

The most aggressive approach to guardianship reform was formulated in the United Nations Convention on the Rights of Persons with Disabilities (CRPD). Article 12 emphasizes full and equal legal capacity of all citizens to participate in decisions. It mandates replacing substituted decision-making (guardianship) with SDM. Not surprisingly, given the impracticability of this approach, even signatory states have only partially implemented CRPD, retaining interpretative declarations and reservations relating to Article 12.[10]

The unifying concept of guardianship legislative reform is the increased emphasis on less-restrictive alternatives to guardianship, with SDM taking center stage. Professor Kohn argued that this is:

> the product of the alignment of three interest groups: family members of individuals with disabilities, who benefit from the new powers this legislative approach gives them; disability rights advocates, for whom its rejection of professionalized care resonates; and fiscal and social conservatives, who find it attractive because it both reduces public expenditures and embraces a conservative vision of the family as a private, supportive unit that should be protected from government interference.[11]

B. Uniform Law Commission

In 2017, the Uniform Law Commission promulgated the UGCOPAA. The uniform act was drafted with extensive input from experienced guardianship judges and organizations that advocate for guardianship reform.[12] Only two states, Washington and Maine, have enacted it without modifications. The Act contains innovations similar to those seen in A.B. 1663 (see Table 1). Table 1 focuses on changes to conservatorship in the California Probate Code. We will discuss the new topic of SDM separately.

TABLE 1.

UGCOPAA[13]	AB 1663 amendments to the Probate Code[14]
Person-centered planning. Each guardianship and conservatorship will have an *individualized plan* that considers the preferences and values of the person with a disability. Courts will *monitor* guardians and conservators to ensure compliance and approve updates to the plan in response to changing circumstances.	Section 1800: It is the intent of the Legislature in enacting this chapter to do the following: ... (b) Provide that an *assessment of the needs* of the person is performed in order to determine the appropriateness and extent of a conservatorship and to set goals for increasing the conservatee's functional abilities to whatever extent possible. ... (e) Provide that the *periodic review* of the conservatorship by the court investigator shall consider the best interests and expressed wishes of the conservatee; whether the conservatee has regained or could regain abilities and capacity with or without supports; and whether the conservatee continues to need a conservatorship." Section 1812: ... (b) Subject to Sections 1810, 1813, and 1813.1, of persons equally qualified in the opinion of the court to appointment as conservator of the person or estate or both, preference is to be given in the following order: (1) The conservatee or proposed conservatee's stated preference ..."

UGCOPAA[13]	AB 1663 amendments to the Probate Code[14]
Express decision-making standard. A guardian/conservator is a *fiduciary* and must always act for the benefit of the person subject to guardianship or conservatorship. A guardian for an adult must make decisions the guardian reasonably believes the adult would make if able, unless doing so would cause harm to the adult. To the extent feasible, a guardian for an adult must promote the adult's *self-determination*, encourage the adult's participation in decisions, and take into account the values and preferences of the adult.	Section 2113. A conservator shall accommodate the desires of the conservatee, except to the extent that doing so would violate the conservator's *fiduciary duties* to the conservatee or impose an unreasonable expense on the conservatorship estate. To the greatest extent possible, the conservator shall support the conservatee to maximize their *autonomy*, support the conservatee in making decisions, and, on a regular basis, inform the conservatee of decisions made on their behalf. In determining the desires of the conservatee, the conservator shall consider *stated or previously expressed preferences*, including preferences expressed by speech . . . .
Enhanced notice. Enhanced protection for individuals subject to guardianship or conservatorship without greatly increasing the costs of monitoring by allowing the court to identify other persons to receive notice of certain suspect actions, who can therefore serve as extra sets of eyes and ears for the court.	Section 1850, subdivision (b). At any time, the court may, on its *own motion or upon request by any interested person*, take appropriate action including, but not limited to, ordering a review of the conservatorship at a noticed hearing or ordering the conservator to submit an accounting pursuant to Section 2620.
Guaranteed visitation and communication. Without a court order, a guardian may not restrict a person under guardianship from receiving visits or communications from family and friends for more than seven days, or from anyone for more than sixty days. Unless the court orders otherwise, close family members must be notified of any change in residence.	Section 1835.5, subdivision (a). Within 30 days . . . and annually thereafter, the superior court shall provide information to a conservatee . . . with a list of the conservatee's rights within the conservatorship[, including the right to] (E) [h]ave visits from family and friends.
Less-restrictive alternatives. Prohibits courts from issuing guardianship or conservatorship orders when a less-restrictive alternative is available, such as SDM, technological assistance, or an order authorizing a single transaction.	Section 1800.3, subdivision (b). A conservatorship of the person or of the estate shall not be granted by the court unless the court makes an express finding that the granting of the conservatorship is the least restrictive alternative needed for the protection of the conservatee.
Enhanced procedural rights. Requires notice of key rights to individuals subject to guardianship or conservatorship, including the right to independent legal representation. The act allows any interested party to petition a court for reconsideration of an appointment and places limits on a guardian or conservator's ability to charge *fees* for opposing the efforts to alter the terms of appointment.	Section 1835.5, subdivision (a). Within 30 days . . . and annually thereafter, the superior court shall provide information to a conservatee . . . with a list of the conservatee's rights within the conservatorship. …. (5) A personalized list of rights that the conservatee retains, even under the conservatorship, including the rights to do all of the following: . . . (B) Make or change their will. … (F) Have a lawyer. (G) Ask a judge to change conservators. (H) Ask a judge to end the conservatorship. . . . (K) Make their own health care decisions. … Section 1821 of the Probate Code. (c) If the petitioner or proposed conservator is a professional fiduciary . . . (1) . . . a proposed hourly fee schedule or another statement of their proposed compensation . . . shall not preclude a court from later reducing the petitioner's or proposed conservator's *fees* or other compensation.

