



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

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RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

KATHLEEN T. HOWARD
Director, Office of Governmental Affairs

April 18, 2006

Hon. Joseph L. Dunn, Chair
Senate Judiciary Committee
State Capitol, Room 2080
Sacramento, California 95814

Subject: SB 1116 (Scott), as amended April 17, 2006 - Support
Hearing: Senate Judiciary Committee – April 25, 2006

Dear Senator Dunn:

The Judicial Council is pleased to support SB 1116, which seeks to ensure that conservatees are placed in the least restrictive appropriate setting and enhance the courts' oversight of sales involving a conservatee's personal residence. Among other things, the bill would:

- 1) Establish a presumption that the least restrictive appropriate setting for the conservatee is the personal residence of that conservatee.
- 2) Require a conservator to evaluate the level of care and measures necessary to keep the conservatee in his or her personal residence or explain the limitations or restrictions regarding a return of the conservatee to his or her personal residence.
- 3) Require the conservator to file notice of the change of address for a conservatee within 30 days of the date of the change, and include in the notice a declaration stating that such change is consistent with the statutory requirements that the placement is the least restrictive appropriate setting that is available and necessary to meet the needs of, and is in the best interests of, the conservatee. Require the Judicial Council to develop a form notice and declaration to be used for this purpose by no later than January 1, 2008.
- 4) Revise the provisions for the proposed sale of the personal residence of a conservatee and require a conservator to publish and post a notice of sale, reappraisal for sale, minimum offer price, and other specified information related to the sale of the personal residence.

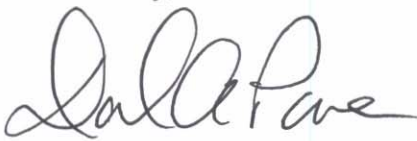
- 5) Require, in cases where the conservator is seeking the power to sell a conservatee's personal residence, that the conservator demonstrate to the court that the terms of the sale, including the price for which the property is to be sold and the commissions to be paid from the estate, are in all respects in the best interests of the conservatee and comply with specified requirements for appraisal, minimum offer price, and other conditions.

The Judicial Council supports SB 1116 because it will improve the oversight ability of the courts in probate conservatorship cases by helping ensure that conservators are meeting their fiduciary obligations with respect to sales of conservatees' personal residences, as well as ensuring that conservatees are being placed in the least restrictive appropriate setting. The council believes that the additional information that a conservator must provide under the bill regarding a sale of a conservatee's personal residence will assist the court in being able to determine the appropriateness of such transactions.

In addition, the Judicial Council supports the bill's requirement that the conservator determine the appropriate level of care for the conservatee at the time of appointment. The council believes this evaluation, coupled with the requirement that the conservator document that any change of the conservatee's residence is the least restrictive appropriate setting that is available and necessary to meet the needs of the conservatee, will enhance the court's ability to ensure that such placements are in their best interests. Finally, the council believes that these changes will improve the court's ability to take appropriate actions against conservators who are violating their placement obligations.

For these reasons, the Judicial Council supports SB 1116. Please feel free to contact me if you have any questions.

Sincerely,



Daniel A. Pone
Senior Attorney

DP/lb

cc: Members, Senate Judiciary Committee
Hon. Jack Scott, Member of the Senate
Ms. Sue Blake, Assistant Office of Planning and Research
Mr. Eric Csizmar, Deputy Legislative Secretary, Office of the Governor
Ms. Gloria Ochoa, Deputy Chief Counsel, Senate Judiciary Committee
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy



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June 13, 2006

Hon. Dave Jones, Chair
Assembly Judiciary Committee
State Capitol, Room 3126
Sacramento, California 95814

Subject: SB 1116 (Scott), as amended May 3, 2006 - Support
Hearing: Assembly Judiciary Committee – June 20, 2006

Dear Assembly Member Jones:

The Judicial Council is pleased to support SB 1116, which seeks to ensure that conservatees are placed in the least restrictive appropriate setting and enhance the courts' oversight of sales involving a conservatee's personal residence. Among other things, the bill would:

- 1) Establish a presumption that the least restrictive appropriate setting for the conservatee is the personal residence of that conservatee.
- 2) Require a conservator to evaluate the level of care and measures necessary to keep the conservatee in his or her personal residence or explain the limitations or restrictions regarding a return of the conservatee to his or her personal residence.
- 3) Require the conservator to file notice of the change of address for a conservatee within 30 days of the date of the change, and include in the notice a declaration stating that such change is consistent with the statutory requirements that the placement is the least restrictive appropriate setting that is available and necessary to meet the needs of, and is in the best interests of, the conservatee. Require the Judicial Council to develop a form notice and declaration to be used for this purpose by no later than January 1, 2008.
- 4) Revise the provisions for the proposed sale of the personal residence of a conservatee and require a conservator to publish and post a notice of sale, reappraisal for sale, minimum offer price, and other specified information related to the sale of the personal residence.

