

Assembly Bill No. 1340

CHAPTER 293

An act to amend Sections 1821, 1822, 2250, 2323, 2340, 2350, 2352, 2620, and 3140 of, and to add Chapter 7 (commencing with Section 1970) to Part 3 of Division 4 of, the Probate Code, relating to guardians and conservators.

[Approved by Governor September 25, 2008. Filed with
Secretary of State September 25, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1340, Jones. Guardians and conservators.

(1) Existing law provides for the creation of conservatorships and guardianships. Existing law requires that a petition to establish conservatorship include specified information.

This bill would require, if the petitioner to establish conservatorship is licensed as a professional fiduciary, that the petition contain the petitioner's registration information and other specified information, unless the petition for a temporary guardianship or conservatorship is filed together with a petition for a permanent appointment. The bill would require, if the petition is filed by a person other than the proposed conservatee, that the petition include a declaration of due diligence showing efforts to find relatives and to ascertain preferences of the proposed conservatee or why it was not feasible to contact the relatives or ascertain those preferences.

(2) Existing law requires that notice be given to specified persons before a hearing on a petition for appointment of a conservator.

This bill would require, in addition, that if the petition states that the petitioner and the proposed conservator have no prior relationship with the proposed conservatee and are not nominated by a family member, friend, or other person with a relationship to the proposed conservatee, notice be mailed to the public guardian of the county in which the petition is filed.

(3) Existing law allows a court to take specified actions with respect to a vexatious litigant, as defined.

This bill would provide that, if a person other than the conservatee files a petition for termination of the conservatorship, or instruction to the conservator, that is unmeritorious or intended to harass or annoy the conservator, and the person has previously filed pleadings in the conservatorship proceedings that were unmeritorious or intended to harass or annoy the conservator, the petition shall be grounds for the court to determine that the person is a vexatious litigant for the purposes of the above provisions.

(4) Existing law permits any person entitled to petition for the appointment of a guardian or conservator to file a petition for the

appointment of a temporary guardian or temporary conservator of the person or estate or both. Existing law requires that notice for the hearing on the appointment be given, as specified, at least 5 days before the hearing on the petition, unless the court for good cause otherwise orders.

This bill would require that the notice for the hearing on the appointment of a temporary guardian or temporary conservator, as described above, be given at least 5 court days before the hearing.

(5) Existing law generally requires every person appointed as guardian or conservator to, before letters are issued, give a bond approved by the court. Existing law enumerates exceptions to that law, including that the court may dispense with the requirement of a bond if it appears likely that the estate will satisfy specified conditions for its duration. Existing law also provides that if at any time it appears that the estate does not satisfy those conditions, the court may require the filing of a bond.

This bill would instead provide that if at any time it appears that the estate does not satisfy those conditions, the court would be required to require the filing of a bond unless the court determines that good cause exists, as specified. The bill would also make technical, nonsubstantive changes to that provision.

(6) Existing law, operative on and after January 1, 2009, prohibits any person from acting as a professional fiduciary unless that person is licensed as a professional fiduciary. Existing law creates the Professional Fiduciaries Bureau to administer a licensing and regulatory program in this regard. Existing law, on and after July 1, 2008, prohibits a superior court from appointing a person to carry out the duties of a professional fiduciary unless that person has a valid professional fiduciary's license.

This bill would prohibit a superior court from permitting a person without a valid professional fiduciary's license to continue to carry out the duties of a professional fiduciary, unless that person is excluded from the definition of professional fiduciary or is exempt from professional fiduciary licensing requirements, as specified.

(7) Existing law provides that a conservator may establish the residence of the conservatee at any place within this state without the permission of the court. Existing law requires permission of the court before the residence of a ward or conservatee is established outside the state.

This bill would apply the provisions described above to proposed wards and conservatees. If the residence of a ward or conservatee is to be established outside the state, the bill would require that notice of this action, together with a copy of the petition to do so, be given in a specified manner. The bill would except a person with developmental disabilities for whom the Director of Developmental Services or a regional center, as defined, acts as the conservator from these provisions, and would generally except a regional center, as defined, from the definition of personal residence in connection with provisions relating to conservatorship and guardianship.

