

AMENDED IN SENATE JULY 9, 2001

AMENDED IN ASSEMBLY MAY 3, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1666

Introduced by Assembly Member Keeley

February 23, 2001

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. Conservators and guardians: foster homes.

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: 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. The Legislature finds and declares as follows:
- 2 (a) Children who are in foster care or at risk of entering foster
- 3 care because their parents are unable to provide care and
- 4 supervision are in need of stable and permanent relationships with
- 5 responsible adult caregivers. When neither reunification with the
- 6 parent nor adoption is available as a permanent plan for the child,
- 7 legal guardianship can provide the safety and security of a
- 8 permanent home for the child. While many relatives become legal
- 9 guardians of foster children, foster parents are frequently willing
- 10 to commit to becoming guardians of foster children in their care.
- 11 Thus, foster parents are a valuable resource for the provision of
- 12 permanency and stability for children who cannot be returned to
- 13 their parents.
- 14 (b) Research shows that foster parents will often commit to
- 15 becoming legal guardians for sibling groups of two or more foster
- 16 children, thus ensuring that important sibling relationships are
- 17 preserved. The maintenance of sibling relationships, as described
- 18 in Section 16002 of the Welfare and Institutions Code, is a public
- 19 policy priority.
- 20 (c) A recent change to Section 2341 of the Probate Code now
- 21 requires as of January 1, 2000, that all “private professional
- 22 guardians” register with the Statewide Registry and reregister
- 23 every three years thereafter, and be subject to the payment of a
- 24 registration and reregistration fee. “Private professional
- 25 guardians” are defined as all unrelated persons appointed as
- 26 guardians of the person, the estate, or both the person and the estate
- 27 of two or more wards. This fee has been initially established at
- 28 three hundred eighty-five dollars (\$385) every three years.



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

5 (e) Certain nonrelated adults who are appointed guardians of
6 the person of foster children or children who are at risk of entry
7 into foster care by juvenile or probate court are not the intended
8 population to be monitored by the Statewide Registry. When
9 nonrelated guardians are in receipt of assessment and case
10 management services by the county welfare department pursuant
11 to Section 11405 of the Welfare and Institutions Code there are
12 sufficient safeguards in place to monitor the suitability and
13 appropriateness of those nonrelated guardians of former foster
14 care children or those children at risk of foster care placement.

15 (f) Therefore, it is the intent of the Legislature to exempt from
16 the Statewide Registry those nonrelated guardians of the person of
17 minors who were appointed by the juvenile court pursuant to
18 Section 366.26 of the Welfare and Institutions Code, or appointed
19 by the probate court pursuant to Section 1514 of the Probate Code
20 and in receipt of AFDC-FC payments pursuant to Section 11405
21 of the Welfare and Institutions Code.

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

23 2341. (a) As used in this article, “private professional
24 conservator” means a person or entity appointed as conservator of
25 the person or estate, or both, of two or more conservatees at the
26 same time who are not related to the conservator by blood or
27 marriage, except a bank or other entity authorized to conduct the
28 business of a trust company, or any public officer or public agency
29 including the public guardian, public conservator, or other agency
30 of the State of California. In the case of an entity, all natural
31 persons who are authorized by the entity to perform the functions
32 of a conservator shall comply with this article. The court may, at
33 its discretion, require any person who is the conservator for only
34 one conservatee not related to the conservator by blood or
35 marriage to comply with this article, and in that case, references
36 in this article to a “private professional conservator” includes
37 those persons.

38 (b) As used in this article, “private professional guardian”
39 means a person or entity appointed as guardian of the person or
40 estate, or both, of two or more wards at the same time who are not



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

12 As used in this article, “private professional guardian” does not
13 include a nonrelated guardian of the person of a minor appointed
14 by the court, where the appointment results from the selection of
15 a permanency plan for a dependent child or ward pursuant to
16 Section 366.26 of the Welfare and Institutions Code. It also does
17 not include a nonrelated guardian *of the person of a minor*
18 appointed by the court pursuant to Section 1514 ~~of a child who if~~
19 ~~that child~~ is in receipt of AFDC-FC payments and case
20 management services from the county welfare department
21 pursuant to Section 11405 of the Welfare and Institutions Code.
22 *department, as evidenced by a Notice of Action of AFDC-FC*
23 *eligibility.*

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

27 ~~SEC. 3.—Section 2850 of the Probate Code is amended to read:~~

28 ~~2850.—(a) The Department of Justice shall maintain a~~
29 ~~Statewide Registry and shall make all information in the registry~~
30 ~~available to the court for any purpose, but shall otherwise be kept~~
31 ~~confidential. On request, the registry may disclose to the public~~
32 ~~whether an individual is or is not registered with the Statewide~~
33 ~~Registry. Except as otherwise provided in Section 2854, all~~
34 ~~persons who wish to serve as a conservator or guardian or who are~~
35 ~~currently serving as a conservator or guardian shall register with~~
36 ~~the Statewide Registry and shall re-register every three years~~
37 ~~thereafter.~~

