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**WELFARE AND INSTITUTIONS CODE - WIC**

**DIVISION 5. COMMUNITY MENTAL HEALTH SERVICES [5000 - 5987]** ( *Division 5 repealed and added by Stats. 1967, Ch. 1667.* )

**PART 1. THE LANTERMAN-PETRIS-SHORT ACT [5000 - 5550]** ( *Heading of Part 1 amended by Stats. 1968, Ch. 1374.* )

**CHAPTER 3. Conservatorship for Persons with a Grave Disability [5350 - 5372]** ( *Heading of Chapter 3 amended by Stats. 2024, Ch. 948, Sec. 18.* )

**5350.** A conservator of the person, of the estate, or of the person and the estate may be appointed for a person who is gravely disabled or impaired by chronic alcoholism.

The procedure for establishing, administering, and terminating a conservatorship under this chapter shall be the same as that provided in Division 4 (commencing with Section 1400) of the Probate Code, except as follows:

- (a) A conservator may be appointed for a gravely disabled minor.
- (b) (1) Appointment of a conservator under this part, including the appointment of a conservator for a person who is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, shall be subject to the list of priorities in Section 1812 of the Probate Code unless the officer providing conservatorship investigation recommends otherwise to the superior court.
  - (2) In appointing a conservator for a person who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, the court shall consider the purposes of protection of the public and the treatment of the conservatee. Notwithstanding any other provision of this section, the court shall not appoint the proposed conservator if it determines that appointment of the proposed conservator will not result in adequate protection of the public.
- (c) A conservatorship of the estate pursuant to this chapter shall not be established if a conservatorship or guardianship of the estate exists under the Probate Code. When a gravely disabled person already has a guardian or conservator of the person appointed under the Probate Code, the proceedings under this chapter shall not terminate the prior proceedings but shall be concurrent with and superior thereto. The superior court may appoint the existing guardian or conservator of the person or another person as conservator of the person under this chapter.
- (d) (1) The person for whom conservatorship is sought shall have the right to demand a court or jury trial on the issue of whether the person is gravely disabled. Demand for court or jury trial shall be made within five days following the hearing on the conservatorship petition. If the proposed conservatee demands a court or jury trial before the date of the hearing as provided for in Section 5365, the demand shall constitute a waiver of the hearing.
  - (2) The court or jury trial shall commence within 10 days of the date of the demand, except that the court shall continue the trial date for a period not to exceed 15 days upon the request of counsel for the proposed conservatee. Failure to commence the trial within that period of time is grounds for dismissal of the conservatorship proceedings.
  - (3) This right shall also apply in subsequent proceedings to reestablish conservatorship.
- (e) (1) Notwithstanding subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, a person is not "gravely disabled" if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person's basic personal needs.
  - (2) However, unless they specifically indicate in writing their willingness and ability to help, family, friends, or others shall not be considered willing or able to provide this help.
  - (3) The purpose of this subdivision is to avoid the necessity for, and the harmful effects of, requiring family, friends, and others to publicly state, and requiring the court to publicly find, that no one is willing or able to assist a person with a grave disability.

(4) This subdivision does not apply to a person who is gravely disabled as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008.

(f) Conservatorship investigation shall be conducted pursuant to this part and is not subject to Section 1826 of the Probate Code or Chapter 2 (commencing with Section 1850) of Part 3 of Division 4 of the Probate Code.

(g) Notice of proceedings under this chapter shall be given to a guardian or conservator of the person or estate of the proposed conservatee appointed under the Probate Code.

(h) As otherwise provided in this chapter.

*(Amended by Stats. 2024, Ch. 492, Sec. 14. (SB 1511) Effective January 1, 2025.)*

**5350.1.** The purpose of conservatorship, as provided for in this article, is to provide individualized treatment, supervision, and placement.

*(Added by Stats. 1978, Ch. 1294.)*

**5350.2.** Reasonable attempts shall be made by the county mental health program to notify family members or any other person designated by the person for whom conservatorship is sought, of the time and place of the conservatorship hearing. The person for whom the conservatorship is sought shall be advised by the facility treating the person that he or she may request that information about the time and place of the conservatorship hearing not be given to family members, in those circumstances where the proposed conservator is not a family member. The request shall be honored by the mental health program. Neither this section nor Section 5350 shall be interpreted to allow the proposed conservatee to request that any proposed conservator not be advised of the time and place of the conservatorship hearing.

*(Amended by Stats. 1987, Ch. 56, Sec. 183.)*

**5350.5.** (a) If a conservatorship has already been established under the Probate Code, the court, in a proceeding under the Probate Code, after an evidentiary hearing attended by the conservatee, unless the conservatee waives presence, and the conservatee's counsel, may refer the conservatee, in consultation with a licensed physician or licensed psychologist satisfying the conditions of subdivision (c) of Section 2032.020 of the Code of Civil Procedure providing assessment or treatment to the conservatee, for an assessment by the local mental health system or plan to determine if the conservatee has a treatable mental illness, including whether the conservatee is gravely disabled or impaired by chronic alcoholism, and is unwilling to accept, or is incapable of accepting, treatment voluntarily. If the conservatee cannot afford counsel, the court shall appoint counsel for them pursuant to Section 1471 of the Probate Code.

(b) The local mental health system or plan shall file a copy of the assessment with the court that made the referral for assessment in a proceeding under the Probate Code.