(8) Existing law requires a guardian or conservator to present an accounting of the assets of the estate of the ward or conservatee to the court for settlement and allowance in a specified manner at the end of one year

from the time of appointment and, after that, not less frequently than once every 2 years, unless otherwise ordered by the court to be more frequent. Existing law requires the guardian or conservator to file specified supporting documents with the accounting. If the accounting is the first court accounting of the guardianship or conservatorship, existing law requires the guardian or conservator to provide all account statements showing the account balance immediately preceding the date the conservator or guardian was appointed and all account statements showing the account through the closing date of the first court accounting.

This bill would require a guardian or conservator, in a first court accounting, to provide the court all account statements showing the account balance as of, rather than through, the closing date of the first court accounting.

(9) Existing law requires a conservator served pursuant to specified provisions of law to appear at a hearing and represent a spouse alleged to lack legal capacity for a proposed transaction involving community property. Existing law allows the court, if the spouse is not otherwise represented, to appoint the public guardian, the public administrator, or a guardian ad litem to represent the interests of the spouse. Existing law requires that, if the spouse is unable to retain legal counsel, upon request of the spouse, the court appoint specified counsel to represent the spouse.

This bill would permit a court to appoint an investigator to review the proposed transaction and report to the court regarding its advisability. The bill would require, in addition, that if the petition proposes a transfer of substantial assets to the petitioner from the other spouse, counsel be appointed for the other spouse, unless the court finds that the spouse has competently retained independent counsel for the proceeding or the spouse's interests are being protected under the above provisions of law allowing the appointment of the public guardian, the public administrator, or a guardian ad litem to represent the interests of the spouse.

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

SECTION 1. Section 1821 of the Probate Code is amended to read:

1821. (a) The petition shall request that a conservator be appointed for the person or estate, or both, shall specify the name, address, and telephone number of the proposed conservator and the name, address, and telephone number of the proposed conservatee, and state the reasons why a conservatorship is necessary. Unless the petitioner is a bank or other entity authorized to conduct the business of a trust company, the petitioner shall also file supplemental information as to why the appointment of a conservator is required. The supplemental information to be submitted shall include a brief statement of facts addressed to each of the following categories:

(1) The inability of the proposed conservatee to properly provide for his or her needs for physical health, food, clothing, and shelter.

(2) The location of the proposed conservatee's residence and the ability of the proposed conservatee to live in the residence while under conservatorship.

(3) Alternatives to conservatorship considered by the petitioner and reasons why those alternatives are not available.

(4) Health or social services provided to the proposed conservatee during the year preceding the filing of the petition, when the petitioner has information as to those services.

(5) The inability of the proposed conservatee to substantially manage his or her own financial resources, or to resist fraud or undue influence.

The facts required to address the categories set forth in paragraphs (1) to (5), inclusive, shall be set forth by the petitioner when he or she has knowledge of the facts or by the declarations or affidavits of other persons having knowledge of those facts.

Where any of the categories set forth in paragraphs (1) to (5), inclusive, are not applicable to the proposed conservatorship, the petitioner shall so indicate and state on the supplemental information form the reasons therefor.

The Judicial Council shall develop a supplemental information form for the information required pursuant to paragraphs (1) to (5), inclusive, after consultation with individuals or organizations approved by the Judicial Council, who represent public conservators, court investigators, the State Bar, specialists with experience in performing assessments and coordinating community-based services, and legal services for the elderly and disabled.

The supplemental information form shall be separate and distinct from the form for the petition. The supplemental information shall be confidential and shall be made available only to parties, persons given notice of the petition who have requested this supplemental information or who have appeared in the proceedings, their attorneys, and the court. The court shall have discretion at any other time to release the supplemental information to other persons if it would serve the interests of the conservatee. The clerk of the court shall make provision for limiting disclosure of the supplemental information exclusively to persons entitled thereto under this section.