38 ~~(b) All conservators and guardians required to file information~~
39 ~~with the county clerk pursuant to Section 2340 and to register~~
40 ~~pursuant to this chapter shall file a signed declaration with the~~



1 ~~Statewide Registry. A person who signs a declaration pursuant to~~
2 ~~this subdivision asserting the truth of any material matter which he~~
3 ~~or she knows to be false is guilty of a misdemeanor punishable by~~
4 ~~imprisonment for up to one year in a county jail, or a fine of not~~
5 ~~more than two thousand dollars (\$2,000), or both that fine and~~
6 ~~imprisonment. The declaration shall contain the following~~
7 ~~information:~~

8 ~~(1) Full name.~~

9 ~~(2) Professional name, if different from (1).~~

10 ~~(3) Business address.~~

11 ~~(4) Business telephone number or numbers.~~

12 ~~(5) His or her educational background and professional~~
13 ~~experience, including verification of any college or graduate~~
14 ~~degree claimed.~~

15 ~~(6) The names of the conservator's or guardian's current~~
16 ~~conservatees.~~

17 ~~(7) The aggregate dollar value of all assets currently under the~~
18 ~~conservator's or guardian's supervision.~~

19 ~~(8) Whether he or she has ever been removed for cause or~~
20 ~~resigned as conservator or guardian in a specific case, the~~
21 ~~circumstances of that removal or resignation, and the case names,~~
22 ~~court locations, and case numbers.~~

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

26 ~~(d) The Department of Justice may charge a reasonable fee to~~
27 ~~persons registering and re-registering with the Statewide Registry~~
28 ~~for the cost of that registration. The Department of Justice shall~~
29 ~~issue a certificate of registration to each registrant.~~

30 ~~(e) Each court clerk shall forward a copy of any complaint filed~~
31 ~~with that court, and found to be meritorious by that court, against~~
32 ~~a conservator or guardian in his or her capacity as a conservator or~~
33 ~~guardian for inclusion in the Statewide Registry. The Statewide~~
34 ~~Registry shall place any copies of those complaints in the file of~~
35 ~~that conservator or guardian.~~

36 ~~(f) A private professional guardian, as defined in Section 2341,~~
37 ~~of the person of a minor who has been or is at risk of being placed~~
38 ~~in a home or facility described in Section 11402 of the Welfare and~~
39 ~~Institutions Code, shall be exempt from the registration fees~~
40 ~~provided for in subdivision (d).~~



1 ~~SEC. 4.~~

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

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

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

19 (c) This chapter does not apply to a nonrelated guardian of the
20 person of a minor appointed by the court as the result of the
21 selection of a permanency plan for a dependent child or ward
22 pursuant to Section 366.26 of the Welfare and Institutions Code.
23 It also does not include a nonrelated guardian *of the person of a*
24 *minor* appointed pursuant to Section 1514 ~~of a minor who if that~~
25 *child* is in receipt of AFDC-FC payments and case management
26 services from the county welfare department pursuant to Section
27 ~~11405 of the Welfare and Institutions Code.~~ *department, as*
28 *evidenced by a Notice of Action of AFDC-FC eligibility.*

29 ~~SEC. 5.~~

30 SEC. 4. Section 366.4 of the Welfare and Institutions Code is
31 amended to read:

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



1 4 of the Probate Code govern so far as they are applicable to like
2 situations.

3 (b) Nonrelated legal guardians of the person of a minor
4 established as a result of a permanent plan selected pursuant to
5 Section 366.26 shall be exempt from the provisions of Sections
6 ~~2340, 2850~~, 2850 and 2851 of the Probate Code.

7 ~~SEC. 6.~~

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

10 11405. (a) AFDC-FC shall be paid to an otherwise eligible
11 child living with a nonrelated legal guardian, provided that the
12 legal guardian cooperates with the county welfare department in
13 all of the following:

- 14 (1) Developing a written assessment of the child’s needs.
- 15 (2) Updating the assessment no less frequently than once every
16 six months.
- 17 (3) Carrying out the case plan developed by the county.

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

- 21 (1) Develop a written assessment of the child’s needs.
- 22 (2) Update such assessments no less frequently than once every
23 six months.
- 24 (3) Develop a case plan that specifies how the problems
25 identified in the assessment are to be addressed.
- 26 (4) Make visits to the child as often as appropriate, but in no
27 event less often than once every six months.

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

32 (d) Nonrelated legal guardians of eligible children who are in
33 receipt of AFDC-FC payments described in this section shall be
34 ~~exempt from the requirement to file information with the county~~
35 ~~clerk pursuant to Section 2340 of the Probate Code or to register~~
36 ~~exempt from the requirement to register~~ with the Statewide
37 Registry of Private Professional Guardians pursuant to ~~Section~~
38 ~~2850 Sections~~ 2850 and 2851 of the Probate Code.

39 ~~SEC. 7.~~



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

5 In order to remove as soon as possible factors that could prevent
6 or dissuade nonrelated individuals from becoming guardians of
7 foster children and children at risk of becoming foster children, it
8 is necessary that this act take effect immediately.