*(Amended by Stats. 2024, Ch. 492, Sec. 15. (SB 1511) Effective January 1, 2025.)*

**5351.** In each county or counties acting jointly under the provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the governing board shall designate the agency or agencies to provide conservatorship investigation as set forth in this chapter. The governing board may designate that conservatorship services be provided by the public guardian or agency providing public guardian services.

*(Amended by Stats. 1986, Ch. 335, Sec. 1.)*

**5352.** When the professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment determines that a person in his or her care is gravely disabled as a result of mental disorder or impairment by chronic alcoholism and is unwilling to accept, or incapable of accepting, treatment voluntarily, he or she may recommend conservatorship to the officer providing conservatorship investigation of the county of residence of the person prior to his or her admission as a patient in such facility.

The professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment, or the professional person in charge of providing mental health treatment at a county jail, or his or her designee, may recommend conservatorship for a person without the person being an inpatient in a facility providing comprehensive evaluation or intensive treatment, if both of the following conditions are met: (a) the professional person or another professional person designated by him or her has examined and evaluated the person and determined that he or she is gravely disabled; (b) the professional person or another professional person designated by him or her has determined that future examination on an inpatient basis is not necessary for a determination that the person is gravely disabled.

If the officer providing conservatorship investigation concurs with the recommendation, he or she shall petition the superior court in the county of residence of the patient to establish conservatorship.

Where temporary conservatorship is indicated, the fact shall be alternatively pleaded in the petition. The officer providing conservatorship investigation or other county officer or employee designated by the county shall act as the temporary conservator.

*(Amended by Stats. 2018, Ch. 458, Sec. 1. (SB 931) Effective January 1, 2019.)*

**5352.1.** (a) The court may establish a temporary conservatorship for a period not to exceed 30 days and appoint a temporary conservator, on the basis of the comprehensive report of the officer providing conservatorship investigation filed pursuant to Section 5354, or on the basis of an affidavit of the professional person who recommended conservatorship stating the reasons for their recommendation, if the court is satisfied that the comprehensive report or affidavit shows the necessity for a temporary conservatorship.

(b) If the petition for establishment of a temporary conservatorship is based on an affidavit of the professional person who recommended conservatorship, the affidavit shall include an attestation by the professional person that all available alternatives to conservatorship, including, but not limited to, assisted outpatient treatment pursuant to Section 5346 and the CARE Act proceedings pursuant to Section 5978, as applicable, have been considered by the professional person or have been investigated pursuant to Section 5354, and that appointment of a temporary conservator is recommended because no suitable alternatives to conservatorship are available.

(c) Except as provided in this section, a temporary conservatorship shall expire automatically after 30 days, unless prior to that date the court conducts a hearing on the issue of whether or not the proposed conservatee is gravely disabled, as defined in subdivision (h) of Section 5008.

(d) If the proposed conservatee demands a court or jury trial on the issue of whether they are gravely disabled, the court may extend the temporary conservatorship until the date of the disposition of the issue by the court or jury trial, provided that the extension does not exceed 180 days.

*(Amended by Stats. 2024, Ch. 640, Sec. 1. (SB 42) Effective September 27, 2024.)*

**5352.2.** Where the duly designated officer providing conservatorship investigation is a public guardian, his official oath and bond as public guardian are in lieu of any other bond or oath on the grant of temporary letters of conservatorship to him.

*(Added by Stats. 1970, Ch. 566.)*

**5352.3.** If the professional person in charge of the facility providing intensive treatment recommends conservatorship pursuant to Section 5352, the proposed conservatee may be held in that facility for a period not to exceed three days beyond the designated period for intensive treatment if the additional time period is necessary for a filing of the petition for temporary conservatorship and the establishment of the temporary conservatorship by the court. The involuntary detention period for gravely disabled persons pursuant to Sections 5150, 5250, and 5170.15 shall not exceed 47 days unless continuance is granted.

*(Amended by Stats. 1988, Ch. 1517, Sec. 13.)*

**5352.4.** If a conservatee appeals the court's decision to establish conservatorship, the conservatorship shall continue unless execution of judgment is stayed by the appellate court.

*(Added by Stats. 1972, Ch. 574.)*

**5352.5.** (a) Conservatorship proceedings may be initiated for any person committed to a state hospital or local mental health facility or placed on outpatient treatment pursuant to Section 1026 or 1370 of the Penal Code or transferred pursuant to Section 4011.6 of the Penal Code upon recommendation of the medical director of the state hospital, or a designee, or professional person in charge of the local mental health facility, or a designee, or the local mental health director, or a designee, to the conservatorship investigator of the county of residence of the person prior to his or her admission to the hospital or facility or of the county in which the hospital or facility is located. The initiation of conservatorship proceedings or the existence of a conservatorship shall not affect any pending criminal proceedings. The custody status of a person who is subject to the conservatorship investigation shall not be the sole reason for not scheduling an investigation by the conservatorship investigator.

(b) Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person convicted of a felony who has been transferred to a state hospital under the jurisdiction of the State Department of State Hospitals pursuant to Section 2684 of the Penal Code by the recommendation of the medical director of the state hospital to the conservatorship investigator of the county of residence of the person or of the county in which the state hospital is located.

(c) Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or on parole from a facility of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, by the Chief Deputy Secretary for Juvenile Justice or a designee, to the conservatorship investigator of the county of residence of the person or of the county in which the facility is situated.

