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SB-1106 The Kasem-Nichols-Rooney Law. (2023-2024)

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Date Published: 09/23/2024 02:00 PM

Senate Bill No. 1106

CHAPTER 455

An act to amend Sections 2352, 2361, and 2700 of the Probate Code, relating to conservatorship.

[Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1106, Rubio. The Kasem-Nichols-Rooney Law.

The Guardianship-Conservatorship Law generally establishes the powers and duties of a guardian or conservator of a person, an estate, or both. Existing law authorizes a conservator to establish the residence of a conservatee within and outside of California, as prescribed, and requires the conservator to select the least restrictive appropriate residence that is available, which existing law presumes to be the personal residence of the conservatee. Existing law requires the conservator to file a notice of change of residence with the court within 30 days of the date of the change, and requires the conservator to deliver a copy of the notice to the spouse or registered domestic partner of the conservatee, if any, and to the relatives named in the petition for appointment of the conservator, as specified, and to file proof of delivery of that notice with the court. If the conservator proposes to remove the conservatee from their personal residence, existing law requires the conservator to provide notice to those persons at least 15 days before the proposed removal of the conservatee, except as specified. Existing law, at any time after issuance of letters of guardianship or conservatorship, authorizes specified individuals, including an interested person, to file with the court clerk a written request for special notice.

This bill, the Kasem-Nichols-Rooney Law, would additionally require the conservator to provide notice if the conservator proposes to remove the conservatee from their current residence. The bill also would require the conservator to provide notice under the above circumstances to a person who has requested special notice of the matter, and would define "interested person" for these purposes. When the conservator is removing the conservatee from their current residence or personal residence, the bill would require the conservator to provide notice to the designated persons at least 20 days before the proposed removal of the conservatee, except as specified.

Existing law requires a conservator to provide notice of a conservatee's death by delivering a copy of the notice to specified persons and by filing a proof of delivery with the court, unless otherwise ordered by the court.

This bill additionally would require the conservator to provide notice to the above-specified persons of the date, time, and location of any funeral, burial, or memorial arrangements for the conservatee, if the conservator makes those arrangements. The bill would require that notice to be delivered electronically whenever possible.

This bill would define "interested person" for these purposes.

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

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

SECTION 1. This act shall be known, and may be cited, as the Kasem-Nichols-Rooney Law.

SEC. 2. Section 2352 of the Probate Code is amended to read:

2352. (a) The guardian may establish the residence of the ward at any place within this state without the permission of the court. The guardian shall select the least restrictive appropriate residence that is available and necessary to meet the needs of the ward, and that is in the best interests of the ward.

(b) The conservator may establish the residence of the conservatee at any place within this state without the permission of the court. The conservator shall select the least restrictive appropriate residence, as described in Section 2352.5, that is available and necessary to meet the needs of the conservatee, and that is in the best interests of the conservatee.

(c) If permission of the court is first obtained, a guardian or conservator may establish the residence of a ward or conservatee at a place not within this state. Notice of the hearing on the petition to establish the residence of the ward or conservatee out of state, together with a copy of the petition, shall be given in the manner required by subdivision (a) of Section 1460 to all persons entitled to notice under subdivision (b) of Section 1511 or subdivision (b) of Section 1822.

(d) (1) An order under subdivision (c) relating to a ward shall require the guardian either to return the ward to this state, or to cause a guardianship proceeding or its equivalent to be commenced in the place of the new residence, when the ward has resided in the place of new residence for a period of four months or a longer or shorter period specified in the order.

(2) An order under subdivision (c) relating to a conservatee shall require the conservator to do one of the following when the conservatee has resided in the other state for a period of four months or a longer or shorter period specified in the order:

(A) Return the conservatee to this state.

(B) Petition for transfer of the conservatorship to the other state under Article 3 (commencing with Section 2001) of Chapter 8 of Part 3 and corresponding law of the other state.

(C) Cause a conservatorship proceeding or its equivalent to be commenced in the other state.

