

Senate Bill No. 241

CHAPTER 719

An act to amend Section 1470 of the Probate Code, relating to minors.

[Approved by Governor October 14, 2007. Filed with
Secretary of State October 14, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 241, Kuehl. Minors: legal representation: probate proceedings.

(1) Existing law permits a court to appoint private counsel to represent the interests of a ward, a proposed ward, a conservatee, or a proposed conservatee, with compensation to be fixed by the court.

This bill would require a court, if a ward or proposed ward is furnished legal counsel for a guardianship proceeding, to determine whether the parent or parents or the estate of the ward is financially unable to pay all or a portion of the cost of appointed counsel. The bill would require that any portion of the cost of that counsel that the court finds the parents or the estate of the ward is unable to pay be paid by the county. By creating a new duty for the counties, this bill would impose a state-mandated local program. The bill would require the Judicial Council to adopt guidelines to assist in determining financial eligibility for county payment of counsel.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 1470 of the Probate Code is amended to read:

1470. (a) The court may appoint private legal counsel for a ward, a proposed ward, a conservatee, or a proposed conservatee in any proceeding under this division if the court determines the person is not otherwise represented by legal counsel and that the appointment would be helpful to the resolution of the matter or is necessary to protect the person's interests.

(b) If a person is furnished legal counsel under this section, the court shall, upon conclusion of the matter, fix a reasonable sum for compensation and expenses of counsel. The sum may, in the discretion of the court, include compensation for services rendered, and expenses incurred, before the date of the order appointing counsel.

(c) The court shall order the sum fixed under subdivision (b) to be paid:

(1) If the person for whom legal counsel is appointed is an adult, from the estate of that person.

(2) If the person for whom legal counsel is appointed is a minor, by a parent or the parents of the minor or from the minor's estate, or any combination thereof, in any proportions the court deems just.

(3) If a ward or proposed ward is furnished legal counsel for a guardianship proceeding, upon its own motion or that of a party, the court shall determine whether a parent or parents of the ward or proposed ward or the estate of the ward or proposed ward is financially unable to pay all or a portion of the cost of counsel appointed pursuant to this section. Any portion of the cost of that counsel that the court finds the parent or parents or the estate of the ward or proposed ward is unable to pay shall be paid by the county. The Judicial Council shall adopt guidelines to assist in determining financial eligibility for county payment of counsel appointed by the court pursuant to this chapter.

(d) The court may make an order under subdivision (c) requiring payment by a parent or parents of the minor only after the parent or parents, as the case may be, have been given notice and the opportunity to be heard on whether the order would be just under the circumstances of the particular case.

SEC. 2. 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 of Title 2 of the Government Code.