IV. SUPPORTED DECISION MAKING IN GENERAL

Surrogate decision-making means that others decide in your stead. There are two legal standards: the substituted judgment standard and the best interest standard. Regarding the substituted judgment standard, "the surrogate's task is to reconstruct what the patient himself would have wanted, in the circumstances at hand, if the patient had decision-making capacity."[15] The best interest standard is what a reasonable person would want under the circumstances.[16] A.B. 1663 hedges and seems to allow both approaches: "A conservator shall accommodate the desires of the conservatee, except to the extent that doing so would violate the conservator's fiduciary duties to the conservatee or impose an unreasonable expense on the conservatorship estate."[17] Perhaps, depending on the

degree of impairment, the best interest standard replaces the substituted decision-making standard.

In contrast, *supported* decision making allows impaired persons to maintain their autonomy while they are assisted by supporters, with or without a formal written agreement; the ultimate decision-making capacity remains with them. The new Division 11.5 (commencing with section 21000) of the Welfare and Institutions Code defines *supported* decisionmaking (the statute uses the compound word) as follows:

> "21001(c) 'Supported decisionmaking' means an individualized process of supporting and accommodating an adult with a disability to enable them to make life decisions without impeding the self-determination of the adult.
>
> (d) 'Supported decisionmaking agreement' means a voluntary, written agreement, written in plain language accessible to the adult with a disability and in conformance with Section 21005. A supported decisionmaking agreement shall be signed in conformance with subdivision (b) of Section 21005 and may be revoked orally or in writing at any time by either party . . . .[18]

Section 21002, subdivision (a) adds language that the "supporter is bound by all existing obligations and prohibitions otherwise applicable by law that protect adults with disabilities and the elderly from fraud, abuse, neglect, coercion, or mistreatment."[19]

Texas, the first state to codify SDM, expressly designates supporters as fiduciaries, and other states, such as Indiana and Alaska, have language that suggests a fiduciary-like relationship.[20]

A.B. 1663 does not seem to automatically attach a fiduciary duty to the supporter. Section 21002, subdivision (a) provides:

> "This division does not limit a supporter's civil or criminal liability for prohibited conduct for . . . breach of fiduciary duty, *if any exists* . . .," but section 21002(c) states, "A supporter shall do all of the following: . . . (3) Act honestly, diligently, and in good faith. . . ."[21]

It appears, therefore, that a fiduciary duty may be found to exist, depending on the facts.

The statutory language is noteworthy for the provision that the SDM agreement may be revoked orally or in writing at any time. Contrast that language with, for example, Alaska's statutory language, where, for example, Alaska, where termination requires the presence of two witnesses, whose signatures must be notarized, and notification to the supporter.[22]

Conceivably, too low a hurdle for the rescission of an SDM agreement limits its practical usefulness. Section 21002 also spells out who does not qualify as a supporter in subsection (b) and what the supporter shall do and not do in subsections (c) and (d), respectively. For example, a supporter may not coerce the adult with a disability and may not, without valid legal authorization, make decisions for, or on behalf of, the adult with disability or sign documents on their behalf.[23]

