

ASSEMBLY BILL

No. 1725

Introduced by Assembly Member Maienschein

February 14, 2014

An act to amend Sections 5350.2 and 5352 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1725, as introduced, Maienschein. Mental health: conservatorship hearings for the gravely disabled.

Existing law provides a procedure for the appointment of a conservator for a person who is determined to be gravely disabled as a result of a mental disorder or an impairment by chronic alcoholism and requires an officer, including a county public guardian or a county mental health program, to conduct a conservatorship investigation. Under existing law, a professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment for a gravely disabled person may recommend a conservatorship for that person. Existing law requires the officer providing conservatorship investigation, when he or she concurs with the recommendation, to petition the superior court in the patient's county of residence for a conservatorship.

This bill would include a person who is gravely disabled as a result of substance abuse as a person for whom a conservatorship may be requested and granted. This bill would also provide a procedure for a family member or interested person who believes a conservatorship is necessary to petition the probate court to establish a conservatorship, as specified. This bill would also authorize the court, after a hearing, to recommend a conservatorship to the officer providing conservatorship

investigation when the court, in a conservatorship established under the Probate Code, determines that a person, for whom a conservatorship has been established under the Probate Code, may be gravely disabled as a result of a mental disorder or impairment by chronic alcoholism or substance abuse and is unwilling to accept, or incapable of accepting treatment voluntarily. This bill would require the officer providing conservatorship investigation to file a copy of his or her report with the court within 30 days of the court’s recommendation.

By expanding the duties of the county officer providing conservatorship investigation, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 5350.2 of the Welfare and Institutions
2 Code is amended to read:
3 5350.2. Reasonable attempts shall be made by the county
4 mental health program, *or the petitioning party*, to notify family
5 members or any other person designated by the person for whom
6 conservatorship is sought, of the time and place of the
7 conservatorship hearing. The person for whom the conservatorship
8 is sought shall be advised by the facility treating the person that
9 he or she may request that information about the time and place
10 of the conservatorship hearing not be given to family members,
11 in those circumstances where the proposed conservator is not a
12 family member. The request shall be honored by the mental health
13 program. Neither this section nor Section 5350 shall be interpreted
14 to allow the proposed conservatee to request that any proposed
15 conservator not be advised of the time and place of the
16 conservatorship hearing.

1 SEC. 2. Section 5352 of the Welfare and Institutions Code is
2 amended to read:

3 5352. (a) When the professional person in charge of an agency
4 providing comprehensive evaluation or a facility providing
5 intensive treatment determines that a person in his *or her* care is
6 gravely disabled as a result of mental disorder or impairment ~~by~~
7 ~~chronic alcoholism~~ *by chronic alcoholism or substance abuse* and
8 is unwilling to accept, or incapable of accepting, treatment
9 voluntarily, he *or she* may recommend conservatorship to the
10 officer providing conservatorship investigation of the *person's*
11 county of residence ~~of the person~~ prior to ~~his admission~~ *admitting*
12 *him or her* as a patient in ~~such~~ *the* facility.

13 ~~The~~

14 (b) *The* professional person in charge of an agency providing
15 comprehensive evaluation or a facility providing intensive
16 treatment may recommend conservatorship for a person without
17 the person being an inpatient in ~~such~~ *the* facility, if both of the
18 following conditions are met: ~~(a) the~~

19 (1) *The* professional person or another professional person
20 designated by him *or her* has examined and evaluated the person
21 and determined that he *or she* is gravely ~~disabled~~; ~~(b) the disabled.~~

22 (2) *The* professional person or another professional person
23 designated by him *or her* has determined that future examination
24 on an inpatient basis is not necessary for a determination that the
25 person is gravely disabled.

26 ~~If~~

27 (c) *If* the officer providing conservatorship investigation concurs
28 with the recommendation *of the professional person*, he *or she*
29 shall petition the superior court in the *patient's* county ~~of residence~~
30 ~~of the patient~~ to establish conservatorship. *If the officer providing*
31 *conservatorship investigation does not initiate conservatorship*
32 *proceedings, but a family member or interested person believes a*
33 *conservatorship is necessary, the family member or interested*
34 *person may petition the Probate Court under this chapter for the*
35 *establishment of a conservatorship if the following conditions have*
36 *been met:*

37 (1) *The professional person in charge of an agency providing*
38 *comprehensive evaluation or a facility providing intensive*
39 *treatment has examined and evaluated the person and determined*
40 *that he or she is gravely disabled as a result of a mental disorder*

1 or impairment by chronic alcoholism or substance abuse and is
2 unwilling to accept, or incapable of accepting, voluntary treatment.

3 (2) The professional person has recommended a conservatorship
4 to the officer providing conservatorship investigation in the county
5 of residence.

6 (3) The officer providing the investigation has made a report,
7 but declines to initiate conservatorship proceedings.

8 (d) (1) The court, after a hearing, may recommend a
9 conservatorship under this chapter to the officer providing
10 conservatorship investigation of the person's county of residence
11 when the court in a conservatorship established under the Probate
12 Code determines that a person, for whom a conservatorship has
13 been established under the Probate Code, may be gravely disabled
14 as a result of a mental disorder or impairment by chronic
15 alcoholism or substance abuse and is unwilling to accept, or
16 incapable of accepting treatment voluntarily.

17 (2) Within 30 days after the recommendation, the officer
18 providing conservatorship investigation shall file a copy of his or
19 her report with the court making the recommendation in the
20 Probate conservatorship.

21 ~~Where~~

22 (e) ~~Where~~ temporary conservatorship is indicated, ~~the~~ that fact
23 shall be alternatively pleaded in the petition. The officer providing
24 conservatorship investigation or other county officer or employee
25 designated by the county shall act as the temporary conservator.

26 SEC. 3. If the Commission on State Mandates determines that
27 this act contains costs mandated by the state, reimbursement to
28 local agencies and school districts for those costs shall be made
29 pursuant to Part 7 (commencing with Section 17500) of Division
30 4 of Title 2 of the Government Code.