(b) The petition shall set forth, so far as they are known to the petitioner, the names and addresses of the spouse or domestic partner, and of the relatives of the proposed conservatee within the second degree. If no spouse or domestic partner of the proposed conservatee or relatives of the proposed conservatee within the second degree are known to the petitioner, the petition shall set forth, so far as they are known to the petitioner, the names and addresses of the following persons who, for the purposes of Section 1822, shall all be deemed to be relatives:

(1) A spouse or domestic partner of a predeceased parent of a proposed conservatee.

(2) The children of a predeceased spouse or domestic partner of a proposed conservatee.

(3) The siblings of the proposed conservatee's parents, if any, but if none, then the natural and adoptive children of the proposed conservatee's parents' siblings.

(4) The natural and adoptive children of the proposed conservatee's siblings.

(c) Unless the petition for appointment of a temporary guardian or a temporary conservator is filed together with a petition for appointment of a guardian or a conservator, if the petitioner is licensed under the Professional Fiduciaries Act, Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code, the petition shall include both of the following:

(1) A statement of the petitioner's license information.

(2) A statement explaining who engaged the petitioner or how the petitioner was engaged to file the petition for appointment of a conservator and what prior relationship the petitioner had with the proposed conservatee or the proposed conservatee's family or friends.

(d) If the petition is filed by a person other than the proposed conservatee, the petition shall include a declaration of due diligence showing both of the following:

(1) Either the efforts to find the proposed conservatee's relatives or why it was not feasible to contact any of them.

(2) Either the preferences of the proposed conservatee concerning the appointment of a conservator and the appointment of the proposed conservator or why it was not feasible to ascertain those preferences.

(e) If the petition is filed by a person other than the proposed conservatee, the petition shall state whether or not the petitioner is a creditor or debtor, or the agent of a creditor or debtor, of the proposed conservatee.

(f) If the proposed conservatee is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services and that fact is known to the petitioner, the petition shall state that fact and name the institution.

(g) The petition shall state, so far as is known to the petitioner, whether or not the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration and the estimated amount of the monthly benefit payable by the Veterans Administration for the proposed conservatee.

(h) The petition may include an application for any order or orders authorized under this division, including, but not limited to, orders under Chapter 4 (commencing with Section 1870).

(i) The petition may include a further statement that the proposed conservatee is not willing to attend the hearing on the petition, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.

(j) In the case of an allegedly developmentally disabled adult, the petition shall set forth the following:

(1) The nature and degree of the alleged disability, the specific duties and powers requested by or for the limited conservator, and the limitations of civil and legal rights requested to be included in the court's order of appointment.

(2) Whether or not the proposed limited conservatee is or is alleged to be developmentally disabled.

Reports submitted pursuant to Section 416.8 of the Health and Safety Code meet the requirements of this section, and conservatorships filed pursuant to Article 7.5 (commencing with Section 416) of Part 1 of Division 1 of the Health and Safety Code are exempt from providing the supplemental information required by this section, so long as the guidelines adopted by the State Department of Developmental Services for regional centers require the same information that is required pursuant to this section.

SEC. 2. Section 1822 of the Probate Code is amended to read:

1822. (a) At least 15 days before the hearing on the petition for appointment of a conservator, notice of the time and place of the hearing shall be given as provided in this section. The notice shall be accompanied by a copy of the petition. The court may not shorten the time for giving the notice of hearing under this section.

(b) Notice shall be mailed to the following persons:

(1) The spouse, if any, or registered domestic partner, if any, of the proposed conservatee at the address stated in the petition.

(2) The relatives named in the petition at their addresses stated in the petition.

(c) If notice is required by Section 1461 to be given to the Director of Mental Health or the Director of Developmental Services, notice shall be mailed as so required.

(d) If the petition states that the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration, notice shall be mailed to the Office of the Veterans Administration referred to in Section 1461.5.