A. SDM Agreements

The adult with a disability who signs an SDM agreement with one or more supporters can still act independently. The SDM agreement is not evidence of incapacity.[24] Importantly, "an adult with a disability is entitled to have present one or more other adults, including supporters, in any meeting or discussion, or to participate in any written communication" and "[a] third party may only refuse the presence of one of more adults, including supporters, if the third party reasonably believes that there is fraud, coercion, abuse, or" the like.[25]

Third parties must allow the presence of supporters or other adults, that much is clear, but are they required to honor the SDM agreement—e.g., accept a signature from the adult with a disability as binding? The statute addresses this point indirectly in section 21000, subdivision (d): "The capacity of an adult should be assessed with any supports, including supported decisionmaking, that the person is using or could use."[26] This could be interpreted as meaning that, for example, a healthcare provider is required to evaluate the competency not only of her patient, but the whole assembled decision-making party.

In fact, so far, no state has given individuals the right to require third parties to accept their decisions; "rather, they incentivize such recognition by offering third parties immunity from claims that the individual with a disability could assert as an incentive for acting on a decision actually or allegedly made in accordance with supported decision-making."[27] However, no such immunity is provided by A.B. 1663. In consequence, healthcare providers may see SDM agreements as potential traps and default to a preference for conservatorship. Fear of litigation, justified or not, may have a chilling effect on the widespread use of SDM agreements.

The written agreement shall be in plain language and list areas in which support is requested and in which the supporter agrees to provide support, information about where to file a report under the Elder Abuse and Dependent Adult Civil Protection Act, and importantly,

"[i]nformation and copies of other supported or substituted decisionmaking documents the adult with a disability has in place, including, but not limited to, powers of attorney, authorizations to share medical or educational information, authorized representative forms, or representative payee agreements."[28]

Having a binder containing copies of all the relevant documents at hand sounds reasonable, but what exactly is the meaning of the requirement that the *agreement* shall *include* "information and copies of" of these documents?

B. Relationship of SDM to California and ABA Ethics Rules

The ABA Model Rules of Professional Conduct and the California Ethics Rules diverge with respect to the permissibility of protective action. Rule 1.14, subdivision (b) of the Model Rules provides, "(b) [w]hen the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action . . . ."[29]

This rule has not been adopted by the State Bar of California, and a California lawyer cannot take protective action unless she obtains informed consent. "If the client does not or cannot give informed consent, the lawyer may be unable to protect the client against harm."[30] While the California Rule is congruent with the ethical principle that autonomy trumps beneficence,[31] in practice, many lawyers feel uncomfortable about the moral dilemma the rule creates. SDM should enter the discussion about possible reform of the rule. One commentator went so far as to suggest that "legally binding, formalized supported decision-making agreements between lawyers and their clients ought to be implemented. The Model Rules of Professional Conduct should require such agreements."[32]

V. SDM AND DEMENTIA

In California, approximately 660,000 people over 65 years of age lived with Alzheimer's disease (AD) in 2019. Projections indicate that by 2025 there will be 866,000 such people, a 31% rise, and that by 2040 there will be a 127% increase in the number of individuals over 65 years of age living with AD.[33]

SDM and SDM agreements were spearheaded by disability rights advocates with a focus on young, intellectually or developmentally disabled persons during their transition from the age of minority to adulthood. Of the pilot programs that have been implemented to test SDM in practice, none involved older adults with dementia,[34] but they are included in A.B. 1663 (section 21001, subdivision (b) of the Welfare and Institutions Code) under the definition of adults with disability.[35] While young, intellectually or developmentally disabled persons tend to have fairly static impairments and patients with traumatic brain injury may improve over time, older patients with dementia have a fluctuating but overall progressively downward course. With AD, the duration of individual stages is highly variable, and progression can be quite fast.[36]

It is clear that an SDM agreement may work for several years for a dementia patient, but ultimately cognitive decline will be so profound that SDM is no longer appropriate. Indeed, the newly amended Welfare and Institutions Code allows SDM agreements to coexist with advance directives and powers of attorney.[37] What we probably do not want is an insidious and—for outsiders—imperceptible transition from supported decision making to substituted decision making under an SDM agreement. Under this scenario, the supporter would step into the role of conservator without being held to a higher fiduciary standard and court oversight. While SDM agreements *"should"* be reviewed every two years,[38] no enforcement mechanism is mentioned. Moreover, dementia can progress rapidly over a two-year period. It is not hard to see how an SDM agreement could be abused.

