

**ASSEMBLY BILL**

**No. 1997**

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**Introduced by Assembly Member Huber**

February 23, 2012

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An act to amend Section 1470 of the Probate Code, relating to guardianships and conservatorships.

LEGISLATIVE COUNSEL'S DIGEST

AB 1997, as introduced, Huber. Guardianships and conservatorships: appointment of counsel.

Existing law authorizes a court to appoint private legal counsel for a ward, a proposed ward, a conservatee, or a proposed conservatee in specified guardianship, conservatorship, and other protective proceedings if the court determines the person is not otherwise represented by legal counsel and that the appointment would be helpful to the resolution of the matter or is necessary to protect the person's interests.

This bill would additionally provide that, notwithstanding the fact that the ward, proposed ward, conservatee, or proposed conservatee may also be represented by other legal counsel, the court may appoint private legal counsel if the court determines that the ward, proposed ward, conservatee, or proposed conservatee has not competently retained independent counsel for the proceeding. The bill would provide that the court's determination in this matter is not admissible for any other purposes in any other proceeding.

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 1470 of the Probate Code is amended to  
2 read:

3 1470. (a) (1) The court may appoint private legal counsel for  
4 a ward, a proposed ward, a conservatee, or a proposed conservatee  
5 in any proceeding under this division if the court determines the  
6 person is not otherwise represented by legal counsel and that the  
7 appointment would be helpful to the resolution of the matter or is  
8 necessary to protect the person’s interests.

9 (2) *Notwithstanding the fact that the ward, proposed ward,*  
10 *conservatee, or proposed conservatee may also be represented by*  
11 *other legal counsel, the court may appoint private legal counsel*  
12 *if the court determines that the ward, proposed ward, conservatee,*  
13 *or proposed conservatee has not competently retained independent*  
14 *counsel for the proceeding. The court’s determination under this*  
15 *paragraph shall not be admissible for any other purposes in any*  
16 *other proceeding.*

17 (b) If a person is furnished legal counsel under this section, the  
18 court shall, upon conclusion of the matter, fix a reasonable sum  
19 for compensation and expenses of counsel. The sum may, in the  
20 discretion of the court, include compensation for services rendered,  
21 and expenses incurred, before the date of the order appointing  
22 counsel.

23 (c) The court shall order the sum fixed under subdivision (b) to  
24 be paid:

25 (1) If the person for whom legal counsel is appointed is an adult,  
26 from the estate of that person.

27 (2) If the person for whom legal counsel is appointed is a minor,  
28 by a parent or the parents of the minor or from the minor’s estate,  
29 or any combination thereof, in any proportions the court deems  
30 just.

31 (3) If a ward or proposed ward is furnished legal counsel for a  
32 guardianship proceeding, upon its own motion or that of a party,  
33 the court shall determine whether a parent or parents of the ward  
34 or proposed ward or the estate of the ward or proposed ward is  
35 financially unable to pay all or a portion of the cost of counsel  
36 appointed pursuant to this section. Any portion of the cost of that  
37 counsel that the court finds the parent or parents or the estate of  
38 the ward or proposed ward is unable to pay shall be paid by the

1 county. The Judicial Council shall adopt guidelines to assist in  
2 determining financial eligibility for county payment of counsel  
3 appointed by the court pursuant to this chapter.

4 (d) The court may make an order under subdivision (c) requiring  
5 payment by a parent or parents of the minor only after the parent  
6 or parents, as the case may be, have been given notice and the  
7 opportunity to be heard on whether the order would be just under  
8 the circumstances of the particular case.

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