(e) If the proposed conservatee is a person with developmental disabilities, at least 30 days before the day of the hearing on the petition, the petitioner shall mail a notice of the hearing and a copy of the petition to the regional center identified in Section 1827.5.

(f) If the petition states that the petitioner and the proposed conservator have no prior relationship with the proposed conservatee and are not nominated by a family member, friend, or other person with a relationship to the proposed conservatee, notice shall be mailed to the public guardian of the county in which the petition is filed.

SEC. 3. Chapter 7 (commencing with Section 1970) is added to Part 3 of Division 4 of the Probate Code, to read:

CHAPTER 7. UNWARRANTED PETITIONS

1970. (a) The Legislature finds that unwarranted petitions, applications, or motions other than discovery motions after a conservatorship has been established create an environment that can be harmful to the conservatee and are inconsistent with the goal of protecting the conservatee.

(b) Notwithstanding Section 391 of the Code of Civil Procedure, if a person other than the conservatee files a petition for termination of the conservatorship, or instruction to the conservator, that is unmeritorious or intended to harass or annoy the conservator, and the person has previously filed pleadings in the conservatorship proceedings that were unmeritorious or intended to harass or annoy the conservator, the petition shall be grounds for the court to determine that the person is a vexatious litigant for the purposes of Title 3A (commencing with Section 391) of Part 2 of the Code of Civil Procedure. For these purposes, the term “new litigation” shall include petitions for visitation, termination of the conservatorship, or instruction to the conservator.

SEC. 4. Section 2250 of the Probate Code is amended to read:

2250. (a) On or after the filing of a petition for appointment of a guardian or conservator, any person entitled to petition for appointment of the guardian or conservator may file a petition for appointment of:

- (1) A temporary guardian of the person or estate or both.
- (2) A temporary conservator of the person or estate or both.

(b) The petition shall state facts which establish good cause for appointment of the temporary guardian or temporary conservator. The court, upon that petition or other showing as it may require, may appoint a temporary guardian of the person or estate or both, or a temporary conservator of the person or estate or both, to serve pending the final determination of the court upon the petition for the appointment of the guardian or conservator.

(c) If the petitioner is a private professional conservator under Section 2341 or licensed under the Professional Fiduciaries Act, Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code, the petition for appointment of a temporary conservator shall include both of the following:

- (1) A statement of the petitioner’s registration or license information.
- (2) A statement explaining who engaged the petitioner or how the petitioner was engaged to file the petition for appointment of a temporary conservator and what prior relationship the petitioner had with the proposed conservatee or the proposed conservatee’s family or friends, unless that information is included in a petition for appointment of a general conservator filed at the same time by the person who filed the petition for appointment of a temporary conservator.

(d) If the petition is filed by a party other than the proposed conservatee, the petition shall include a declaration of due diligence showing both of the following:

- (1) Either the efforts to find the proposed conservatee’s relatives named in the petition for appointment of a general conservator or why it was not feasible to contact any of them.
- (2) Either the preferences of the proposed conservatee concerning the appointment of a temporary conservator and the appointment of the proposed temporary conservator or why it was not feasible to ascertain those preferences.

(e) Unless the court for good cause otherwise orders, at least five court days before the hearing on the petition, notice of the hearing shall be given as follows:

(1) Notice of the hearing shall be personally delivered to the proposed ward if he or she is 12 years of age or older, to the parent or parents of the proposed ward, and to any person having a valid visitation order with the proposed ward that was effective at the time of the filing of the petition. Notice of the hearing shall not be delivered to the proposed ward if he or she is under 12 years of age. In a proceeding for temporary guardianship of the person, evidence that a custodial parent has died or become incapacitated, and that the petitioner is the nominee of the custodial parent, may constitute good cause for the court to order that this notice not be delivered.

