

AB 1363 SECTION-BY-SECTION SUMMARY

Bill Section	Probate Code Section	Summary of Provision	Effective Date*
1	Uncodified	Provides that this act, together with SB 1116 (Scott), SB 1550 (Figueroa), and SB 1716 (Bowen), shall be known and may be cited as the Omnibus Conservatorship and Guardianship Reform Act of 2006.	Jan. 1, 2007
2	Uncodified	Legislative findings and declarations.	Jan. 1, 2007
3	1456	Requires the Judicial Council to adopt a rule of court establishing qualifications for court-employed staff attorneys, examiners, investigators, and court-appointed counsel, and to establish educational requirements for judges regularly assigned to hear probate matters, as well as the above individuals. Requires consultation with specified groups in the development of the rule.	Jan. 1, 2008 (see § 1456(a))
4	1457	Requires the Judicial Council to develop short educational program of no more than three hours, free of charge, for nonprofessional conservators and guardians.	Jan. 1, 2007
5	1458	Requires the Judicial Council to report to the Legislature findings of study measuring court effectiveness in conservatorship cases.	Jan. 1, 2008 (see § 1458(a))
6	1610(a)	Technical amendment changing “best interest” to “best interests.”	Jan. 1, 2007
7	1822(b)(1)	Technical amendment changing “domestic partner” to “registered domestic partner.”	Jan. 1, 2007
	1822(f)	Requires the Judicial Council to develop form for required notice of hearing to spouse or registered domestic partner and relatives on petition for appointment of a conservator.	Jan. 1, 2008 (see § 1822(f))

8	<p>1826</p> <p>1826(a)</p> <p>1826(l)</p> <p>1826(q)</p>	<p>Requires court investigators, as part of their initial investigations in connection with petitions to establish conservatorships, to:</p> <ul style="list-style-type: none"> ▪ Interview the following before the hearing: the petitioner and the proposed conservator, if different from the petitioner; the proposed conservatee’s spouse or registered domestic partner and relatives within the first degree; and, to the greatest extent possible, the proposed conservatee’s relatives within the second degree, neighbors, and, if known, close friends. ▪ Mail a copy of the investigator’s report to the proposed conservatee and his or her spouse or registered domestic partner and relatives within the first degree who are required to be named in the petition for appointment of the conservator, unless the court determines that the mailing will result in harm to the conservatee. <p>Allows any investigation by the court investigator related to a temporary conservatorship to be a part of the investigation for a general petition for conservatorship, but also requires the court investigator to make a second visit to the proposed conservatee and include in his or her report the effect of the temporary conservatorship on the proposed conservatee.</p>	<p>July 1, 2007 (see bill, § 36)</p>
9	1829(b)	<p>Technical amendment changing “domestic partner” to “registered domestic partner.”</p>	<p>Jan. 1, 2007</p>
10	<p>1830</p> <p>1830(c)</p> <p>1830(c)</p>	<p>Amends provision governing the order of appointment of the conservator to:</p> <ul style="list-style-type: none"> ▪ Require an information notice of the rights of the conservatee to be attached to the order. ▪ Require the conservator to mail the order and the attached notice to the conservatee and the conservatee’s 	<p>Jan. 1, 2008</p> <p>Jan. 1, 2008</p>

	1830(c)	<p>relatives.</p> <ul style="list-style-type: none"> ▪ Require the Judicial Council to develop the above-required notice. 	Jan. 1, 2008 (see § 1830(c))
11	1850		Not operative (see bill, § 34)
11.5	1850 1850(a) 1850(b) 1850(c)	<p>Amends the provision governing review of probate conservatorships, as follows:</p> <ul style="list-style-type: none"> ▪ Requires the court to review the conservatorship six months after appointment of the conservator and annually thereafter. However, at the first-year review and every subsequent review conducted under this provision, the court may set the next review in two years if the court determines that the conservator is acting in the best interests of the conservatee. In these cases, the court shall require the investigator to conduct a specified investigation one year before the next review and file a status report in the conservatee’s court file regarding whether the conservatorship is still warranted and whether the conservator is acting in the best interests of the conservatee. If the court investigator so determines, no further hearing or court action in response to the investigator’s status report is required. ▪ Allows the court, on its own motion or upon request of any interested person, to take appropriate action including, but not limited to, ordering a review of the conservatorship at any time, including at a noticed hearing, and ordering the conservator to present an accounting of the assets of the estate pursuant to section 2620. <p>Requires notice of hearings conducted pursuant to section 1850(b) to be provided to the conservatee’s spouse or registered domestic</p>	July 1, 2007 (see § 1850(e))