(e) (1) The guardian or conservator shall file a notice of change of residence with the court within 30 days of the date of the change. The guardian or conservator shall include in the notice of change of residence a declaration stating that the ward's or conservatee's change of residence is consistent with the standard described in subdivision (b).

(2) (A) The guardian or conservator shall deliver pursuant to Section 1215 a copy of the notice to all persons entitled to notice under subdivision (b) of Section 1511 or subdivision (b) of Section 1822 and shall file proof of delivery of the notice with the court. The court may, for good cause, waive the delivery requirement pursuant to this paragraph in order to prevent harm to the conservatee or ward.

(B) A conservator also shall provide notice pursuant to subparagraph (A) to any person who has requested special notice of the matter pursuant to Section 2700.

(3) If the guardian or conservator proposes to remove the ward or conservatee from their current residence or personal residence, except as provided by subdivision (c), the guardian or conservator shall deliver pursuant to Section 1215 a notice of their intention to change the residence of the ward or conservatee to all persons entitled to notice under subdivision (b) of Section 1511 and subdivision (b) of Section 1822, and any person who has requested special notice of the matter, pursuant to Section 2700. In the absence of an emergency, that notice shall be delivered at least 15 days before the proposed removal of the ward, or at least 20 days of the conservatee, from their current residence or personal residence. If the notice is delivered less than 15 or 20 days before the proposed removal of the ward or conservatee, as applicable, the guardian or conservator shall set forth the basis for the emergency in the notice. The guardian or conservator shall file proof of delivery of that notice with the court.

(f) This section does not apply when the court has made an order under Section 2351 pursuant to which the conservatee retains the right to establish their own residence.

(g) As used in this section, "guardian" or "conservator" includes a proposed guardian or proposed conservator and "ward" or "conservatee" includes a proposed ward or proposed conservatee.

(h) This section does not apply to a person with developmental disabilities for whom the Director of Developmental Services or a regional center, established pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code, acts as the conservator.

SEC. 3. Section 2361 of the Probate Code is amended to read:

2361. (a) A conservator shall provide notice of a conservatee's death by delivering pursuant to Section 1215 a copy of the notice to all persons entitled to notice under Section 1460, including, but not limited to, a person who has requested special notice of the matter, as provided in Section 2700, and by filing a proof of delivery with the court, unless otherwise ordered by the court.

(b) A conservator also shall provide notice, as specified in subdivision (a), of the date, time, and location of any funeral, burial, or memorial arrangements for the conservatee, if the conservator makes those arrangements. Notice pursuant to this subdivision shall be delivered electronically whenever possible.

SEC. 4. Section 2700 of the Probate Code is amended to read:

2700. (a) (1) At any time after the issuance of letters of guardianship or conservatorship, the ward, if over 14 years of age or the conservatee, the spouse of the ward or the spouse or domestic partner of the conservatee, any relative or creditor of the ward or conservatee, or any other interested person, in person or by attorney, may file with the court clerk a written request for special notice.

(2) An "interested person" may include, but is not limited to, a family member of the conservatee not included in Section 1460 or a friend of the conservatee.

(b) The request for special notice shall be so entitled and shall set forth the name of the person and the address to which notices shall be delivered pursuant to Section 1215.

(c) Special notice may be requested of any one or more of the following matters:

(1) Petitions filed in the guardianship or conservatorship proceeding.

(2) Inventories and appraisals of property in the estate, including any supplemental inventories and appraisals.

(3) Accounts of the guardian or conservator.

(4) Proceedings for the final termination of the guardianship or conservatorship proceeding.

(d) Special notice may be requested of:

(1) Any one or more of the matters in subdivision (c) by describing the matter or matters.

(2) All the matters in subdivision (c) by referring generally to "the matters described in subdivision (c) of Section 2700 of the Probate Code" or by using words of similar meaning.

(e) A copy of the request shall be delivered pursuant to Section 1215 to the guardian or conservator or to the attorney for the guardian or conservator. If personally delivered, the request is effective when it is delivered. If mailed or electronically delivered, the request is effective when it is received.

(f) If the original of the request is filed with the court clerk, it shall be accompanied by a written admission or proof of service.