

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1452

Introduced by Senator Wieckowski

February 19, 2016

An act to amend Section 2351 of the Probate Code, relating to protective proceedings.

LEGISLATIVE COUNSEL'S DIGEST

SB 1452, as amended, Wieckowski. Conservators.

Existing law requires a conservator of the person to be responsible for the care, custody, control, and education of a conservatee, except if the court, in its discretion, limits the powers and duties of the conservator. Existing law also provides that the conservator's control of the conservatee does not extend to personal rights retained by the conservatee, including, but not limited to, the right to receive visitors, telephone calls, and personal mail, unless specifically limited by court order. Existing law authorizes the court to issue an order that specifically grants the conservator the power to enforce the conservatee's rights to receive visitors, telephone calls, and personal mail or that directs the conservator to allow those visitors, calls, and mail.

This bill would add the right to receive electronic mail to a conservatee's personal rights for purposes of these provisions. This bill would ~~delete~~ *update* an obsolete reference.

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 2351 of the Probate Code is amended to
2 read:

3 2351. (a) Subject to subdivision (b), the guardian or
4 conservator, but not a limited conservator, has the care, custody,
5 and control of, and has charge of the education of, the ward or
6 conservatee. This control shall not extend to personal rights
7 retained by the conservatee, including, but not limited to, the right
8 to receive visitors, telephone calls, *electronic mail*, and personal
9 mail, unless specifically limited by court order. The court may
10 issue an order that specifically grants the conservator the power
11 to enforce the conservatee's rights to receive visitors, telephone
12 calls, electronic mail, and personal mail, or that directs the
13 conservator to allow those visitors, telephone calls, electronic mail,
14 and personal mail.

15 (b) Where the court determines that it is appropriate in the
16 circumstances of the particular conservatee, the court, in its
17 discretion, may limit the powers and duties that the conservator
18 would otherwise have under subdivision (a) by an order stating
19 either of the following:

20 (1) The specific powers that the conservator does not have with
21 respect to the conservatee's person and reserving the powers so
22 specified to the conservatee.

23 (2) The specific powers and duties the conservator has with
24 respect to the conservatee's person and reserving to the conservatee
25 all other rights with respect to the conservatee's person that the
26 conservator otherwise would have pursuant to subdivision (a).

27 (c) An order pursuant to this section (1) may be included in the
28 order appointing a conservator of the person or (2) may be made,
29 modified, or revoked upon a petition subsequently filed, notice of
30 the hearing on the petition having been given for the period and
31 in the manner provided in Chapter 3 (commencing with Section
32 1460) of Part 1.

33 (d) The guardian or conservator, in exercising his or her powers,
34 may not hire or refer any business to an entity in which he or she
35 has a financial interest except upon authorization of the court. Prior
36 to authorization from the court, the guardian or conservator shall
37 disclose to the court in writing his or her financial interest in the
38 entity. For the purposes of this subdivision, "financial interest"

1 shall mean (1) an ownership interest in a sole proprietorship, a
2 partnership, or a closely held corporation, or (2) an ownership
3 interest of greater than 1 percent of the outstanding shares in a
4 publicly traded corporation, or (3) being an officer or a director
5 of a corporation. *This subdivision shall apply only to those subject*
6 *to the Professional Fiduciaries Act under Chapter 6 (commencing*
7 *with Section 6500) of Division 3 of the Business and Professions*
8 *Code.*

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