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AB-2090 Guardianships: special immigrant juvenile status. (2017-2018)

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Date Published: 08/28/2018 09:00 PM

Assembly Bill No. 2090

CHAPTER 209

An act to amend Section 1510.1 of the Probate Code, relating to guardianships.

[Approved by Governor August 27, 2018. Filed with Secretary of State August 27, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2090, Gonzalez Fletcher. Guardianships: special immigrant juvenile status.

Existing federal law, the Immigration and Nationality Act, establishes a procedure for classification of certain aliens as special immigrants who have been declared dependent on a juvenile court, and authorizes those aliens to apply for an adjustment of status to that of a lawful permanent resident within the United States. Under federal regulations, an alien is eligible for special immigrant juvenile status if he or she is under 21 years of age. Existing state law provides that the juvenile, probate, and family divisions of the superior court have jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act. Existing law also requires the court, upon request, to make the necessary findings regarding special immigrant juvenile status if there is evidence to support those findings.

Existing law establishes the jurisdiction of the probate court. Existing law regulates the establishment and termination of guardianships in probate court, and specifies that a guardian has the care, custody, and control of a ward.

Existing law authorizes the court to appoint a guardian of the person of an unmarried individual who is 18 years of age or older, but who has not yet attained 21 years of age, in connection with a petition to make the necessary findings regarding special immigrant juvenile status, as specified, if the proposed ward consents. Existing law authorizes the petition for guardianship to be filed by a relative or any other person on behalf of the proposed ward, or by the proposed ward.

This bill would clarify that a parent is authorized to file a petition for guardianship of the proposed ward under those provisions.

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

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

SECTION 1. Section 1510.1 of the Probate Code is amended to read:

1510.1. (a) (1) With the consent of the proposed ward, the court may appoint a guardian of the person for an unmarried individual who is 18 years of age or older, but who has not yet attained 21 years of age, in connection with a petition to make the necessary findings regarding special immigrant juvenile status pursuant to subdivision (b) of Section 155 of the Code of Civil Procedure.

(2) A petition for guardianship of the person of a proposed ward who is 18 years of age or older, but who has not yet attained 21 years of age, may be filed by a parent, relative, or any other person on behalf of the proposed ward, or the proposed ward.

(b) (1) At the request of, or with the consent of, the ward, the court may extend an existing guardianship of the person for a ward past 18 years of age, for purposes of allowing the ward to complete the application process with the United States Citizenship and Immigration Services for classification as a special immigrant juvenile pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code.

(2) A relative or any other person on behalf of a ward, or the ward, may file a petition to extend the guardianship of the person for a period of time not to extend beyond the ward reaching 21 years of age.

(c) This section does not authorize the guardian to abrogate any of the rights that a person who has attained 18 years of age may have as an adult under state law, including, but not limited to, decisions regarding the ward's medical treatment, education, or residence, without the ward's express consent.

(d) For purposes of this division, the terms "child," "minor," and "ward" include an unmarried individual who is younger than 21 years of age and who, pursuant to this section, consents to the appointment of a guardian or extension of a guardianship after he or she attains 18 years of age.

(e) The Judicial Council shall, by July 1, 2016, adopt any rules and forms needed to implement this section.