(d) The county mental health program providing conservatorship investigation services and conservatorship case management services for any persons except those transferred pursuant to Section 4011.6 of the Penal Code shall be reimbursed for the expenditures made by it for the services pursuant to the Short-Doyle Act (commencing with Section 5600) at 100 percent of the expenditures. Each county Short-Doyle plan shall include provision for the services in the plan.

*(Amended by Stats. 2018, Ch. 458, Sec. 2. (SB 931) Effective January 1, 2019.)*

**5352.6.** Within 10 days after conservatorship of the person has been established under the provisions of this article, there shall be an individualized treatment plan unless treatment is specifically found not to be appropriate by the court. The treatment plan shall be developed by the Short-Doyle Act community mental health service, the staff of a facility operating under a contract to provide such services in the individual's county of residence, or the staff of a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code to provide inpatient psychiatric treatment. The person responsible for developing the treatment plan shall encourage the participation of the client and the client's family members, when appropriate, in the development, implementation, revision, and review of the treatment plan. The individualized treatment plan shall specify goals for the individual's treatment, the criteria by which accomplishment of the goals can be judged, and a plan for review of the progress of treatment. The goals of the treatment plan shall be equivalent to reducing or eliminating the behavioral manifestations of grave disability. If a treatment plan is not developed as provided herein then the matter shall be referred to the court by the Short-Doyle Act community mental health service, or the staff of a facility operating under a contract to provide such services, or the conservator, or the attorney of record for the conservatee.

When the progress review determines that the goals have been reached and the person is no longer gravely disabled, a person designated by the county shall so report to the court and the conservatorship shall be terminated by the court.

If the conservator fails to report to the court that the person is no longer gravely disabled as provided herein, then the matter shall be referred to the court by the Short-Doyle Act community mental health service, or the staff of a facility operating under a contract to provide such services, or the attorney of record for the conservatee.

*(Amended by Stats. 1986, Ch. 872, Sec. 6.)*

**5353.** A temporary conservator under this chapter shall determine what arrangements are necessary to provide the person with food, shelter, and care pending the determination of conservatorship. He shall give preference to arrangements which allow the person to return to his home, family or friends. If necessary, the temporary conservator may require the person to be detained in a facility providing intensive treatment or in a facility specified in Section 5358 pending the determination of conservatorship. Any person so detained shall have the same right to judicial review set forth in Article 5 (commencing with Section 5275) of Chapter 2 of this part.

The powers of the temporary conservator shall be those granted in the decree, but in no event may they be broader than the powers which may be granted a conservator.

The court shall order the temporary conservator to take all reasonable steps to preserve the status quo concerning the conservatee's previous place of residence. The temporary conservator shall not be permitted to sell or relinquish on the conservatee's behalf any estate or interest in any real or personal property, including any lease or estate in real or personal property used as or within the conservatee's place of residence, without specific approval of the court, which may be granted only upon a finding based on a preponderance of the evidence that such action is necessary to avert irreparable harm to the conservatee. A finding of irreparable harm as to real property may be based upon a reasonable showing that such real property is vacant, that it cannot reasonably be rented, and that it is impossible or impractical to obtain fire or liability insurance on such property.

*(Amended by Stats. 1978, Ch. 1268.)*

**5354.** (a) The officer providing conservatorship investigation shall investigate all available alternatives to conservatorship, including, but not limited to, assisted outpatient treatment pursuant to Section 5346 and the Community Assistance, Recovery, and Empowerment (CARE) Act program pursuant to Section 5978, as applicable, and shall recommend conservatorship to the court only if no suitable alternatives are available. This officer shall render to the court a written report of investigation prior to the hearing. The report to the court shall be comprehensive and shall contain all relevant aspects of the person's medical, psychological, financial, family, vocational, and social condition, and information obtained from the person's family members, close friends, social worker, or principal therapist. The report shall also contain all available information concerning the person's real and personal property. The facilities providing intensive treatment or comprehensive evaluation shall disclose any records or information that may facilitate the investigation. If the officer providing conservatorship investigation recommends either for or against conservatorship, the officer shall set forth all alternatives available, including conservatorship, assisted outpatient treatment pursuant to Section 5346 and the CARE Act program pursuant to Section 5978, as applicable, and all other less restrictive alternatives. A copy of the report shall be transmitted to the individual who originally recommended conservatorship, to the person or agency, if any, recommended to serve as conservator, and to the person recommended for conservatorship. The court may receive the report in evidence and may read and consider the contents thereof in rendering its judgment.

(b) Notwithstanding Section 5328, when a court with jurisdiction over a person in a criminal case orders an evaluation of the person's mental condition pursuant to Section 5200, and that evaluation leads to a conservatorship investigation, the officer providing the conservatorship investigation shall serve a copy of the report required under subdivision (a) upon the defendant or the defendant's counsel. Upon the prior written request of the defendant or the defendant's counsel, the officer providing the conservatorship investigation shall also submit a copy of the report to the court hearing the criminal case, the district attorney, and the county probation department. The conservatorship investigation report and the information contained in that report, shall be kept confidential and shall not be further disclosed to anyone without the prior written consent of the defendant. After disposition of the criminal case, the court shall place all copies of the report in a sealed file, except as follows:

(1) The defendant and the defendant's counsel may retain their copy.

(2) If the defendant is placed on probation status, the county probation department may retain a copy of the report for the purpose of supervision of the defendant until the probation is terminated, at which time the probation department shall return its copy of the report to the court for placement into the sealed file.