Several countries have tried to address the transition from supported to substituted decision making, but it is unclear whether their efforts have been successful.[39]

A new section 1836 of the Probate Code provides that "upon appropriation by the Legislature, the Judicial Council shall establish a conservatorship alternatives program within each self-help center in every state Superior Court." Staff needs to be trained and "shall be available to meet through in person or remote means, with interested individuals to provide education and resources on supported decisionmaking agreements . . . ."[40] Moreover, they shall be able to provide "assistance in filling out any associated paperwork and in understanding these alternatives."[41] Perhaps this goes a bit beyond mere self-help, crossing over to a legal clinic. Would staff then include a supervising attorney?

If this conservatorship alternatives program could be implemented it would be great, but will the legislature really make the necessary appropriations to fully fund such an ambitious-sounding program for every superior court in California, with courts already underfunded? Conspicuously absent from A.B. 1663 is a strengthening of the existing conservatorship data collection and reporting program mandated by Welfare and Institutions Code, section 5402, subdivision (a),[42] which does not seem to function well.[43] I believe that data is needed to see whether SDM works.

VI. CONCLUSION

Thomas Sowell cautioned that "we need to look not at the noble preambles of legislation but at the incentives created in that legislation."[44] The incentives for supporters of young adults with intellectual or developmental disabilities may not be the same as those for supporters of older adults, typically with dementia. Monetary compensation for supporters is not typically discussed in the literature. The assumption seems to be that these services are gratuitous.

We can easily imagine doting parents continuing their uncompensated help when their disabled child reaches adulthood. But there may be nobody around for older adults. A 2020 report from the National Health and Aging Trends Study, before the COVID outbreak, revealed that 24 percent of community-dwelling adults age 65 and older in the United States (approximately 7.7 million people) were socially isolated, and 4% (1.3 million) were severely socially isolated.[45]

Add dementia to social isolation and unscrupulous would-be supporters may see possibilities and incentives of which we do not approve. More than one supporter may be a safeguard, but if it is difficult to find one willing to help, how much more difficult will it be to find two?

There is a "tendency to compare a descriptive account of guardianship with an idealized, normative account of supported decision-making. Guardianship is commonly described in terms of how it is actually practiced, whereas supported decision-making is described in terms of how it should be practiced."[46]

To take SDM from the aspirational and the noble intentions to real-world success, conservatorship alternatives programs envisioned by A.B. 1663 need to be fully funded and implemented. But education and advocacy without data lack credibility. Without reliable data, stakeholders will form their own rumor-inspired notions. Healthcare providers, in particular, may perceive SDM agreements as a liability burden, and banks may not be far behind.

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01 In California, "guardianship" refers to minors and "conservatorship" to adults; elsewhere, "guardianship" is used for both. In this article, use of the term "conservatorship" indicates a California context.

02 See *Britney Spears conservatorship dispute*, Wikipedia<https://en.wikipedia.org/wiki/ Britney_Spears_conservatorship_dispute> <https://perma.cc/8FPG-CTC7> (as of Nov. 13, 2022).

03 Uekert, *Adult Guardianships: A "Best Guess" National Estimate and the Momentum for Reform*, Future Trends in State Courts (2011) p. 107 <https://ncsc.contentdm.oclc.org/digital/collection/ctadmin/id/1846> (as of Nov. 15, 2022).

04 ABA, Commission on Law and Aging, *Guardianship Reform: 2021 Adult Guardianship Legislation Summary* (2022) <https://www.americanbar.org/content/dam/aba/administrative/law_aging/2021-guardianship-leg-summry.pdf> (as of Nov. 5, 2022).

05 Bayles, *Guardians of the Elderly: An Ailing System Part I: Declared 'Legally Dead' by a Troubled System*. Assoc. Press (1987) <https://apnews.com/article/1198f64bb05d9c1ec690035983c02f9f> (as of Nov. 13, 2022).

06 U.S. Gen. Accounting Office, GAO-17-33. Elder Abuse: The Extent of Abuse by Guardians Is Unknown, but Some Measures Exist to Help Protect Older Adults (2016) <https://www.gao.gov/products/gao-17-33> (as of November 15, 2022).

07 See Hackard, *I CARE A LOT. (2021) An Estate Litigator's Review*, HackardLaw (Feb. 23, 2021) <https://www.hackardlaw.com/i-care-a-lot-2021-an-estate-litigators-review/> (as of Nov. 13, 2022).

08 Hirschel & Smetanka, *The Use and Misuse of Guardianship by Hospitals and Nursing Homes* (2022) 72 Syracuse L.Rev. 255.

09 Largent & Paterson, *Supported Decision-Making in the United States and Abroad* (2021) 23 J. Health Care L. & Pol'y 271.

