

Senate Bill No. 1641

Passed the Senate August 31, 2000

Secretary of the Senate

Passed the Assembly August 30, 2000

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

An act to add Sections 1473 and 2329.1 to the Probate Code, relating to guardianship and conservatorship.

LEGISLATIVE COUNSEL'S DIGEST

SB 1641, Bowen. Guardians and conservators.

Existing law sets forth various requirements governing guardianship and conservatorship, as specified.

This bill would require the court, where the guardian or conservator is a family member or blood relative of the ward or conservatee, if the value of the estate of a ward or conservatee exceeds \$20,000, to appoint legal counsel to represent the ward or conservatee, as specified, unless the court finds and states on the record that the appointment of legal counsel is not necessary to be compensated by the estate at a rate determined by the court. The bill would also require the Judicial Council to make a cost-of-living adjustment to the above amount in the valuation of the estate, as specified, and to post these adjusted amounts on the official web site of the Judicial Council.

This bill would also provide that the bond required prior to issuance of letters in guardianship or conservatorship proceedings shall not be reduced below a specified amount in cases where the guardian or conservator is a family member or blood relative.

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

SECTION 1. Section 1473 is added to the Probate Code, to read:

1473. (a) Notwithstanding any other provision of law, where the guardian or conservator is a family member or blood relative of the ward or conservatee, if the guardian or conservator of the estate of a ward or conservatee fails to file an accounting required under Section 2620 within 90 days of the date the filing is due, the court shall determine the value of the estate based on



the estate inventory or the last accounting filed with the court. If the estate is determined to exceed twenty thousand dollars (\$20,000) in value, the court shall appoint legal counsel to represent the ward or conservatee, to be compensated from the estate as determined by the court, unless the court finds and states on the record that appointment of legal counsel is not necessary to protect the interest of the estate of the ward or conservatee. The court shall appoint legal counsel, as the court deems appropriate, no later than the date the guardian or conservator is noticed to appear in court to show cause for failure to file the accounting. On and after January 1, 2002, this amount shall be annually adjusted by the percentage change in the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) for the United States city average for all items, with a base period of 1982 to 1984, inclusive. The Judicial Council shall calculate the adjusted figure and shall round the figure to the nearest whole dollar. These annual fee adjustments shall be posted on the official public web site of the Judicial Council.

(b) For the purposes of this section, the term “family member or blood relative” means an individual related by affinity or consanguinity within the third degree as determined by common law, or an individual in a step or adoptive relationship within the third degree.

SEC. 2. Section 2329.1 is added to the Probate Code, to read:

2329.1. (a) Notwithstanding Section 2329 or any other provision of law, where the guardian or conservator is a family member or blood relative as defined in subdivision (b), the amount of the bond shall not be reduced below the amount determined pursuant to Section 2320. If the actual value of the estate subject to this subdivision is unknown at the time of appointment of the guardian or conservator, the court shall adjust the amount of the bond within 60 days of filing of the inventory of the estate conducted under Section 2610. Funds belonging to the estate under Section 2328 shall be



excluded from the value of the estate as determined under Section 2320.

(b) For the purposes of this section, the term “family member or blood relative” means an individual related by affinity or consanguinity within the third degree as determined by common law, or an individual in a step or adoptive relationship within the third degree.



Approved _____, 2000

Governor

