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**SB-931 Conservatorships: custody status.** (2017-2018)

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**Senate Bill No. 931**

**CHAPTER 458**

An act to amend Sections 5352 and 5352.5 of the Welfare and Institutions Code, relating to conservatorships.

[ Approved by Governor September 17, 2018. Filed with Secretary of State September 17, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 931, Hertzberg. Conservatorships: custody status.

Under existing law, a professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment for a gravely disabled person may recommend a conservatorship for that person without that person being an inpatient in a facility providing comprehensive evaluation or intensive treatment, if specified conditions are met.

This bill would expand that authority to a professional person in charge of providing mental health treatment at a county jail or his or her designee.

Existing law also authorizes initiation of conservatorship proceedings for, among others, a person who has been transferred from a county jail to a specified mental health facility for 72-hour evaluation and treatment, upon a recommendation to the conservatorship investigator of the appropriate county, as specified. Under existing law, the initiation of conservatorship proceedings or the existence of a conservatorship does not affect pending criminal proceedings for that person.

This bill would additionally prohibit a conservatorship investigator from failing to schedule an investigation based upon the custody status of a person who is subject to a conservatorship investigation.

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

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

**SECTION 1.** Section 5352 of the Welfare and Institutions Code is amended to read:

**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.

**SEC. 2.** Section 5352.5 of the Welfare and Institutions Code is amended to read:

**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.