10 Watson et al., *The Impact of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) on Victorian Guardianship Practice*, *Disability and Rehabilitation* (2022) 44 Disability & Rehab. 2806 < https://doi.org/10.1080/09638288.2020.1836680> -(as of Feb. 23, 2023).

11 Kohn, *Legislating Supported Decision-Making* (2021) 58 Harv. J.Legis. 313.

12 *Guardianship, Conservatorship, and Other Protective Arrangements Act*, National Conference of Commissioners on Uniform State Laws 2017 (2018) <https://www.uniformlaws.org/committees/community-home?CommunityKey=2eba8654-8871-4905-ad38-aabbd573911c> (as of Nov. 15, 2022).

13 Assem. Bill No. 1663 (2021–2022 Reg. Sess.) ch. 894 <https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1663> (as of Nov. 15, 2022).

14 Guardianship, Conservatorship, and Other Protective Arrangements Act, *supra*.

15 Jaworska, *Advance Directives and Substitute Decision-Making* (Summer 2017 Ed.) The Stanford Encyclopedia of Philosophy <https://plato.stanford.edu/cgi-bin/encyclopedia/archinfo.cgi?entry=advance-directives> (as of Nov. 15, 2022).

16 *Ibid.*

17 Assem. Bill No. 1663, *supra*.

18 Assem. Bill No. 1663, *supra*.

19 Assem. Bill No. 1663, *supra*.

20 Kohn, *supra*.

21 Kohn, *supra*.

22 Alaska Stat. Ann. section 13.56.080 (West 2020).

23 Assem. Bill No. 1663, *supra*.

24 Welf. & Inst. Code, section 21003, subd. (b).

25 Welf. & Inst. Code, section 21004, subds. (a) & (c).

26 Welf. & Inst. Code, section 21004, subds. (a) & (c).

27 Kohn, *supra*.

28 Assem. Bill No. 1663, *supra*.

29 ABA Model Rules Prof. Conduct, rule 1.14: Client with Diminished Capacity.

30 The State Bar Standing Committee Prof. Responsibility & Conduct Formal Opn. No. 2021-207 (Nov. 12, 2021) <https://www.calbar.ca.gov/Portals/0/documents/publicComment/2021/COPRAC-Formal-Opinion-No.2021-207.pdf>.

31 Wright, *Dementia, Autonomy, and Supported Healthcare Decision Making* (2020) 79 Md. L.Rev. 257.

32 Swadley, *How #FreeBritney Exposes the Need to Disable the Model Rules of Professional Conduct* (2022) 43 Mitchell Hamline L.J. Pub. Pol'y & Prac. 1.

33 Ross et al., Institute for Health and Aging, University of California, San Francisco, Alzheimer's Disease and Related Dementias Facts and Figures in California: Current Status and Future Projections (2021) <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CDCB/Pages/AlzheimersDataStatisticsReports.aspx>.

34 Castanzo et al., *Supported Decision-Making: Lessons from Pilot Projects* (2022) 72 Syracuse L.Rev. 99.

35 Assem. Bill No. 1663, *supra*.

36 Komarova and Thalhauser, *High Degree of Heterogeneity in Alzheimer's Disease Progression Patterns* (2011) 7 PLoS Computational Biology e1002251 <https://doi.org/10.1371/journal.pcbi.1002251>.

37 Assem. Bill No. 1636, *supra*; Welf. & Inst. Code, section 21005, subd. (a)(5).

38 Assem. Bill No. 1636, *supra*; Welf. & Inst. Code, section 21005, subd. *(c)*.

39 Largent & Paterson, *supra*.

40 Assem. Bill No. 1636, *supra*.

41 *Ibid.*

42 Welf. & Inst. Code, section 5402, subd. (a).

43 These reports would ordinarily be found on the Department of Health and Human Services (DHCS) statistics page, but they were not available when this article was written (see DHCS Data & Statistics Reports, DHCS <https://perma.cc/K7KQ-C8MX> (as of Nov. 16, 2022)). According to an email I received from the previous program manager, responsibility for collecting and reporting this information rests now with the DHCS Licensing and Certification Division, but that entity did not respond to my email inquiry.

44 BlackPast, *(1980) Thomas Sowell, "Politics and Opportunity: Background"* (2017) <https://www.blackpast.org/african-american-history/1980-thomas-sowell-politics-and-opportunity-background/>.

45 Cudjoe et al., *The Epidemiology of Social Isolation: National Health and Aging Trends Study* (2020) 75 Js. Gerontology. Series B Psychol. Scis. & Soc. Scis. 107.

46 Kohn, *supra*.