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CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1059

**Introduced by Assembly Member ~~Oropeza~~ Keeley
(Principal coauthors: Assembly Members Alquist and Correa)
(Coauthor: Senator Vincent)**

February 23, 2001

~~An act to add Section 69432.6 to the Education Code, relating to student financial aid. An act to amend Sections 2341 and 2854 of the Probate Code, and to amend Sections 366.4 and 11405 of the Welfare and Institutions Code, relating to conservators and guardians, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1059, as amended, ~~Oropeza~~ Keeley. ~~Student financial aid: grade point average~~ Conservators and guardians.

Existing law requires the Department of Justice to maintain a Statewide Registry of conservators and guardians, and requires all persons who wish to serve as a conservator or guardian, or who are currently serving as a conservator or guardian, to register and reregister with the Statewide Registry, except as provided. Existing law

allows the Department of Justice to charge a reasonable fee to persons registering and reregistering with the Statewide Registry for the cost of that registration. Existing law also prohibits a superior court from appointing or permitting a person to serve as a private professional conservator or private professional guardian unless the person has filed certain information with the county clerk.

This bill would except certain nonrelated guardians of the person of a minor, appointed under specified circumstances by the juvenile court or the probate court, from the registration and filing requirements.

The bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law requires that a grade point average be submitted for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average.~~

~~This bill would require the Superintendent of Public Instruction and the California Student Aid Commission to encourage each high school to file the high school grade point averages for each high school senior enrolled at the school, consistent with the Family Educational Rights and Privacy Act of 1974.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—Section 69432.6 is added to the Education Code,~~
- 2 *SECTION 1. The Legislature finds and declares as follows:*
- 3 *(a) Children who are in foster care or at risk of entering foster*
- 4 *care because their parents are unable to provide care and*
- 5 *supervision are in need of stable and permanent relationships with*
- 6 *responsible adult caregivers. When neither reunification with the*
- 7 *parent nor adoption is available as a permanent plan for the child,*
- 8 *legal guardianship can provide the safety and security of a*
- 9 *permanent home for the child. While many relatives become legal*
- 10 *guardians of foster children, foster parents are frequently willing*
- 11 *to commit to becoming guardians of foster children in their care.*
- 12 *Thus, foster parents are a valuable resource for the provision of*
- 13 *permanency and stability for children who cannot be returned to*
- 14 *their parents.*
- 15 *(b) Research shows that foster parents will often commit to*
- 16 *becoming legal guardians for sibling groups of two or more foster*



1 children, thus ensuring that important sibling relationships are
2 preserved. The maintenance of sibling relationships, as described
3 in Section 16002 of the Welfare and Institutions Code, is a public
4 policy priority.

5 (c) A recent change to Section 2341 of the Probate Code now
6 requires as of January 1, 2000, that all “private professional
7 guardians” register with the Statewide Registry and reregister
8 every three years thereafter, and be subject to the payment of a
9 registration and reregistration fee. “Private professional
10 guardians” are defined as all unrelated persons appointed as
11 guardians of the person, the estate, or both the person and the
12 estate of two or more wards. This fee has been initially established
13 at three hundred eighty-five dollars (\$385) every three years.

14 (d) This required registration fee presents a financial hardship
15 for existing foster parents who are guardians of two or more former
16 foster children, and acts as a financial deterrent to foster parents
17 considering guardianship for sibling groups in their care.

18 (e) Certain nonrelated adults who are appointed guardians of
19 the person of foster children or children who are at risk of entry into
20 foster care by juvenile or probate court are not the intended
21 population to be monitored by the Statewide Registry. When
22 nonrelated guardians are in receipt of assessment and case
23 management services by the county welfare department pursuant
24 to Section 11405 of the Welfare and Institutions Code there are
25 sufficient safeguards in place to monitor the suitability and
26 appropriateness of those nonrelated guardians of former foster
27 care children or those children at risk of foster care placement.

28 (f) Therefore, it is the intent of the Legislature to exempt from
29 the Statewide Registry those nonrelated guardians of the person of
30 minors who were appointed by the juvenile court pursuant to
31 Section 366.26 of the Welfare and Institutions Code, or appointed
32 by the probate court pursuant to Section 1514 of the Probate Code
33 and in receipt of AFDC-FC payments and case management
34 services from the county welfare department, as evidenced by a
35 Notice of Action of AFDC-FC eligibility.

36 SEC. 2. Section 2341 of the Probate Code is amended to read:

37 2341. (a) As used in this article, “private professional
38 conservator” means a person or entity appointed as conservator of
39 the person or estate, or both, of two or more conservatees at the
40 same time who are not related to the conservator by blood or



1 marriage, except a bank or other entity authorized to conduct the
2 business of a trust company, or any public officer or public agency
3 including the public guardian, public conservator, or other agency
4 of the State of California. In the case of an entity, all natural
5 persons who are authorized by the entity to perform the functions
6 of a conservator shall comply with this article. The court may, at
7 its discretion, require any person who is the conservator for only
8 one conservatee not related to the conservator by blood or
9 marriage to comply with this article, and in that case, references
10 in this article to a “private professional conservator” includes
11 those persons.

12 (b) As used in this article, “private professional guardian”
13 means a person or entity appointed as guardian of the person or
14 estate, or both, of two or more wards at the same time who are not
15 related to the guardian by blood or marriage, except a bank or other
16 entity authorized to conduct the business of a trust company, or any
17 public officer or public agency including the public guardian,
18 public conservator, or other agency of the State of California. In
19 the case of an entity, all natural persons who are authorized by the
20 entity to perform the functions of a guardian shall comply with this
21 article. The court may, at its discretion, require any person who is
22 the guardian for only one ward not related to the guardian by blood
23 or marriage to comply with this article, and in that case, references
24 in this article to a “private professional guardian” includes those
25 persons.

