

Second Supplement to Memorandum 88-5

Subject: Study L-707 - Misuse of Conservatorship Funds

In the basic memo (88-5), the staff recommended that, because the Legislature is working on conservatorship law, the Commission not study standards or licensing for conservators. The memo proposes a possible statutory statement of duties for a newly-appointed conservator of the estate.

The First Supplement to Memo 88-5 notes that Senate Bill 1957 (Rogers) may have a better approach. The bill requires the Judicial Council to prepare a pamphlet for guardians of minors. The Supplement asks whether we should recommend to Senator Rogers that he amend his bill to include conservators.

Since then, Senator Mello has introduced two conservatorship bills:

SB 2351 creates an intermediate level of conservatorship for "an incapacitated person" (defined in the bill), provides that a finding that a person is incapacitated is not a finding of legal incompetence, and requires assessment of the proposed conservatee by a court investigator, the cost of which is borne by the petitioner. If the petitioner is the public conservator, the cost of the assessment may be recovered from the conservatorship estate.

SB 2352 requires counties to give private conservators information on the conservator's rights, duties, and responsibilities. The bill requires the Judicial Council to develop an information package for private conservators, and appropriates \$75,000 to do this.

In view of SB 2352, we probably do not need to recommend that Senator Rogers amend SB 1957 to include conservators. We may expect that both bills will go to the Senate Subcommittee on Aging, and that the Subcommittee will reconcile their differences.

Respectfully submitted,

Robert J. Murphy III
Staff Counsel