*(Amended by Stats. 2023, Ch. 637, Sec. 5. (SB 43) Effective January 1, 2024.)*

**5354.5.** Except as otherwise provided in this section, the person recommended to serve as conservator shall promptly notify the officer providing conservatorship investigation whether he or she will accept the position if appointed. If notified that the person or agency recommended will not accept the position if appointed, the officer providing conservatorship investigation shall promptly recommend another person to serve as conservator.

The public guardian shall serve as conservator of any person found by a court under this chapter to be gravely disabled, if the court recommends the conservatorship after a conservatorship investigation, and if the court finds that no other person or entity is willing and able to serve as conservator.

*(Amended by Stats. 1986, Ch. 872, Sec. 6.5.)*

**5355.** If the conservatorship investigation results in a recommendation for conservatorship, the recommendation shall designate the most suitable person, corporation, state or local agency or county officer, or employee designated by the county to serve as conservator. No person, corporation, or agency shall be designated as conservator whose interests, activities, obligations or responsibilities are such as to compromise his or her or their ability to represent and safeguard the interests of the conservatee. Nothing in this section shall be construed to prevent the State Department of State Hospitals from serving as guardian pursuant to Section 7284, or the function of the conservatorship investigator and conservator being exercised by the same public officer or employee.

When a public guardian is appointed conservator, his or her official bond and oath as public guardian are in lieu of the conservator's bond and oath on the grant of letters of conservatorship. No bond shall be required of any other public officer or employee appointed to serve as conservator.

*(Amended by Stats. 2012, Ch. 24, Sec. 131. (AB 1470) Effective June 27, 2012.)*

**5356.** The report of the officer providing conservatorship investigation shall contain his or her recommendations concerning the powers to be granted to, and the duties to be imposed upon the conservator, the legal disabilities to be imposed upon the conservatee, and the proper placement for the conservatee pursuant to Section 5358. Except as provided in this section, the report to the court shall also contain an agreement signed by the person or agency recommended to serve as conservator certifying that the person or agency is able and willing to serve as conservator. The public guardian shall serve as conservator of any person found by a court under this chapter to be gravely disabled, if the court recommends the conservatorship after a conservatorship investigation, and if the court finds that no other person or entity is willing and able to serve as conservator.

*(Amended by Stats. 1986, Ch. 872, Sec. 7.)*

**5357.** All conservators of the estate shall have the general powers specified in Chapter 6 (commencing with Section 2400) of Part 4 of Division 4 of the Probate Code and shall have the additional powers specified in Article 11 (commencing with Section 2590) of Chapter 6 of Part 4 of Division 4 of the Probate Code as the court may designate. The report shall set forth which, if any, of the additional powers it recommends. The report shall also recommend for or against the imposition of each of the following disabilities on the proposed conservatee:

(a) The privilege of possessing a license to operate a motor vehicle. If the report recommends against this right and if the court follows the recommendation, the agency providing conservatorship investigation shall, upon the appointment of the conservator, so notify the Department of Motor Vehicles.

(b) The right to enter into contracts. The officer may recommend against the person having the right to enter specified types of transactions or transactions in excess of specified money amounts.

(c) The disqualification of the person from voting pursuant to Section 2208 of the Elections Code.

(d) The right to refuse or consent to treatment related specifically to the conservatee's being gravely disabled. The conservatee shall retain all rights specified in Section 5325.

(e) The right to refuse or consent to routine medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled. The court shall make a specific determination regarding imposition of this disability.

(f) The disqualification of the person from possessing a firearm pursuant to subdivision (e) of Section 8103.

*(Amended by Stats. 1994, Ch. 923, Sec. 268. Effective January 1, 1995.)*

**5358.** (a) (1) When ordered by the court after the hearing required by this section, a conservator appointed pursuant to this chapter shall place his or her conservatee as follows:

(A) For a conservatee who is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, in the least restrictive alternative placement, as designated by the court.

(B) For a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, in a placement that achieves the purposes of treatment of the conservatee and protection of the public.

(2) The placement may include a medical, psychiatric, nursing, or other state-licensed facility, or a state hospital, county hospital, hospital operated by the Regents of the University of California, a United States government hospital, or other nonmedical facility approved by the State Department of Health Care Services or an agency accredited by the State Department of Health Care Services, or in addition to any of the foregoing, in cases of chronic alcoholism, to a county alcoholic treatment center.

(b) A conservator shall also have the right, if specified in the court order, to require his or her conservatee to receive treatment related specifically to remedying or preventing the recurrence of the conservatee's being gravely disabled, or to require his or her conservatee to receive routine medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled. Except in emergency cases in which the conservatee faces loss of life or serious bodily injury, no surgery shall be performed upon the conservatee without the conservatee's prior consent or a court order obtained pursuant to Section 5358.2 specifically authorizing that surgery.

(c) (1) For a conservatee who is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, if the conservatee is not to be placed in his or her own home or the home of a relative, first priority shall be to placement in a suitable facility as close as possible to his or her home or the home of a relative. For the purposes of this section, suitable facility means the least restrictive residential placement available and necessary to achieve the purpose of treatment. At the time that the court considers the report of the officer providing conservatorship investigation specified in Section 5356, the court shall consider available placement alternatives. After considering all the evidence the court shall determine the least restrictive and most appropriate alternative placement for the conservatee. The court shall also determine those persons to be notified of a change of placement. The fact that a person for whom conservatorship is recommended is not an inpatient shall not be construed by the court as an indication that the person does not meet the criteria of grave disability.