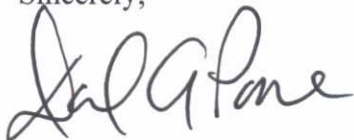
- 5) Require, in cases where the conservator is seeking the power to sell a conservatee's personal residence, that the conservator demonstrate to the court that the terms of the sale, including the price for which the property is to be sold and the commissions to be paid from the estate, are in all respects in the best interests of the conservatee and comply with specified requirements for appraisal, minimum offer price, and other conditions.

The Judicial Council supports SB 1116 because it will improve the oversight ability of the courts in probate conservatorship cases by helping ensure that conservators are meeting their fiduciary obligations with respect to sales of conservatees' personal residences, as well as ensuring that conservatees are being placed in the least restrictive appropriate setting. The council believes that the additional information that a conservator must provide under the bill regarding a sale of a conservatee's personal residence will assist the court in being able to determine the appropriateness of such transactions.

In addition, the Judicial Council supports the bill's requirement that the conservator determine the appropriate level of care for the conservatee at the time of appointment. The council believes this evaluation, coupled with the requirement that the conservator document that any change of the conservatee's residence is the least restrictive appropriate setting that is available and necessary to meet the needs of the conservatee, will enhance the court's ability to ensure that such placements are in their best interests. Finally, the council believes that these changes will improve the court's ability to take appropriate actions against conservators who are violating their placement obligations.

For these reasons, the Judicial Council supports SB 1116. Please feel free to contact me if you have any questions.

Sincerely,



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cc: Members, Assembly Judiciary Committee
Hon. Jack Scott, Member of the Senate
Ms. Sue Blake, Assistant Office of Planning and Research
Mr. Eric Csizmar, Deputy Legislative Secretary, Office of the Governor
Ms. Leora Gershenson, Staff Counsel, Assembly Judiciary Committee
Mr. Mark Redmond, Consultant, Assembly Republican Office of Policy



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June 15, 2006

Hon. Dave Jones, Chair
Assembly Judiciary Committee
State Capitol, Room 3126
Sacramento, California 95814

Subject: SB 1116 (Scott), as amended June 14, 2006 - Support
Hearing: Assembly Judiciary Committee – June 20, 2006

Dear Assembly Member Jones:

The Judicial Council is pleased to support SB 1116, which seeks to ensure that conservatees are placed in the least restrictive appropriate setting and enhance the courts' oversight of sales involving a conservatee's personal residence. Among other things, the bill would:

- 1) Establish a presumption that the least restrictive appropriate setting for the conservatee is the personal residence of that conservatee, except if proven otherwise by a preponderance of the evidence.
- 2) Require a conservator to evaluate the level of care and measures necessary to keep the conservatee in his or her personal residence or explain the limitations or restrictions regarding a return of the conservatee to his or her personal residence.
- 3) Require the conservator to file notice of the change of address for a conservatee within 30 days of the date of the change, and include in the notice a declaration stating that such change is consistent with the statutory requirements that the placement is the least restrictive appropriate setting that is available and necessary to meet the needs of, and is in the best interests of, the conservatee. Require the Judicial Council to develop a form notice and declaration to be used for this purpose by no later than January 1, 2008.

- 4) Revise the provisions for the proposed sale of the personal residence of a conservatee and require a conservator to publish and post a notice of sale, reappraisal for sale, minimum offer price, and other specified information related to the sale of the personal residence.
- 5) Require, in cases where the conservator is seeking the power to sell a conservatee's personal residence, that the conservator demonstrate to the court that the terms of the sale, including the price for which the property is to be sold and the commissions to be paid from the estate, are in all respects in the best interests of the conservatee and comply with specified requirements for appraisal, minimum offer price, and other conditions.

The Judicial Council supports SB 1116 because it will improve the oversight ability of the courts in probate conservatorship cases by helping ensure that conservators are meeting their fiduciary obligations with respect to sales of conservatees' personal residences, as well as ensuring that conservatees are being placed in the least restrictive appropriate setting. The council believes that the additional information that a conservator must provide under the bill regarding a sale of a conservatee's personal residence will assist the court in being able to determine the appropriateness of such transactions.

In addition, the Judicial Council supports the bill's requirement that the conservator determine the appropriate level of care for the conservatee at the time of appointment. The council believes this evaluation, coupled with the requirement that the conservator document that any change of the conservatee's residence is the least restrictive appropriate setting that is available and necessary to meet the needs of the conservatee, will enhance the court's ability to ensure that such placements are in their best interests. Finally, the council believes that these changes will improve the court's ability to take appropriate actions against conservators who are violating their placement obligations.

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