		partner and relatives.	
11.7	1850.5	Provides that, notwithstanding section 1850, each limited conservatorship for a developmentally disabled adult shall be reviewed by the court one year after the appointment of the conservator and biennially thereafter.	July 1, 2007 (see bill, § 36)
	1850.5	Allows the court, on its own motion or upon request of any interested person, to take appropriate action, including but not limited to ordering a review of the limited conservatorship, including at a noticed hearing, at any time.	July 1, 2007 (see bill, § 36)
12	1851		Not operative (see bill, § 35)
12.5	1851	Requires the court investigator, when court review is required under section 1850, to:	July 1, 2007 (see § 1851(f))
	1851(a)	<ul style="list-style-type: none"> ▪ Visit the conservatee without notice to the conservator, except as ordered by the court for necessity or to prevent harm to the conservatee. 	
	1851(a)	<ul style="list-style-type: none"> ▪ Inform the conservatee personally that the conservatee is under a conservatorship and give the name of the conservator. 	
	1851(a)	<ul style="list-style-type: none"> ▪ Include in his or her evaluation an examination of the conservatee's placement, quality of care, and finances. 	
	1851(a)	<ul style="list-style-type: none"> ▪ Interview, to the greatest extent possible, the petitioner, the conservator (if different from the petitioner), the conservatee's spouse or registered domestic partner, and specified relatives, neighbors, and close friends. 	
	1851(b)	<ul style="list-style-type: none"> ▪ Mail a copy of the investigator's report to the same individuals listed above, unless the court determines that the mailing will result in harm to the conservatee. 	

	1851(a)	Authorizes the investigator, upon request to the conservator, to access for inspection and copying all books and records, including receipts and expenditures, of the conservatorship.	
13	2113	Requires the conservator to accommodate the desires of the conservatee, except to the extent that doing so would violate the conservator's fiduciary duties to the conservatee or impose an unreasonable expense on the conservatee's estate.	Jan. 1, 2007
14	2215(b)(2)	Provides that, in those cases in which the court has approved the conservatee's change of residence, it shall be presumed to be in the best interests of the conservatee to transfer the proceedings to the new county of residence within the state if any person set forth in section 1821(b) also resides in that county. The presumption that the transfer is in the best interests of the ward or conservatee may be rebutted by clear and convincing evidence that the transfer will harm the ward or conservatee.	Jan. 1, 2007
15	2250(c)(2), (3)	Requires that notice of the hearing on a petition for appointment of a temporary conservatorship be personally delivered to the proposed conservatee and served on the persons required to be named in the petition for the appointment of conservator, along with a copy of the petition for temporary appointment.	July 1, 2007 (see bill, § 36)
	2250(f)	Provides that if a temporary conservatorship is granted ex parte and a petition to terminate the temporary conservatorship is filed more than 15 days before the first hearing on the general petition for appointment of conservator, the court shall set a hearing within 15 days of the filing of the petition for termination of the temporary conservatorship to reconsider the temporary conservatorship. Unless the court otherwise orders, notice of the hearing on the petition to terminate the temporary conservatorship shall be given at least 10 days prior to the hearing. If a petition to terminate the temporary conservatorship is filed within 15 days before the first hearing on the general	July 1, 2007 (see bill, § 36)