(2) For a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, first priority shall be placement in a facility that achieves the purposes of treatment of the conservatee and protection of the public. The court shall determine the most appropriate placement for the conservatee. The court shall also determine those persons to be notified of a change of placement, and additionally require the conservator to notify the district attorney or attorney representing the originating county prior to any change of placement.

(3) For any conservatee, if requested, the local mental health director shall assist the conservator or the court in selecting a placement facility for the conservatee. When a conservatee who is receiving services from the local mental health program is placed, the conservator shall inform the local mental health director of the facility's location and any movement of the conservatee to another facility.

(d) (1) Except for a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, the conservator may transfer his or her conservatee to a less restrictive alternative placement without a further hearing and court approval. In any case in which a conservator has reasonable cause to believe that his or her conservatee is in need of immediate more restrictive placement because the condition of the conservatee has so changed that the conservatee poses an immediate and substantial danger to himself or herself or others, the conservator shall have the right to place his or her conservatee in a more restrictive facility or hospital. Notwithstanding Section 5328, if the change of placement is to a placement more restrictive than the court-determined placement, the conservator shall provide written notice of the change of placement and the reason therefor to the court, the conservatee's attorney, the county patient's rights advocate and any other persons designated by the court pursuant to subdivision (c).

(2) For a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, the conservator may not transfer his or her conservatee without providing written notice of the proposed change of placement and



the reason therefor to the court, the conservatee's attorney, the county patient's rights advocate, the district attorney of the county that made the commitment, and any other persons designated by the court to receive notice. If any person designated to receive notice objects to the proposed transfer within 10 days after receiving notice, the matter shall be set for a further hearing and court approval. The notification and hearing is not required for the transfer of persons between state hospitals.

(3) At a hearing where the conservator is seeking placement to a less restrictive alternative placement pursuant to paragraph (2), the placement shall not be approved where it is determined by a preponderance of the evidence that the placement poses a threat to the safety of the public, the conservatee, or any other individual.

(4) A hearing as to placement to a less restrictive alternative placement, whether requested pursuant to paragraph (2) or pursuant to Section 5358.3, shall be granted no more frequently than is provided for in Section 5358.3.

*(Amended by Stats. 2013, Ch. 23, Sec. 36. (AB 82) Effective June 27, 2013.)*

**5358.1.** Neither a conservator, temporary conservator, or public guardian appointed pursuant to this chapter, nor a peace officer acting pursuant to Section 5358.5, shall be held civilly or criminally liable for any action by a conservatee.

*(Added by Stats. 1972, Ch. 574.)*

**5358.2.** If a conservatee requires medical treatment and the conservator has not been specifically authorized by the court to require the conservatee to receive medical treatment, the conservator shall, after notice to the conservatee, obtain a court order for that medical treatment, except in emergency cases in which the conservatee faces loss of life or serious bodily injury. The conservatee, if he or she chooses to contest the request for a court order, may petition the court for hearing which shall be held prior to granting the order.

*(Amended by Stats. 1990, Ch. 180, Sec. 3.)*

**5358.3.** (a) At any time, a conservatee or any person on the conservatee's behalf with the consent of the conservatee or the conservatee's counsel, may petition the court for a hearing to contest the rights denied under Section 5357 or the powers granted to the conservator under Section 5358. However, after the filing of the first petition for hearing pursuant to this section, no further petition for rehearing shall be submitted for a period of six months.

(b) A request for hearing pursuant to this section shall not affect the right of a conservatee to petition the court for a rehearing as to their status as a conservatee pursuant to Section 5364. A hearing pursuant to this section shall not include trial by jury. If a person's right to vote is restored, the court shall provide notice to the Secretary of State pursuant to Section 2211.5 of the Elections Code.

(c) This section shall become operative on January 1, 2024.

*(Repealed (in Sec. 13) and added by Stats. 2022, Ch. 807, Sec. 14. (AB 2841) Effective January 1, 2023. Operative January 1, 2024, by its own provisions.)*

**5358.5.** When any conservatee placed into a facility pursuant to this chapter leaves the facility without the approval of the conservator or the person in charge of the facility, or when the conservator appointed pursuant to this chapter deems it necessary to remove his conservatee to the county designated treatment facility, the conservator may take the conservatee into custody and return him to the facility or remove him to the county designated treatment facility. A conservator, at his discretion, may request a peace officer to detain the conservatee and return such person to the facility in which he was placed or to transfer such person to the county designated treatment facility, pursuant to Section 7325 of the Welfare and Institutions Code. Such request shall be in writing and accompanied by a certified copy of the letters of conservatorship showing the person requesting detention and transfer to be the conservator appointed pursuant to this chapter as conservator of the person sought to be detained. Either the conservator or his assistant or deputy may request detention under this section. Whenever possible, persons charged with apprehension of persons pursuant to this section shall dress in plain clothes and shall travel in unmarked vehicles.

*(Amended by Stats. 1974, Ch. 833.)*

**5358.6.** Any conservator who places his or her conservatee in an inpatient facility pursuant to Section 5358, may also require the conservatee to undergo outpatient treatment. Before doing so, the conservator shall obtain the agreement of the person in charge of a mental health facility that the conservatee will receive outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the conservatee. The person in charge of these facilities shall notify the county mental health director or his or her designee of such agreement. At 90-day intervals following the commencement of the outpatient treatment, the outpatient supervisor shall make a report in writing to the conservator and to the person in charge of the mental health facility setting forth the status and progress of the conservatee.

