AMENDED IN ASSEMBLY APRIL 24, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL No. 3036

Introduced by ~~Committee on Judiciary (Corbett (Chair), Dutra, Jackson, Longville, Shelley, Steinberg, and Wayne)~~ *Assembly Member Corbett)*

March 12, 2002

An act to amend Section ~~1804 of~~ *1513.1 of, and to add Section 1513.2 to,* the ~~Probation~~ *Probate* Code, relating to ~~conservatorships~~ *guardianship*.

LEGISLATIVE COUNSEL'S DIGEST

AB 3036, as amended, ~~Committee on Judiciary~~ *Corbett*. ~~Conservatorships: missing persons~~ *Guardianship*.

Existing law ~~authorizes a conservator to be appointed for a person who is missing and whose whereabouts are unknown~~ *provides for the establishment of guardianships*.

This bill would ~~make a technical, nonsubstantive change to that provision~~ *require that each guardianship be reviewed by the court one year after the appointment of the guardian. The bill would also authorize the court to order further reviews, as specified. The bill would require the court investigator to visit the guardian, make specified determinations, and make a recommendation regarding the continuation or termination of the guardianship. The findings of the court investigator would be certified in writing to the court, would be sent to the guardian and to his or her attorneys, and would be confidential, except as specified*.

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

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

~~SECTION 1. Section 1804 of the Probate Code is amended to read:~~

~~1804. Subject to Section 1800.3, a conservator of the estate may be appointed for a person who is missing and whose whereabouts are unknown.~~

SECTION 1. Section 1513.1 of the Probate Code is amended to read:

1513.1. (a) Each county shall annually assess (1) the parent, parents, or other person charged with the support and maintenance of the proposed ward, and (2) the guardian, proposed guardian, or the estate of the proposed ward, for county expenses for any investigation or review conducted by the court investigator, probation officer, or domestic relations investigator incurred pursuant to Section 1513 *or 1513.2*. A county may waive any or all of an assessment against the guardianship on the basis of hardship. There shall be a rebuttable presumption that the assessment would impose a hardship if the ward is receiving Medi-Cal benefits.

(b) Any amount chargeable as state-mandated local costs incurred by a county for the cost of the investigation or review pursuant to Section 1513 shall be reduced by any assessments actually collected pursuant to subdivision (a) during that fiscal year.

SEC. 2. Section 1513.2 is added to the Probate Code, to read:

1513.2. (a) Except as provided in Chapter 2 (commencing with Section 1600), each guardianship initiated pursuant to this part shall be reviewed by the court one year after the appointment of the guardian. The court may order further reviews as it deems necessary for the protection of the interests of the minor child, but in no case shall reviews be ordered more frequently than annually.

(b) When court review is required, the court investigator shall visit the guardian. The court investigator shall inform the guardian personally that the minor child is under a guardianship of the person or estate, or both. The court investigator shall determine whether the minor child is still in need of the guardianship of the

person or estate, or both, and whether the present guardian is acting in the best interests of the minor child. If the court has made an order pursuant to subdivision (d) or (e) of Section 1514, the court investigator shall determine whether the present condition of the guardianship of the estate is such that the terms of the order should be modified or the order revoked.

(c) The findings of the court investigator, including the facts upon which the findings are based, shall be certified in writing to the court not less than 15 days prior to the date of review. A copy of the report shall be mailed to the guardian and to the attorneys of record for the guardian at the same time it is certified to the court.

(d) The court investigator shall make a recommendation regarding the continuation or termination of the guardianship.

(e) The court investigator may personally visit the guardian and other persons as may be necessary to determine whether the present guardian is acting in the best interests of the minor child.

(f) The report required by this section shall be confidential and shall be made available only to parties, persons given notice of the petition who have requested the report or who have appeared in the proceeding, their attorneys, and the court. The court shall have discretion at any other time to release the report if it would serve the best interests of the minor child. The county clerk shall make provision for limiting disclosure of the report exclusively to persons entitled thereto under this section.

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