

LEGISLATIVE DIGEST

[Health Code - Designating City Attorney to Represent City in Certain Conservatorship Proceedings]

Ordinance amending the Health Code to designate the City Attorney rather than the District Attorney to represent the City in judicial proceedings to establish a “Murphy Conservatorship,” a conservatorship for individuals who have been found mentally incompetent during a criminal proceeding involving a charge of death, great bodily harm, or a serious threat to the physical well-being of another person; there has been a finding of probable cause and the proceeding has not been dismissed; as a result of a mental health disorder, the individual is unable to understand the nature and purpose of the criminal proceeding or assist counsel in the conduct of the defense; and the individual represents a substantial danger of physical harm to self or others by reason of mental disease, defect, or disorder.

Existing Law

Section 4121 of the San Francisco Health Code currently provides that the City Attorney is designated to represent the City in assisted outpatient treatment proceedings and housing conservatorships for persons with serious mental illness and substance use disorders. Section 4121 also designates the City Attorney to represent the City to impose conservatorships for gravely disabled persons, except that, the District Attorney is currently designated to represent the City in judicial proceedings to appoint a “Murphy Conservatorship” (as defined below), which is a subset of conservatorships for gravely disabled persons.

Amendments to Current Law

The Proposed Ordinance would designate the City Attorney rather than the District Attorney in judicial proceedings seeking to impose a Murphy Conservatorship on individuals meeting the criteria set forth in Section 5008(h)(1)(B) of the California Welfare and Institutions Code.

Background Information

The Lanterman-Petris-Short Act (“LPS Act”), California Welfare and Institutions Code §§ 5000 et seq., authorizes, and establishes a procedure for, the appointment of a conservator for individuals who are unable to properly provide for their physical health, food, clothing, and shelter, and individuals who are substantially unable to manage their finances or resist fraud or undue influence. Under Section 5008(h)(1)(B) of the Welfare and Institutions Code, a court can impose a Murphy Conservatorship, which is a mental health conservatorship for a person found mentally incompetent to stand trial under Section 1370 of the California Penal Code, where the individual has outstanding felony charges involving great physical injury or death of

another person; there has been a finding of probable cause on a complaint or indictment and the complaint or indictment has not been dismissed; is unable to understand the nature and purpose of the proceedings due to a mental health disorder; and poses a threat to self or others as a result of that mental health disorder.

Sections 26530 and 27646 of the California Government Code, and Section 5114 of the California Welfare and Institutions Code, provide that the district attorney shall represent the county in proceedings under the LPS Act, unless the county board of supervisors designates the county counsel to do so. The Board has not previously designated the City Attorney to represent the City in judicial proceedings to impose a Murphy Conservatorships.

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