

ASSEMBLY BILL

No. 1288

Introduced by Assembly Member Gordon

February 18, 2011

An act to amend Section 2352.5 of the Probate Code, relating to conservatorships.

LEGISLATIVE COUNSEL'S DIGEST

AB 1288, as introduced, Gordon. Conservatees: personal residences.

Existing law provides for the establishment of conservatorships and permits a conservator to establish the residence of the conservatee within the state without permission of the court. Existing law creates a presumption that the personal residence of the conservatee at the time a conservatorship proceeding commences is the least restrictive appropriate residence of the conservatee.

This bill would make a nonsubstantive, technical change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

- 1 SECTION 1. Section 2352.5 of the Probate Code is amended
- 2 to read:
- 3 2352.5. (a) It shall be presumed that the personal residence of
- 4 the conservatee at the time of commencement of the proceeding
- 5 is the least restrictive appropriate residence for the conservatee.
- 6 In any hearing to determine if removal of the conservatee from his

1 or her personal residence is appropriate, that presumption may be
2 overcome by a preponderance of the evidence.

3 (b) Upon appointment, the conservator shall determine the
4 appropriate level of care for the conservatee.

5 (1) That determination shall include an evaluation of the level
6 of care existing at the time of commencement of the proceeding
7 and the measures that would be necessary to keep the conservatee
8 in his or her personal residence.

9 (2) If the conservatee is living at a location other than his or her
10 personal residence at the commencement of the proceeding, that
11 determination shall either include a plan to return the conservatee
12 to his or her personal residence or an explanation of the limitations
13 or restrictions on a return of the conservatee to his or her personal
14 residence in the foreseeable future.

15 (c) The determination made by the conservator pursuant to
16 subdivision (b) shall be in writing, signed under penalty of perjury,
17 and submitted to the court ~~within~~ *no later than* 60 days of
18 appointment as conservator.

19 (d) The conservator shall evaluate the conservatee’s placement
20 and level of care if there is a material change in circumstances
21 affecting the conservatee’s needs for placement and care.

22 (e) (1) This section shall not apply to a conservatee with
23 developmental disabilities for whom the Director of Developmental
24 Services or a regional center for the developmentally disabled,
25 established pursuant to Chapter 5 (commencing with Section 4620)
26 of Division 4.5 of the Welfare and Institutions Code, acts as the
27 conservator and who receives services from a regional center
28 pursuant to the Lanterman Developmental Disabilities Act
29 (Division 4.5 (commencing with Section 4500) of the Welfare and
30 Institutions Code).

31 (2) Services, including residential placement, for a conservatee
32 described in paragraph (1) who is a consumer, as defined in Section
33 4512 of the Welfare and Institutions Code, shall be identified,
34 delivered, and evaluated consistent with the individual program
35 plan process described in Article 2 (commencing with Section
36 4640) of Chapter 5 of Division 4.5 of the Welfare and Institutions
37 Code.

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