*(Amended by Stats. 1980, Ch. 681, Sec. 3.)*

**5358.7.** When any conservatee challenges his or her placement or conditions of confinement pursuant to Section 1473 of the Penal Code or Section 7250 of the Welfare and Institutions Code, notwithstanding the continuing jurisdiction of the court which appointed the conservators, judicial review shall be in the county where the conservatorship was established or in the county in which the conservatee is placed or confined. If the conservatee is released as a result of the hearing, he or she shall be returned to the county where the conservatorship originated.

*(Added by Stats. 1986, Ch. 226, Sec. 1.)*

**5359.** A conservator appointed under this chapter shall find alternative placement for his conservatee within seven days after he is notified by the person in charge of the facility serving the conservatee that the conservatee no longer needs the care or treatment offered by that facility.

If unusual conditions or circumstances preclude alternative placement of the conservatee within seven days, the conservator shall find such placement within 30 days.

If alternative placement cannot be found at the end of the 30-day period the conservator shall confer with the professional person in charge of the facility and they shall then determine the earliest practicable date when such alternative placement may be obtained.

*(Amended by Stats. 1980, Ch. 676, Sec. 336.)*

**5360.** The officer providing conservatorship investigation shall recommend, in his report to the court, for or against imposition of a disability set forth in Section 5357 on the basis of the determination of the professional person who recommended conservatorship pursuant to Section 5352.

The officer providing conservatorship investigation shall recommend in his report any of the additional powers of a conservator set forth in Section 2591 of the Probate Code if the needs of the individual patient or his estate require such powers. In making such determination, the officer providing conservatorship investigation shall consult with the professional person who recommended conservatorship pursuant to Section 5352.

*(Amended by Stats. 1979, Ch. 730.)*

**5361.** (a) Conservatorship initiated pursuant to this chapter shall automatically terminate one year after the appointment of the conservator by the superior court. The period of service of a temporary conservator shall not be included in the one-year period. When the conservator has been appointed as conservator of the estate, the conservator shall, for a reasonable time, continue to have the authority over the estate that the superior court, on petition by the conservator, deems necessary for (1) the collection of assets or income that accrued during the period of conservatorship, but were uncollected before the date of termination, (2) the payment of expenses that accrued during period of conservatorship and of which the conservator was notified prior to termination, but were unpaid before the date of termination, and (3) the completion of sales of real property when the only act remaining at the date of termination is the actual transfer of title.

(b) If, upon the termination of an initial or a succeeding period of conservatorship, the conservator determines that conservatorship is still required, the conservator may petition the superior court for reappointment as conservator for a succeeding one-year period. The petition shall include the opinion of two physicians or licensed psychologists who have a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders that the conservatee is still gravely disabled as a result of mental disorder or impairment by chronic alcoholism. If the conservator is unable to obtain the opinion of two physicians or psychologists, the conservator shall request that the court appoint them. The petition shall also include an attestation by the conservator that they have considered all available alternatives to conservatorship, including, but not limited to, assisted outpatient treatment pursuant to Section 5346 and the CARE Act program pursuant to Section 5978, as applicable, and that reappointment of a conservator is recommended because no suitable alternatives are available.

(c) (1) A facility in which a conservatee is placed shall release the conservatee at the conservatee's request when the conservatorship terminates. A petition for reappointment filed by the conservator or a petition for appointment filed by a public guardian shall be transmitted to the facility at least 30 days before the automatic termination date. The facility may detain the conservatee after the end of the termination date only if the conservatorship proceedings have not been completed and the court orders the conservatee to be held until the proceedings have been completed.

(2) A care coordination plan shall be developed by, at a minimum, the individual, the facility, the county behavioral health department, the health care payer, if different from the county, and other individuals designated by the individual as appropriate, and shall be provided to the conservatee prior to their release. The care coordination plan shall include a first followup appointment with an appropriate behavioral health professional. The appointment information shall be provided to the individual before the individual is released. In no event may the individual be involuntarily held based on the requirements of this paragraph beyond when they would otherwise qualify for release. All care and treatment after release shall be voluntary.

(3) For purposes of care coordination and to schedule a followup appointment, the health plan, mental health plan, primary care provider, or other appropriate provider to whom an individual leaving a facility has been referred pursuant to paragraph (2) of



subdivision (c) shall make a good faith effort to contact the referred individual no less than three times, either by email, telephone, mail, or in-person outreach, whichever method or methods are most likely to reach the individual.

(4) The requirement to develop a care coordination plan under this subdivision shall take effect immediately, without waiting for the department to create a model care coordination plan, as required pursuant to Section 5402.5.

(Amended by Stats. 2024, Ch. 640, Sec. 2. (SB 42) Effective September 27, 2024.)

**5362.** (a) The clerk of the superior court shall notify each conservator, his or her conservatee and the person in charge of the facility in which the person resides, and the conservatee's attorney, at least 60 days before the termination of the one-year period. If the conservator is a private party, the clerk of the superior court shall also notify the mental health director and the county officer providing conservatorship investigation pursuant to Section 5355, at least 60 days before the termination of the one-year period. Notification shall be delivered pursuant to Section 1215 of the Probate Code. The notification shall be in substantially the following form:

In the Superior Court of the State of California for the County of _____	
The people of the State of California	No. _____
Concerning	Notice of Termination
	of Conservatorship
The people of the State of California to :	
(conservatee, conservatee's attorney, conservator, and professional person in charge of the facility in which the conservatee resides, county mental health director, and county officer providing conservatorship investigation.)	

