AB-1290 Lawyer-client privilege: holder of the privilege. (2017-2018)

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Assembly Bill No. 1290

CHAPTER 475

An act to amend Section 953 of the Evidence Code, relating to evidence.

[Approved by Governor September 18, 2018. Filed with Secretary of State September 18, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1290, Obernolte. Lawyer-client privilege: holder of the privilege.

Existing law provides that the client of a lawyer has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the client and lawyer if the privilege is claimed by the holder of the privilege. Existing law defines "holder of the privilege" to include a guardian or conservator of the client, if the client has a guardian or conservator.

This bill would specify that, notwithstanding that definition, a guardian or conservator who has an actual or apparent conflict with a client does not hold the privilege.

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

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

SECTION 1. Section 953 of the Evidence Code is amended to read:

953. As used in this article, "holder of the privilege" means:

(a) The client, if the client has no guardian or conservator.

(b) (1) A guardian or conservator of the client, if the client has a guardian or conservator, except as provided in paragraph (2).

   (2) If the guardian or conservator has an actual or apparent conflict of interest with the client, then the guardian or conservator does not hold the privilege.

(c) The personal representative of the client if the client is dead, including a personal representative appointed pursuant to Section 12252 of the Probate Code.

(d) A successor, assign, trustee in dissolution, or any similar representative of a firm, association, organization, partnership, business trust, corporation, or public entity that is no longer in existence.