

AMENDED IN ASSEMBLY MAY 3, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1666**

**Introduced by Assembly Member Keeley**

February 23, 2001

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~~An act to add Article 6.5 (commencing with Section 11470) to, and to repeal Article 6 (commencing with Section 11460.1) of, Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to housing, and declaring the urgency thereof, to take effect immediately. An act to amend Sections 2341, 2850, 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 1666, as amended, Keeley. ~~Transitional housing placement programs—~~ *Conservators and guardians: foster homes.*

~~Existing law requires the State Department of Social Services to license community care facilities participating in transitional housing placement programs to provide supervised apartment living services for certain 17 and 18 year old persons who are in out of home placement under the supervision of the county department of social services or the county probation department and who are participating in an independent living program.~~

~~Existing law requires the department to adopt regulations to govern transitional housing placement facilities, including regulations establishing a ratesetting system for transitional housing programs.~~

~~This bill would permit the department to adopt emergency regulations for implementation of this ratesetting system.~~

*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 also exempt a private professional guardian of a minor who has been or is at risk of being put in a foster home or facility from the Statewide Registry fees.*

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

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 ~~SECTION 1. — Article 6 (commencing with Section 11460.1)~~
- 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.*



1 (b) Research shows that foster parents will often commit to  
2 becoming legal guardians for sibling groups of two or more foster  
3 children, thus ensuring that important sibling relationships are  
4 preserved. The maintenance of sibling relationships, as described  
5 in Section 16002 of the Welfare and Institutions Code, is a public  
6 policy priority.

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

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

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

30 (f) Therefore, it is the intent of the Legislature to exempt from  
31 the Statewide Registry those nonrelated guardians of the person of  
32 minors who were appointed by the juvenile court pursuant to  
33 Section 366.26 of the Welfare and Institutions Code, or appointed  
34 by the probate court pursuant to Section 1514 of the Probate Code  
35 and in receipt of AFDC-FC payments pursuant to Section 11405  
36 of the Welfare and Institutions Code.

37 SEC. 2. Section 2341 of the Probate Code is amended to read:  
38 2341. (a) As used in this article, “private professional  
39 conservator” means a person or entity appointed as conservator of  
40 the person or estate, or both, of two or more conservatees at the



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

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

27 *As used in this article, “private professional guardian” does not*  
28 *include a nonrelated guardian of the person of a minor appointed*  
29 *by the court, where the appointment results from the selection of*  
30 *a permanency plan for a dependent child or ward pursuant to*  
31 *Section 366.26 of the Welfare and Institutions Code. It also does*  
32 *not include a nonrelated guardian appointed by the court pursuant*  
33 *to Section 1514 of a child who is in receipt of AFDC-FC payments*  
34 *and case management services from the county welfare*  
35 *department pursuant to Section 11405 of the Welfare and*  
36 *Institutions Code.*

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

40 *SEC. 3. Section 2850 of the Probate Code is amended to read:*



1 2850. (a) The Department of Justice shall maintain a  
2 Statewide Registry and shall make all information in the registry  
3 available to the court for any purpose, but shall otherwise be kept  
4 confidential. On request, the registry may disclose to the public  
5 whether an individual is or is not registered with the Statewide  
6 Registry. Except as otherwise provided in Section 2854, all  
7 persons who wish to serve as a conservator or guardian or who are  
8 currently serving as a conservator or guardian shall register with  
9 the Statewide Registry and shall re-register every three years  
10 thereafter.