(2) Notice of the hearing shall be personally delivered to the proposed conservatee, and notice of the hearing shall be served on the persons required to be named in the petition for appointment of conservator. If the petition states that the petitioner and the proposed conservator have no prior relationship with the proposed conservatee and has not been nominated by a family member, friend, or other person with a relationship to the proposed conservatee, notice of hearing shall be served on the public guardian of the county in which the petition is filed.

(3) A copy of the petition for temporary appointment shall be served with the notice of hearing.

(f) If a temporary guardianship is granted ex parte and the hearing on the general guardianship petition is not to be held within 30 days of the granting of the temporary guardianship, the court shall set a hearing within 30 days to reconsider the temporary guardianship. Notice of the hearing for reconsideration of the temporary guardianship shall be provided pursuant to Section 1511, except that the court may for good cause shorten the time for the notice of the hearing.

(g) Visitation orders with the proposed ward granted prior to the filing of a petition for temporary guardianship shall remain in effect, unless for good cause the court orders otherwise.

(h) (1) If a temporary conservatorship is granted ex parte, and a petition to terminate the temporary conservatorship is filed more than 15 days before the first hearing on the general petition for appointment of conservator, the court shall set a hearing within 15 days of the filing of the petition for termination of the temporary conservatorship to reconsider the temporary conservatorship. Unless the court otherwise orders, notice of the hearing on the petition to terminate the temporary conservatorship shall be given at least 10 days prior to the hearing.

(2) If a petition to terminate the temporary conservatorship is filed within 15 days before the first hearing on the general petition for appointment of conservator, the court shall set the hearing at the same time that the hearing on the general petition is set. Unless the court otherwise orders, notice of the hearing on the petition to terminate the temporary conservatorship pursuant to this section shall be given at least five court days prior to the hearing.

(i) If the court suspends powers of the guardian or conservator under Section 2334 or 2654 or under any other provision of this division, the court may appoint a temporary guardian or conservator to exercise those powers until the powers are restored to the guardian or conservator or a new guardian or conservator is appointed.

(j) If for any reason a vacancy occurs in the office of guardian or conservator, the court, on a petition filed under subdivision (a) or on its own motion, may appoint a temporary guardian or conservator to exercise the powers of the guardian or conservator until a new guardian or conservator is appointed.

(k) On or before January 1, 2008, the Judicial Council shall adopt a rule of court that establishes uniform standards for good cause exceptions to the notice required by subdivision (e), limiting those exceptions to only cases when waiver of the notice is essential to protect the proposed conservatee or ward, or the estate of the proposed conservatee or ward, from substantial harm.

SEC. 5. Section 2323 of the Probate Code is amended to read:

2323. (a) The court may dispense with the requirement of a bond if it appears likely that the estate will satisfy the conditions of subdivision (a) of Section 2628 for its duration.

(b) If at any time it appears that the estate does not satisfy the conditions of subdivision (a) of Section 2628, the court shall require the filing of a bond unless the court determines that good cause exists, as provided in Section 2321.

SEC. 6. Section 2340 of the Probate Code, as added by Section 5 of Chapter 491 of the Statutes of 2006, is amended to read:

2340. A superior court may not appoint a person to carry out the duties of a professional fiduciary, or permit a person to continue those duties, unless he or she holds a valid, unexpired, unsuspended license as a professional fiduciary under Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code, is exempt from the definition of “professional fiduciary” under Section 6501 of the Business and Professions Code, or is exempt from the licensing requirements of Section 6530 of the Business and Professions Code.

SEC. 7. Section 2350 of the Probate Code is amended to read:

2350. As used in this chapter:

(a) “Conservator” means the conservator of the person.

(b) “Guardian” means the guardian of the person.

(c) “Residence” does not include a regional center established pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

SEC. 8. Section 2352 of the Probate Code is amended to read:

2352. (a) The guardian may establish the residence of the ward at any place within this state without the permission of the court. The guardian shall select the least restrictive appropriate residence that is available and necessary to meet the needs of the ward, and that is in the best interests of the ward.