	2250(j)	<p>petition for appointment of conservator, the court shall set the hearing at the same time that the hearing on the general petition is set.</p> <p>Requires the Judicial Council to adopt a rule of court that establishes uniform standards for good-cause exceptions to the five-day notice requirement, limiting those exceptions only to when waiver of notice is essential to protect the proposed conservatee or ward, or the estate of the proposed conservatee or ward, from substantial harm.</p>	Jan. 1, 2008 (see § 2250(j))
15.5	2250.2	Clarifies that existing law governing the establishment of Lanterman-Petris-Short (LPS) Act temporary conservatorships remains unchanged.	July 1, 2007 (see bill, § 36)
16	2250.4	Requires generally the attendance of proposed conservatees at hearings on petitions for the appointment of temporary conservators (following the same basic criteria for attendance of proposed conservatees at hearings on petitions for establishment of general conservatorships).	July 1, 2007 (see bill, § 36)
17	2250.6(a), (b)	Requires the court investigator to perform an investigation of temporary conservatorships, similar to general conservatorship investigations, prior to the hearing unless it is not feasible to do so, in which case the investigation must be completed within two court days after the hearing.	July 1, 2007 (see bill, § 36)
	2250.6(c)	Provides that if the investigator does not visit the conservatee until after the hearing at which a temporary conservator was appointed and the conservatee objects to the temporary appointment or requests an attorney, the court investigator shall report this information to the court promptly, in no event more than three court days later. Upon receipt of that information, the court may proceed with the appointment of an attorney (pursuant to § 1470 et seq.).	July 1, 2007 (see bill, § 36)
	2250.6(d)	If it appears to the court investigator that the temporary conservatorship is inappropriate, requires that the court investigator immediately,	July 1, 2007 (see bill, § 36)

		in no event more than two court days later, provide a written report to the court so that the court can consider taking appropriate action on its own motion.	
17.5	2250.8	Exempts LPS conservatorships from the new temporary conservatorship requirements in the bill.	July 1, 2007 (see bill, § 36)
18	2253	Requires the court investigator, unless the court for good cause orders otherwise, to conduct the investigation specified under current law regarding a proposed move of a temporary conservatee.	July 1, 2007 (see bill, § 36)
19	2320(c)(4)	Specifies that the amount of the required bond given by a guardian or conservator must include, among other things, a reasonable amount for the cost of recovery to collect on the bond, including attorney fees and costs. Requires the Judicial Council to adopt a rule of court to implement this provision.	Jan. 1, 2008 (see § 2320(c)(4))
20	2321(a)	Provides that a court may not waive the filing of a bond or reduce the amount of bond without a good-cause determination by the court that the conservatee will not suffer harm as a result of the waiver or reduction of the bond.	Jan. 1, 2007
21	2401(c) 2401(d)	Extends to private, nonprofessional guardians and conservators the ban on hiring or referring business to an entity in which the guardian or conservator has a financial interest. To avoid conflicts of interest, sets new conditions on investments by a guardian or conservator that is a trust company.	Jan. 1, 2007
22	2410	Requires the Judicial Council, in consultation with specified groups, to adopt a rule of court for uniform standards of conduct for actions that conservators and guardians may take on behalf of wards and conservatees to ensure that their estates are maintained and conserved as appropriate and to prevent risk of loss or hardship to the conservatees or wards. The rules shall include, at a minimum, standards for determining the fees that may be charged to	Jan. 1, 2008 (see § 2410)

		conservatees or wards and standards for asset management.	
23	2610(a)	Requires the guardian or conservator to mail to the ward or conservatee and the attorneys of record for the ward or conservatee a copy of the inventory and appraisal of the estate, along with notice of how to file an objection.	Jan. 1, 2007
	2610(a)	Requires that a copy of the inventory and appraisal, along with notice of how to file an objection, also be mailed to the conservatee's spouse or registered domestic partner, the conservatee's relatives in the first degree, and, if there are no such relatives, the next closest relative, unless the court determines that the mailing will result in harm to the conservatee.	Jan. 1, 2007
	2610(c)	Requires the Judicial Council to develop a form to effectuate the above notice requirements.	Jan. 1, 2008 (see § 2610(e))
24	2620(a)	Requires the Judicial Council, in consultation with specified groups, to develop a standard accounting form, a simplified accounting form, and rules for when the simplified accounting form may be used. Requires all accountings submitted pursuant to section 2620 to be submitted on the Judicial Council forms.	Jan. 1, 2008 (see § 2620(a))
	2620(c)	Requires the guardian or conservator to provide specified additional supporting documentation in connection with accountings.	July 1, 2007 (see bill, § 36)
	2620(d)	Provides that each accounting is subject to random or discretionary, full or partial review by the court. The review may include consideration of any information necessary to determine the accuracy of the accounting. If the accounting has any material error, the court shall make an express finding as to the severity of the error and what further action is appropriate in response to the error, if any. Among the actions available to the court are (1) immediate suspension of the guardian or conservator without further notice or proceedings and appointment of a temporary guardian or conservator, or (2) removal of the guardian or conservator pursuant to section	July 1, 2007 (see bill, § 36)