11 (b) All conservators and guardians required to file information  
12 with the county clerk pursuant to Section 2340 and to register  
13 pursuant to this chapter shall file a signed declaration with the  
14 Statewide Registry. A person who signs a declaration pursuant to  
15 this subdivision asserting the truth of any material matter which he  
16 or she knows to be false is guilty of a misdemeanor punishable by  
17 imprisonment for up to one year in a county jail, or a fine of not  
18 more than two thousand dollars (\$2,000), or both that fine and  
19 imprisonment. The declaration shall contain the following  
20 information:

- 21 (1) Full name.
- 22 (2) Professional name, if different from (1).
- 23 (3) Business address.
- 24 (4) Business telephone number or numbers.
- 25 (5) His or her educational background and professional  
26 experience, including verification of any college or graduate  
27 degree claimed.
- 28 (6) The names of the conservator's or guardian's current  
29 conservatees.
- 30 (7) The aggregate dollar value of all assets currently under the  
31 conservator's or guardian's supervision.
- 32 (8) Whether he or she has ever been removed for cause or  
33 resigned as conservator or guardian in a specific case, the  
34 circumstances of that removal or resignation, and the case names,  
35 court locations, and case numbers.

36 (c) On request, the registry may disclose to a member of the  
37 public the educational background and professional experience of  
38 a conservator or guardian registered with the Statewide Registry.

39 (d) The Department of Justice may charge a reasonable fee to  
40 persons registering and re-registering with the Statewide Registry



1 for the cost of that registration. The Department of Justice shall  
2 issue a certificate of registration to each registrant.

3 (e) Each court clerk shall forward a copy of any complaint filed  
4 with that court, and found to be meritorious by that court, against  
5 a conservator or guardian in his or her capacity as a conservator or  
6 guardian for inclusion in the Statewide Registry. The Statewide  
7 Registry shall place any copies of those complaints in the file of  
8 that conservator or guardian.

9 (f) *A private professional guardian, as defined in Section 2341,*  
10 *of the person of a minor who has been or is at risk of being placed*  
11 *in a home or facility described in Section 11402 of the Welfare and*  
12 *Institutions Code, shall be exempt from the registration fees*  
13 *provided for in subdivision (d).*

14 SEC. 4. Section 2854 of the Probate Code is amended to read:

15 2854. (a) This chapter does not apply to any public  
16 conservator, public guardian, or to any conservator or guardian  
17 who is related to the conservatee or ward by blood, marriage, or  
18 adoption. This chapter does not apply to any person who is not  
19 required to file information with the county clerk pursuant to  
20 Section 2340, to any person or entity subject to the oversight of a  
21 local government, including an employee of a city, county, or city  
22 and county, or to any person or entity subject to the oversight of  
23 the state or federal government, including a supervised financial  
24 institution.

25 (b) This chapter does not apply to any conservator who resided  
26 in the same home with the conservatee immediately prior to the  
27 condition or event that gave rise to the necessity of a  
28 conservatorship. This subdivision does not create any order or  
29 preference of appointment, but simply exempts a conservator  
30 described by this subdivision from registration.

31 (c) *This chapter does not apply to a nonrelated guardian of the*  
32 *person of a minor appointed by the court as the result of the*  
33 *selection of a permanency plan for a dependent child or ward*  
34 *pursuant to Section 366.26 of the Welfare and Institutions Code.*  
35 *It also does not include a nonrelated guardian appointed pursuant*  
36 *to Section 1514 of a minor who is in receipt of AFDC-FC payments*  
37 *and case management services from the county welfare*  
38 *department pursuant to Section 11405 of the Welfare and*  
39 *Institutions Code.*



1 SEC. 5. Section 366.4 of the Welfare and Institutions Code is  
2 amended to read:

3 366.4. (a) Any minor for whom a guardianship has been  
4 established resulting from the selection or implementation of a  
5 permanent plan pursuant to Section ~~366.25~~ or 366.26 is within the  
6 jurisdiction of the juvenile court. For those minors, Part 2  
7 (commencing with Section 1500) of Division 4 of the Probate  
8 Code, relating to guardianship, shall not apply. If no specific  
9 provision of this code or the California Rules of Court is  
10 applicable, the provisions applicable to the administration of  
11 estates under Part 4 (commencing with Section 2100) of Division  
12 4 of the Probate Code govern so far as they are applicable to like  
13 situations.