(b) The conservator may establish the residence of the conservatee at any place within this state without the permission of the court. The conservator shall select the least restrictive appropriate residence, as described in Section 2352.5, that is available and necessary to meet the needs of the conservatee, and that is in the best interests of the conservatee.

(c) If permission of the court is first obtained, a guardian or conservator may establish the residence of a ward or conservatee at a place not within this state. Notice of the hearing on the petition to establish the residence of the ward or conservatee out of state, together with a copy of the petition, shall be given in the manner required by subdivision (a) of Section 1460 to all persons entitled to notice under subdivision (b) of Section 1511 or subdivision (b) of Section 1822.

(d) An order under subdivision (c) shall require the guardian or conservator either to return the ward or conservatee to this state, or to cause a guardianship or conservatorship proceeding or its equivalent to be commenced in the place of the new residence, when the ward or conservatee has resided in the place of new residence for a period of four months or a longer or shorter period specified in the order.

(e) (1) The guardian or conservator shall file a notice of change of residence with the court within 30 days of the date of the change. The guardian or conservator shall include in the notice of change of residence a declaration stating that the ward's or conservatee's change of residence is consistent with the standard described in subdivision (b).

(2) The guardian or conservator shall mail a copy of the notice to all persons entitled to notice under subdivision (b) of Section 1511 or subdivision (b) of Section 1822 and shall file proof of service of the notice with the court. The court may, for good cause, waive the mailing requirement pursuant to this paragraph in order to prevent harm to the conservatee or ward.

(3) If the guardian or conservator proposes to remove the ward or conservatee from his or her personal residence, except as provided by subdivision (c), the guardian or conservator shall mail a notice of his or her intention to change the residence of the ward or conservatee to all persons entitled to notice under subdivision (b) of Section 1511 and subdivision (b) of Section 1822. In the absence of an emergency, that notice shall be mailed at least 15 days before the proposed removal of the ward or conservatee from his or her personal residence. If the notice is served less than 15 days prior to the proposed removal of the ward or conservatee, the guardian or conservatee shall set forth the basis for the emergency in the notice. The guardian or conservator shall file proof of service of that notice with the court.

(f) This section does not apply where the court has made an order under Section 2351 pursuant to which the conservatee retains the right to establish his or her own residence.

(g) As used in this section, "guardian" or "conservator" includes a proposed guardian or proposed conservator and "ward" or "conservatee" includes a proposed ward or proposed conservatee.

(h) This section does not apply to a person with developmental disabilities for whom the Director of the Department of Developmental Services or a regional center, established pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code, acts as the conservator.

SEC. 9. Section 2620 of the Probate Code is amended to read:

2620. (a) At the expiration of one year from the time of appointment and thereafter not less frequently than biennially, unless otherwise ordered by the court to be more frequent, the guardian or conservator shall present the accounting of the assets of the estate of the ward or conservatee to the court for settlement and allowance in the manner provided in Chapter 4 (commencing with Section 1060) of Part 1 of Division 3. By January 1, 2008, the Judicial Council, in consultation with the California Judges Association, the California Association of Superior Court Investigators, the California State Association of Public Administrators, Public Guardians, and Public Conservators, the State Bar of California, and the California Society of Certified Public Accountants, shall develop a standard accounting form, a simplified accounting form, and rules for when the simplified accounting form may be used. After January 1, 2008, all accountings submitted pursuant to this section shall be submitted on the Judicial Council form.

(b) The final court accounting of the guardian or conservator following the death of the ward or conservatee shall include a court accounting for the period that ended on the date of death and a separate accounting for the period subsequent to the date of death.

(c) Along with each court accounting, the guardian or conservator shall file supporting documents, as provided in this section.

(1) For purposes of this subdivision, the term “account statement” shall include any original account statement from any institution, as defined in Section 2890, or any financial institution, as defined in Section 2892, in which money or other assets of the estate are held or deposited.

