



Judicial Council of California

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February 21, 2025.

Subject Text

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File #: 15-420, Version: 1

Title

Probate Conservatorship: Conservatees' Capacity to Vote (Action Required)

Summary

The Probate and Mental Health Advisory Committee recommends that the Judicial Council revise three Judicial Council forms used in probate conservatorships to state the correct legal standard for a conservatee's capacity to vote, in response to legislation signed by the Governor on October 10, 2015, effective on January 1, 2016, that has changed that standard. The committee also recommends that the council revise a fourth probate conservatorship form to delete its reference to a proposed conservatee's ability to vote because that reference is not required by law and is not needed for the form to accomplish its intended purpose.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2016:

1. Revise the *Petition for Appointment of Probate Conservator* (form GC-310) to delete in its entirety, existing item 4c, on page 4, concerning the proposed conservatee's capacity to complete an affidavit of voter registration, and redesignate existing item 4d as item 4c.
2. Revise the *Citation for Conservatorship* (form GC-320) by:
 - Removing the sentence from item 3 on page 1 concerning the proposed conservatee's capacity to complete an affidavit of voter registration and replacing it with a statement of the new standard for a conservatee's capacity to vote in a new item 4;
 - Restating items 2 through 5 on page 1 of the form, as modified above, as items 2 through 7; and
 - Moving the clerk's signature line, space for the court seal, and the textbox containing advice for disabled persons to request accommodations to page 2, and the proof of service to a new page.
3. Revise the *Order Appointing Court Investigator* (form GC-330) by:
 - Revising the first sentence of item 1d on page 1 by replacing the existing citation of Probate Code sections 1826(d)-(j) with sections 1826(a)(4)-(7), and (9) and (10);
 - Adding a new item 1e on page 1 to state expressly as a separate item the new standard for determining the capacity of a conservatee to vote;
 - Redesignating current items 1e-g on page 1 as items 1f-h; and
 - Changing the reference to section 1826(l) in current item 1f (item 1g in the revised form) to section 1826(a)(12), reflecting the new location of the cited material in the amended section 1826.
4. Revise the *Order Appointing Court Investigator (Review and Successor Conservator Investigations)* (form GC-331) by adding a new item 1c on page 1 to state the new standard for determining the capacity of a conservatee to vote in connection with the investigator's duty to determine whether the conservatee should be either disqualified from voting or restored to voting capacity under section 1851(a)(1)(D), and redesignating items 1c-1m on pages 1 and 2 as items 1d-n.