14 (b) Nonrelated legal guardians of the person of a minor  
15 established as a result of a permanent plan selected pursuant to  
16 Section 366.26 shall be exempt from the provisions of Sections  
17 2340, 2850, and 2851 of the Probate Code.

18 SEC. 6. Section 11405 of the Welfare and Institutions Code is  
19 amended to read:

20 11405. (a) AFDC-FC shall be paid to an otherwise eligible  
21 child living with a nonrelated legal guardian, provided that the  
22 legal guardian cooperates with the county welfare department in  
23 all of the following:

- 24 (1) Developing a written assessment of the child's needs;.  
25 (2) Updating the assessment no less frequently than once every  
26 six months;.  
27 (3) Carrying out the case plan developed by the county.

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

- 31 (1) Develop a written assessment of the child's needs;.  
32 (2) Update such assessments no less frequently than once every  
33 six months;.  
34 (3) Develop a case plan that specifies how the problems  
35 identified in the assessment are to be addressed;.  
36 (4) Make visits to the child as often as appropriate, but in no  
37 event less often than once every six months.

38 (c) Where the child is a parent and has a child living with him  
39 or her in the same eligible facility, the assessment required by



1 paragraph (1) of subdivision (a) shall include the needs of his or  
2 her child.

3 (d) *Nonrelated legal guardians of eligible children who are in*  
4 *receipt of AFDC-FC payments described in this section shall be*  
5 *exempt from the requirement to file information with the county*  
6 *clerk pursuant to Section 2340 of the Probate Code or to register*  
7 *with the Statewide Registry of Private Professional Guardians*  
8 *pursuant to Section 2850 of the Probate Code.*

9 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions  
10 Code is repealed:

11 ~~SEC. 2. Article 6.5 (commencing with Section 11470) is~~  
12 ~~added to Chapter 2 of Part 3 of Division 9 of the Welfare and~~  
13 ~~Institutions Code, to read:~~

14  
15 ~~Article 6.5. Transitional Housing~~

16  
17 ~~11470. (a) The department shall develop a ratesetting system~~  
18 ~~for licensed community care facilities participating in transitional~~  
19 ~~housing placement programs, as defined by Section 16522, and as~~  
20 ~~described by Section 1559.110 of the Health and Safety Code. The~~  
21 ~~rates shall not exceed the aggregate placement costs for persons~~  
22 ~~qualifying under Section 16522 if they had not participated in the~~  
23 ~~transitional housing placement program.~~

24 ~~(b) The department shall adopt and maintain regulations that~~  
25 ~~establish a method for determining the rates for facilities specified~~  
26 ~~in subdivision (a).~~

27 ~~11470.5. The State Department of Social Services may adopt~~  
28 ~~emergency regulations to implement this article in accordance~~  
29 ~~with the Administrative Procedure Act (Chapter 3.5 (commencing~~  
30 ~~with Section 11340) of Part 1 of Division 3 of Title 2 of the~~  
31 ~~Government Code). The initial adoption of emergency regulations~~  
32 ~~and one readoption of the initial regulations shall be deemed to be~~  
33 ~~an emergency and necessary for the immediate preservation of the~~  
34 ~~public peace, health and safety, or general welfare. Initial~~  
35 ~~emergency regulations and the first readoption of those~~  
36 ~~regulations shall be exempt from review by the Office of~~  
37 ~~Administrative Law. The emergency regulations authorized by~~  
38 ~~this section shall be submitted to the Office of Administrative Law~~  
39 ~~for filing with the Secretary of State and shall remain in effect for~~  
40 ~~no more than 180 days.~~



1 ~~SEC. 3.~~

2 *SEC. 7.* This act is an urgency statute necessary for the  
3 immediate preservation of the public peace, health, or safety  
4 within the meaning of Article IV of the Constitution and shall go  
5 into immediate effect. The facts constituting the necessity are:

6 ~~In order to ensure that the ratesetting system for transitional~~  
7 ~~housing programs is established at the earliest possible time, it is~~  
8 ~~necessary that this act go into immediate effect.~~

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

