

ASSEMBLY BILL

No. 314

Introduced by Assembly Member Waldron

February 12, 2015

An act to amend Section 1813 of the Probate Code, relating to conservatorship.

LEGISLATIVE COUNSEL'S DIGEST

AB 314, as introduced, Waldron. Conservatorship.

Existing law prohibits the spouse of a proposed conservatee from petitioning for the appointment of a conservator for a spouse or from being appointed as conservator of a person or estate of the proposed conservatee unless the petitioner alleges in the petition for appointment as conservator, and the court finds, that the spouse is not a party to an action or proceeding against the proposed conservatee for legal separation of the parties, dissolution of marriage, or adjudication of nullity of their marriage.

This bill would make technical, nonsubstantive changes to that provision.

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 1813 of the Probate Code is amended to
- 2 read:
- 3 1813. (a) (1) The spouse of a proposed conservatee ~~may~~ *shall*
- 4 not petition for the appointment of a conservator for a spouse or
- 5 be appointed as conservator of the person or estate of the proposed

1 conservatee unless the petitioner alleges in the petition for
2 appointment as conservator, and the court finds, that the spouse is
3 not a party to ~~any~~ *an* action or proceeding against the proposed
4 conservatee for legal separation of the parties, dissolution of
5 marriage, or adjudication of nullity of their marriage. However, if
6 the court finds by clear and convincing evidence that the
7 appointment of the spouse, who is a party to an action or
8 proceeding against the proposed conservatee for legal separation
9 of the parties, dissolution of marriage, or adjudication of nullity
10 of their marriage, or has obtained a judgment in any of these
11 proceedings, is in the best interests of the proposed conservatee,
12 the court may appoint the spouse.

13 (2) Prior to making this appointment, the court shall appoint
14 counsel to consult with and advise the conservatee, and to report
15 to the court his or her findings concerning the suitability of
16 appointing the spouse as conservator.

17 (b) The spouse of a conservatee shall disclose to the conservator,
18 or if the spouse is the conservator, shall disclose to the court, the
19 filing of ~~any~~ *an* action or proceeding against the conservatee for
20 legal separation of the parties, dissolution of marriage, or
21 adjudication of nullity of the marriage, within 10 days of the filing
22 of the action or proceeding by filing a notice with the court and
23 serving the notice according to the notice procedures under this
24 title. ~~The court may, upon receipt of the notice,~~ *Upon receipt of*
25 *the notice, the court may* set the matter for hearing on an order to
26 show cause why the appointment of the spouse as conservator, if
27 the spouse is the conservator, should not be terminated and a new
28 conservator appointed by the court.