26 *As used in this article, “private professional guardian” does not*
27 *include a nonrelated guardian of the person of a minor appointed*
28 *by the court, if the appointment results from the selection of a*
29 *permanency plan for a dependent child or ward pursuant to*
30 *Section 366.26 of the Welfare and Institutions Code. It also does*
31 *not include a nonrelated guardian of the person of a minor*
32 *appointed by the court pursuant to Section 1514 if that child is in*
33 *receipt of AFDC-FC payments and case management services*
34 *from the county welfare department, as evidenced by a Notice of*
35 *Action of AFDC-FC eligibility.*

36 (c) As used in this article, “private professional trustee” means
37 a nonprofit charitable corporation appointed as trustee pursuant to
38 Section 15604.

39 *SEC. 3. Section 2854 of the Probate Code is amended to read:*



1 2854. (a) This chapter does not apply to any public
2 conservator, public guardian, or to any conservator or guardian
3 who is related to the conservatee or ward by blood, marriage, or
4 adoption. This chapter does not apply to any person who is not
5 required to file information with the county clerk pursuant to
6 Section 2340, to any person or entity subject to the oversight of a
7 local government, including an employee of a city, county, or city
8 and county, or to any person or entity subject to the oversight of
9 the state or federal government, including a supervised financial
10 institution.

11 (b) This chapter does not apply to any conservator who resided
12 in the same home with the conservatee immediately prior to the
13 condition or event that gave rise to the necessity of a
14 conservatorship. This subdivision does not create any order or
15 preference of appointment, but simply exempts a conservator
16 described by this subdivision from registration.

17 (c) *This chapter does not apply to a nonrelated guardian of the*
18 *person of a minor appointed by the court as the result of the*
19 *selection of a permanency plan for a dependent child or ward*
20 *pursuant to Section 366.26 of the Welfare and Institutions Code.*
21 *It also does not apply to a nonrelated guardian of the person of a*
22 *minor appointed pursuant to Section 1514 if that child is in receipt*
23 *of AFDC-FC payments and case management services from the*
24 *county welfare department, as evidenced by a Notice of Action of*
25 *AFDC-FC eligibility.*

26 *SEC. 4. Section 366.4 of the Welfare and Institutions Code is*
27 *amended to read:*

28 366.4. (a) Any minor for whom a guardianship has been
29 established resulting from the selection or implementation of a
30 permanent plan pursuant to Section ~~366.25~~ or 366.26 is within the
31 jurisdiction of the juvenile court. For those minors, Part 2
32 (commencing with Section 1500) of Division 4 of the Probate
33 Code, relating to guardianship, shall not apply. If no specific
34 provision of this code or the California Rules of Court is
35 applicable, the provisions applicable to the administration of
36 estates under Part 4 (commencing with Section 2100) of Division
37 4 of the Probate Code govern so far as they are applicable to like
38 situations.

39 (b) *Nonrelated legal guardians of the person of a minor*
40 *established as a result of a permanent plan selected pursuant to*



1 Section 366.26 are exempt from the provisions of Sections 2850
2 and 2851 of the Probate Code.

3 SEC. 5. Section 11405 of the Welfare and Institutions Code is
4 amended to read:

5 11405. (a) AFDC-FC shall be paid to an otherwise eligible
6 child living with a nonrelated legal guardian, provided that the
7 legal guardian cooperates with the county welfare department in
8 all of the following:

9 (1) Developing a written assessment of the child’s needs;

10 (2) Updating the assessment no less frequently than once every
11 six months;

12 (3) Carrying out the case plan developed by the county.

13 (b) When AFDC-FC is applied for on behalf of a child living
14 with a nonrelated legal guardian the county welfare department
15 shall *do all of the following*:

16 (1) Develop a written assessment of the child’s needs;

17 (2) Update ~~such~~ *the* assessments no less frequently than once
18 every six months;

19 (3) Develop a case plan that specifies how the problems
20 identified in the assessment are to be addressed;

21 (4) Make visits to the child as often as appropriate, but in no
22 event less often than once every six months.

23 (c) Where the child is a parent and has a child living with him
24 or her in the same eligible facility, the assessment required by
25 paragraph (1) of subdivision (a) shall include the needs of his or
26 her child.

27 (d) *Nonrelated legal guardians of eligible children who are in*
28 *receipt of AFDC-FC payments described in this section are exempt*
29 *from the requirement to register with the Statewide Registry of*
30 *Private Professional Guardians pursuant to Sections 2850 and*
31 *2851 of the Probate Code.*

32 SEC. 6. *This act is an urgency statute necessary for the*
33 *immediate preservation of the public peace, health, or safety*
34 *within the meaning of Article IV of the Constitution and shall go*
35 *into immediate effect. The facts constituting the necessity are:*

36 *In order to remove, as soon as possible, factors that could*
37 *prevent or dissuade nonrelated individuals from becoming*
38 *guardians of foster children and children at risk of becoming foster*
39 *children, it is necessary that this act take effect immediately.*

40 ~~to read:~~



1 ~~69432.6. The Superintendent of Public Instruction and the~~
2 ~~California Student Aid Commission annually shall encourage~~
3 ~~each high school to file, electronically and on time, the high school~~
4 ~~grade point average, for each high school senior enrolled at the~~
5 ~~school, consistent with the federal Family Educational Rights and~~
6 ~~Privacy Act of 1974 (FERPA) (20 U.S.C. Sec. 1232g).~~

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