The one-year conservatorship established for \_\_\_\_ pursuant to Welfare and Institutions Code Section \_\_\_\_ on \_\_\_\_ will terminate on \_\_\_\_\_. If the conservator, \_\_\_\_\_, wishes to reestablish conservatorship for another year he or she must petition the court by \_\_\_\_\_. Subject to a request for a court hearing by jury trial the judge may, on his or her own motion, accept or reject the conservator's petition.

If the conservator petitions to reestablish conservatorship the conservatee, the professional person in charge of the facility in which he or she resides, the conservatee's attorney, and, if the conservator is a private party, the county mental health director and the county officer providing conservatorship investigation shall be notified. If any of them request it, there shall be a court hearing or a jury trial, whichever is requested, on the issue of whether the conservatee is still gravely disabled and in need of conservatorship. If the private conservator does not petition for reappointment, the county officer providing conservatorship investigation may recommend another conservator. Such a petition shall be considered a petition for reappointment as conservator.

_____	Clerk of the Superior Court
_____	by _____ Deputy _____

(b) Subject to a request for a court hearing or jury trial, the judge may, on his or her own motion, accept or reject the conservator's petition.

If the conservator does not petition to reestablish conservatorship at or before the termination of the one-year period, the court shall issue a decree terminating conservatorship. The decree shall be delivered to the conservator and his or her conservatee pursuant to Section 1215 of the Probate Code and shall be accompanied by a statement of California law as set forth in Section 5368.

(Amended by Stats. 2017, Ch. 319, Sec. 148. (AB 976) Effective January 1, 2018.)

**5363.** In the event the conservator continues in good faith to act within the powers granted him in the original decree of conservatorship beyond the one-year period, he may petition for and shall be granted a decree ratifying his acts as conservator beyond the one-year period. The decree shall provide for a retroactive appointment of the conservator to provide continuity of authority in those cases where the conservator did not apply in time for reappointment.

*(Added by Stats. 1967, Ch. 1667.)*

**5364.** (a) At any time, the conservatee may petition the superior court for a rehearing as to their status as a conservatee. However, after the filing of the first petition for rehearing pursuant to this section, no further petition for rehearing shall be submitted for a period of six months. If the conservatorship is terminated pursuant to this section, the court shall provide notice to the Secretary of State pursuant to Section 2211.5 of the Elections Code.

(b) This section shall become operative on January 1, 2024.

*(Repealed (in Sec. 15) and added by Stats. 2022, Ch. 807, Sec. 16. (AB 2841) Effective January 1, 2023. Operative January 1, 2024, by its own provisions.)*

**5365.** A hearing shall be held on all petitions under this chapter within 30 days of the date of the petition. The court shall appoint the public defender or other attorney for the conservatee or proposed conservatee within five days after the date of the petition.

*(Amended by Stats. 1972, Ch. 574.)*

**5365.1.** The conservatee or proposed conservatee may, upon advice of counsel, waive the presence at any hearing under this chapter of the physician or other professional person who recommended conservatorship pursuant to Section 5352 and of the physician providing evaluation or intensive treatment. In the event of such a waiver, such physician and professional persons shall not be required to be present at the hearing if it is stipulated that the recommendation and records of such physician or other professional person concerning the mental condition and treatment of the conservatee or proposed conservatee will be received in evidence.

*(Added by Stats. 1971, Ch. 1162.)*

**5366.1.** (a) Any person detained as of June 30, 1969, under court commitment, in a private institution, a county psychiatric hospital, facility of the Veterans Administration, or other agency of the United States government, community mental health service, or detained in a state hospital or facility of the Veterans Administration upon application of a local health officer, pursuant to former Section 5567 or Sections 6000 to 6019, inclusive, as they read immediately preceding July 1, 1969, may be detained, after January 1, 1972, for a period no longer than 180 days, except as provided in this section.

(b) Any person detained pursuant to this section on the effective date of this section shall be evaluated by the facility designated by the county and approved by the State Department of Health Care Services pursuant to Section 5150 as a facility for 72-hour treatment and evaluation. The evaluation shall be made at the request of the person in charge of the institution in which the person is detained. If in the opinion of the professional person in charge of the evaluation and treatment facility or his or her designee, the evaluation of the person can be made by the professional person or his or her designee at the institution in which the person is detained, the person shall not be required to be evaluated at the evaluation and treatment facility, but shall be evaluated at the institution where he or she is detained, or other place to determine if the person is a danger to others, himself or herself, or gravely disabled as a result of mental disorder.

(c) Any person evaluated under this section shall be released from the institution in which he or she is detained immediately upon completion of the evaluation if in the opinion of the professional person in charge of the evaluation and treatment facility, or his or her designee, the person evaluated is not a danger to others, or to himself or herself, or gravely disabled as a result of mental disorder, unless the person agrees voluntarily to remain in the institution in which he or she has been detained.

(d) If in the opinion of the professional person in charge of the facility or his or her designee, the person evaluated requires intensive treatment or recommendation for conservatorship, the professional person or his or her designee shall proceed under Article 4 (commencing with Section 5250) of Chapter 2, or under Chapter 3 (commencing with Section 5350), of Part 1 of Division 5.

(e) If it is determined from the evaluation that the person is gravely disabled and a recommendation for conservatorship is made, and if the petition for conservatorship for the person is not filed by June 30, 1972, the court commitment or detention under a local health officer application for the person shall terminate and the patient shall be released unless he or she agrees to accept treatment on a voluntary basis.

