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AB-1836 Mental health: referral of conservatees. (2015-2016)

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Assembly Bill No. 1836

CHAPTER 819

An act to add Section 5350.5 to the Welfare and Institutions Code, relating to conservatorships.

[Approved by Governor September 29, 2016. Filed with Secretary of State September 29, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1836, Maienschein. Mental health: referral of conservatees.

Existing law provides a procedure for the appointment of a conservator for a person who is determined to be gravely disabled as a result of a mental disorder or an impairment by chronic alcoholism. Existing law authorizes certain persons to recommend conservatorship of an individual under his or her care to the officer providing conservatorship investigation in the county of the individual's residence, as specified. Existing law also provides for the establishment of a conservatorship for a person who is unable to properly provide for his or her personal needs or is substantially unable to manage his or her finances.

This bill would authorize the court, if a conservatorship has already been established under the Probate Code, to refer 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 as a result of a mental disorder or impairment by chronic alcoholism, and is unwilling to accept, or is incapable of accepting, treatment voluntarily. The bill would also require the court to appoint counsel to a conservatee if he or she cannot afford counsel. The bill would require the local mental health system or plan to file a copy of the assessment with the court that made the referral.

By increasing county duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5350.5 is added to the Welfare and Institutions Code, to read:

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 as a result of a mental disorder or impairment 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 him or her 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.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.