(2) The filing shall include all account statements showing the account balance at the beginning of the accounting period and the account balance as of the closing date of the accounting period of the court accounting. If the court accounting is the first court accounting of the guardianship or conservatorship, the guardian or conservator shall provide to the court all account statements showing the account balance immediately preceding the date the conservator or guardian was appointed and all account statements showing the account balance as of the closing date of the first court accounting.

(3) If the guardian or conservator is a private professional or licensed guardian or conservator, the guardian or conservator shall also file all original account statements, as described above, showing the balance as of all periods covered by the accounting.

(4) The filing shall include the original, closing escrow statement received showing the charges and credits for any sale of real property of the estate.

(5) If the ward or conservatee is in a residential care facility or a long-term care facility, the filing shall include the original bill statements for the facility.

(6) This subdivision shall not apply to the public guardian if the money belonging to the estate is pooled with money belonging to other estates pursuant to Section 2940 and Article 3 (commencing with Section 7640) of Chapter 4 of Part 1 of Division 7. Nothing in this section shall affect any other duty or responsibility of the public guardian with regard to managing money belonging to the estate or filing accountings with the court.

(7) If any document to be filed or lodged with the court under this section contains the ward's or conservatee's social security number or any other personal information regarding the ward or conservatee that would not ordinarily be disclosed in a court accounting, an inventory and appraisal, or other nonconfidential pleadings filed in the action, the account statement or other document shall be attached to a separate affidavit describing the character of the document, captioned "CONFIDENTIAL FINANCIAL STATEMENT" in capital letters. Except as otherwise ordered by the court, the clerk of the court shall keep the document confidential except to the court and subject to disclosure only upon an order of the court. The guardian or conservator may redact the ward's or conservatee's social security number from any document lodged with the court under this section.

(8) Courts may provide by local rule that the court shall retain all documents lodged with it under this subdivision until the court's determination of the guardian's or conservator's account has become final, at which time the supporting documents shall be returned to the depositing guardian or conservator or delivered to any successor appointed by the court.

(d) Each accounting is subject to random or discretionary, full or partial review by the court. The review may include consideration of any information necessary to determine the accuracy of the accounting. If the accounting has any material error, the court shall make an express finding as to the severity of the error and what further action is appropriate in response to the error, if any. Among the actions available to the court is immediate suspension of the guardian or conservator without further notice or proceedings and appointment of a temporary guardian or conservator or removal of the guardian or conservator pursuant to Section 2650 and appointment of a temporary guardian or conservator.

(e) The guardian or conservator shall make available for inspection and copying, upon reasonable notice, to any person designated by the court to verify the accuracy of the accounting, all books and records, including receipts for any expenditures, of the guardianship or conservatorship.

SEC. 10. Section 3140 of the Probate Code is amended to read:

3140. (a) A conservator served pursuant to this article shall, and the Director of Mental Health or the Director of Developmental Services given notice pursuant to Section 1461 may, appear at the hearing and represent a spouse alleged to lack legal capacity for the proposed transaction.

(b) The court may, in its discretion, appoint an investigator to review the proposed transaction and report to the court regarding its advisability.

(c) If the court determines that a spouse alleged to lack legal capacity has not competently retained independent counsel, the court may in its discretion appoint the public guardian, public administrator, or a guardian ad litem to represent the interests of the spouse.

(d) (1) If a spouse alleged to lack legal capacity is unable to retain legal counsel, upon request of the spouse, the court shall appoint the public defender or private counsel under Section 1471 to represent the spouse and, if that appointment is made, Section 1472 applies.

(2) If the petition proposes a transfer of substantial assets to the petitioner from the other spouse and the court determines that the spouse has not competently retained independent counsel for the proceeding, the court may, in its discretion, appoint counsel for the other spouse if the court determines that appointment would be helpful to resolve the matter or necessary to protect the interests of the other spouse.

(e) Except as provided in subdivision paragraph (1) of subdivision (d), the court may fix a reasonable fee, to be paid out of the proceeds of the transaction or otherwise as the court may direct, for all services rendered by privately engaged counsel, the public guardian, public administrator, or guardian ad litem, and by counsel for such persons.