*(Amended by Stats. 2013, Ch. 23, Sec. 37. (AB 82) Effective June 27, 2013.)*

**5367.** Conservatorship established under this chapter shall supersede any commitment under former provisions of this code relating to inebriates or the mentally ill.

*(Amended by Stats. 1968, Ch. 1374.)*

**5368.** A person who is no longer a conservatee shall not be presumed to be incompetent by virtue of his having been a conservatee under the provisions of this part.

*(Added by Stats. 1967, Ch. 1667.)*

**5369.** When a conservatee who has criminal charges pending against him and has been found mentally incompetent under Section 1370 of the Penal Code recovers his mental competence, the conservator shall certify that fact to the court, sheriff, and district attorney of the county in which the criminal charges are pending and to the defendant's attorney of record.

The court shall order the sheriff to immediately return the defendant to the court in which the criminal charges are pending. Within two judicial days of the defendant's return, the court shall hold a hearing to determine whether the defendant is entitled to be admitted to bail or released upon his own recognizance pending conclusion of criminal proceedings.

*(Added by Stats. 1974, Ch. 1511.)*

**5370.** Notwithstanding any other provision of law, a conservatorship proceeding may be initiated pursuant to this chapter for any person who has been charged with an offense, regardless of whether action is pending or has been initiated pursuant to Section 1370 of the Penal Code.

*(Added by Stats. 1974, Ch. 1511.)*

**5370.1.** The court in which a petition to establish a conservatorship is filed may appoint the county counsel or a private attorney to represent a private conservator in all proceedings connected with the conservatorship, if it appears that the conservator has insufficient funds to obtain the services of a private attorney. Such appointments of the county counsel, however, may be made only if the board of supervisors have, by ordinance or resolution, authorized the county counsel to accept them.

*(Amended by Stats. 1980, Ch. 415, Sec. 1.)*

**5370.2.** (a) The State Department of State Hospitals and the State Department of Health Care Services shall contract with a single nonprofit agency that meets the criteria specified in subdivision (b) of Section 5510 to conduct the activities specified in paragraphs (1) to (5), inclusive. These two state departments shall enter into a memorandum of understanding to ensure the effective management of the contract and the required activities affecting county patients' rights programs:

(1) Provide patients' rights advocacy services for, and conduct investigations of alleged or suspected abuse and neglect of, including deaths of, persons with mental disabilities residing in state hospitals.

(2) Investigate and take action as appropriate and necessary to resolve complaints from or concerning recipients of mental health services residing in licensed health or community care facilities regarding abuse, and unreasonable denial, or punitive withholding of rights guaranteed under this division that cannot be resolved by county patients' rights advocates.

(3) Provide consultation, technical assistance, and support to county patients' rights advocates in accordance with their duties under Section 5520.

(4) Conduct program review of patients' rights programs.

(5) Make patients' rights advocacy training materials readily accessible to all county patients' rights advocates online. The training materials shall include, but are not limited to, the topics described in Section 5512.

(b) The services shall be provided in coordination with the appropriate mental health patients' rights advocates.

(c) (1) The contractor shall develop a plan to provide patients' rights advocacy services for, and conduct investigations of alleged or suspected abuse and neglect of, including the deaths of, persons with mental disabilities residing in state hospitals.

(2) The contractor shall develop the plan in consultation with the statewide organization of mental health patients' rights advocates, the statewide organization of mental health clients, and the statewide organization of family members of persons with mental disabilities, and the statewide organization of county mental health directors.

(3) In order to ensure that persons with mental disabilities have access to high quality advocacy services, the contractor shall establish a grievance procedure and shall advise persons receiving services under the contract of the availability of other advocacy services, including services provided by the protection and advocacy agency specified in Section 4901 and the county patients' rights advocates specified in Section 5520.

(d) This section does not restrict or limit the authority of the department to conduct the reviews and investigations it deems necessary for personnel, criminal, and litigation purposes.

(e) The State Department of State Hospitals and the State Department of Health Care Services shall jointly contract on a multiyear basis for a contract term of up to five years.

*(Amended by Stats. 2018, Ch. 237, Sec. 2. (AB 2316) Effective January 1, 2019.)*

**5371.** No person upon whom a duty is placed to evaluate, or who, in fact, does evaluate a conservatee for any purpose under this chapter shall have a financial or other beneficial interest in the facility where the conservatee is to be, or has been placed.

Conservatorship investigation and administration shall be conducted independently from any person or agency which provides mental health treatment for conservatees, if it has been demonstrated that the existing arrangement creates a conflict of interest between the treatment needs of the conservatee and the investigation or administration of the conservatorship. The person or agency responsible for the mental health treatment of conservatees shall execute a written agreement or protocol with the conservatorship investigator and administrator for the provision of services to conservatees. The agreement or protocol shall specify the responsibilities of each person or agency who is a party to the agreement or protocol, and shall specify a procedure to resolve disputes or conflicts of interest between agencies or persons.

*(Amended by Stats. 1986, Ch. 335, Sec. 2.)*

**5372.** (a) The provisions of Section 1051 of the Probate Code shall apply to conservatorships established pursuant to this chapter.

(b) The Judicial Council shall, on or before January 1, 2008, adopt a rule of court to implement this section.

(c) Subdivision (a) of this section shall become operative on January 1, 2008.

*(Added by Stats. 2006, Ch. 492, Sec. 5. Effective January 1, 2007.)*