	2620(e)	<p>2650 and appointment of a temporary guardian or conservator.</p> <p>Requires the guardian or conservator to make available for inspection and copying, upon reasonable notice, to any person designated by the court to verify the accuracy of the accounting, all books and records, including receipts for any expenditures, of the guardianship or conservatorship.</p>	July 1, 2007 (see bill, § 36)
25	<p>2620.2</p> <p>2620.2(a)</p> <p>2620.2(c)</p> <p>2620.2(c)(3)</p> <p>2620.2(c)(5)</p>	<p>Modifies the provisions regarding the failure of a conservator or guardian to file a timely accounting, with the required supporting documentation, as follows:</p> <ul style="list-style-type: none"> ▪ Requires the conservator or guardian to file an accounting and obtain a hearing date from the court within 30 (vs. 60) days of the date of the notice or, if the conservator or guardian is a public agency, within 45 (vs. 120) days of the notice. Allows the court, for good cause, to grant an additional 30 days to file the accounting. ▪ If the conservator or guardian is required to be licensed, requires that the court report the failure to the licensing bureau in the Department of Consumer Affairs. ▪ Removes the good-cause exception, thereby requiring compensation for the temporary conservator or guardian and counsel for the temporary conservator or guardian to be treated as a surcharge against the conservator or guardian. Failure to pay the compensation is considered a breach of condition of the bond, in each instance in which it occurs. <p>If the conservator or guardian is not required to be licensed, allows the court to extend the time to file the accounting, up to an additional 30 (vs. 60) days after the expiration of the deadline, where the court finds there is good cause and the estate is adequately bonded.</p>	Jan. 1, 2007

26	2623	Amends the provision governing allowable expenses by prohibiting a guardian or conservator from being compensated from the estate for any costs or fees that the guardian or conservator incurred in unsuccessfully opposing a petition, or other request or action, made by or on behalf of the ward or conservatee, unless the court determines that the opposition was made in good faith, based on the best interests of the ward or conservatee.	Jan. 1, 2007
27	2640(d)	Prohibits a guardian or conservator of the estate from being compensated from the estate for any costs or fees, including attorney fees, that the guardian or conservator incurred in unsuccessfully opposing a petition, or other request or action, made by or on behalf of the ward or conservatee, unless the court determines that the opposition was made in good faith, based on the best interests of the ward or conservatee.	Jan. 1, 2007
28	2640.1(a)	Amends the provision governing compensation and reimbursement for a person who petitioned for appointment of conservator but was not appointed, only allowing for such costs where the court determines that the petition was filed in the best interests of the conservatee.	Jan. 1, 2007
29	2641(c)	Prohibits a guardian or conservator of the person from being compensated from the estate for any costs or fees that the guardian or conservator incurred in unsuccessfully opposing a petition, or other request or action, made by or on behalf of the ward or conservatee, unless the court determines that the opposition was made in good faith, based on the best interests of the ward or conservatee.	Jan. 1, 2007
30	2653	Provides that if the court removes a guardian or conservator for cause, for specified reasons, both of the following shall apply: (1) the court shall award the petitioner the costs of the petition and other expenses and costs of litigation, including attorney fees, unless the court determines that the guardian or conservator has acted in good faith, based on the best interests of the ward or conservatee; (2)	Jan. 1, 2007

34	Uncodified	Makes section 11.5 operative and section 11 inoperative because both AB 1363 and SB 1716 contained amendments to Probate Code section 1850 and AB 1363 was chaptered after SB 1716.	
35	Uncodified	Makes section 12.5 operative and section 12 inoperative because both AB 1363 and SB 1716 contained amendments to Probate Code section 1851 and AB 1363 was chaptered after SB 1716.	
36	Uncodified	Makes sections 8, 11, 11.7, 12, 15, 15.5, 16, 17, 18, and 24 of the bill operative on July 1, 2007.	
37	Uncodified	Provides that 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 Title 2 of the Government Code.	
38	Uncodified	Provides that this act shall become operative only if SB 1116, SB 1550, and SB 1716 of the 2005–2006 Regular Session are enacted and become effective on or before Jan. 1, 2007.	

**Note:* The provisions in AB 1363 take effect on Jan. 1, 2007, pursuant to article IV, section 8(c) of the California Constitution, *except* for those with delayed operative dates, which are specifically referenced in the table. All of the Jan. 1, 2007, effective dates listed in the table are pursuant to the general rule governing statutes that is contained in article IV, section 8(c).

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