

AMENDED IN ASSEMBLY MARCH 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 205

**Introduced by Assembly Members Goldberg, Kehoe, Koretz,
Laird, and Leno**

(Principal coauthor: Assembly Member Wesson)

(Principal coauthor: Senator Kuehl)

**(Coauthors: Assembly Members ~~Chu~~ Bermudez, Chu, Diaz,
Dymally, Firebaugh, Frommer, Hancock, Levine, Lieber,
Longville, Lowenthal, Nation, Nunez, Oropeza, Pavley, and
Steinberg Steinberg, Vargas, and Yee)**

(Coauthors: Senators Burton, Cedillo, *Romero*, and Vasconcellos)

January 28, 2003

An act to amend Sections 297, 298, and 298.5 of, to add Sections ~~299.1, 297.5, 299.2, and 299.3~~ to, *to repeal Section 299.5 of*, and to repeal and add Section 299 of, the Family Code, to amend Section 14771 of the Government Code, and to amend Section 18521 of the Revenue and Taxation Code, relating to domestic partnerships.

LEGISLATIVE COUNSEL'S DIGEST

AB 205, as amended, Goldberg. Domestic partners.

Existing law provides for the issuance of a marriage license and specifies the rights and obligations of married persons.

Existing law also provides for the establishment and the termination of domestic partnerships. Existing law requires the Secretary of State to prepare and distribute forms for creating and terminating domestic partnerships. Existing law specifies the requirements for completing

the form necessary to create a domestic partnership and provides that a violation of this provision is a misdemeanor.

This bill would enact the California Domestic Partner Rights and Responsibilities Act of 2003. The bill would modify the procedure and the accompanying form for terminating domestic partnerships, and require additional duties of the Secretary of State in relation, as specified. The bill would also revise the requirements for entering into a domestic partnership to require each person to consent to the jurisdiction of the superior courts of this state for the purpose of a proceeding to obtain a judgment of dissolution or nullity of the domestic partnership. The bill would revise the provision described above making it a misdemeanor to violate the provision specifying the requirements for completing the form necessary to create a domestic partnership. The bill would instead specifically provide that filing an intentionally and materially false Declaration of Domestic Partnership would be punishable as a misdemeanor, thereby creating a new crime. By creating a new crime, this bill would impose a state-mandated local program.

The

This bill would extend the rights and duties of marriage to persons registered as domestic partners on and after January 1, 2005. The bill would provide that the superior courts shall have jurisdiction over all proceedings governing the dissolution of domestic partnerships, nullity of domestic partnerships, and legal separation of partners in domestic partnerships. These proceedings would follow the same procedures as the equivalent proceedings with respect to marriage. The bill would provide that a legal union validly formed in another jurisdiction that is substantially equivalent to a domestic partnership would be recognized as a valid domestic partnership in this state. The bill would require the Secretary of State to send a letter on 3 separate, specified occasions to the mailing address of registered domestic partners informing them of these changes, as specified. The bill would also require the Director of General Services, through the forms management center, to provide ~~assistance~~ *notice*, by January 1, 2005, to state agencies, among others, *that* in reviewing and revising all public-use forms that refer to or use the terms spouse, husband, wife, *father, mother*, marriage, or marital status ~~to include~~, *that appropriate* references to domestic partner, *parent*, or domestic partnership *be included*. The bill would also make related and conforming changes, including, *but not limited to*, a provision permitting registered domestic partners to file joint or



separate state tax returns. *The bill would further make specified provisions operative on January 1, 2005.* The bill would impose a state-mandated local program by adding to the duties of county clerks.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. (a) This act is intended to help California move
2 closer to fulfilling the promises of inalienable rights, liberty, and
3 equality contained in Sections 1 and 7 of Article 1 of the California
4 Constitution by providing all caring and committed couples,
5 regardless of their gender or sexual orientation, the opportunity to
6 obtain essential rights, protections, and benefits and to assume
7 corresponding responsibilities, obligations, and duties and to
8 further the state's ~~interest~~ *interests* in promoting stable and lasting
9 family relationships, and protecting Californians from the
10 economic and social consequences of abandonment, separation,
11 the death of loved ones, and other life crises.

12 (b) The Legislature hereby finds and declares ~~all of the~~
13 ~~following:~~

14 ~~(1) The legal recognition of civil marriage by the state has been~~
15 ~~the primary and, in a number of instances, the only available~~
16 ~~source of many rights, protections, benefits, responsibilities,~~
17 ~~obligations, and duties for caring and committed couples and their~~
18 ~~families under California law.~~



1 ~~(2) The state's interest in civil marriage is to encourage close~~
2 ~~and caring families, to promote stable and lasting family~~
3 ~~relationships, and to protect family members from economic and~~
4 ~~social consequences of abandonment, divorce, the death of loved~~
5 ~~ones, and other life crises.~~

6 ~~(3) Despite longstanding social and economic discrimination,~~
7 ~~many lesbian, gay, and bisexual Californians have formed lasting,~~
8 ~~committed, and caring relationships with persons of the same sex;~~
9 ~~these couples share lives together, participate in their communities~~
10 ~~together, and many raise children and care for other dependent~~
11 ~~family members together.~~

12 ~~(4) The state has an interest in encouraging close and caring~~
13 ~~families, promoting stable and lasting family relationships, and~~
14 ~~protecting all family members from the economic and social~~
15 ~~consequences of abandonment, separation, the death of loved~~
16 ~~ones, and other life crises.~~

17 ~~(5) Without additional legal rights, protections, benefits,~~
18 ~~responsibilities, obligations, and duties, domestic partners, the~~
19 ~~children they are raising, and elderly or disabled family members~~
20 ~~for whom they are caring suffer numerous obstacles and hardship~~
21 ~~which directly harm them, lead to numerous harms and costs to~~
22 ~~third parties and to the state, and are inequitable.~~

23 ~~(6) Expert studies indicate that approximately 400,000~~
24 ~~same-sex couples reside in California, many of whom are raising~~
25 ~~children or caring for elderly or other dependent family members~~
26 ~~together.~~

27 ~~(7) In 1999, California took an important step to address the~~
28 ~~needs of these families by establishing a state-level registry of~~
29 ~~domestic partnerships, extending the same right of hospital~~
30 ~~visitation to domestic partners who register with the state as is~~
31 ~~provided married spouses, and extending health insurance benefits~~
32 ~~to the registered domestic partners of those employed by state and~~
33 ~~local governments. In 2001, California provided the following~~
34 ~~additional legal protections to those in registered domestic~~
35 ~~partnerships: authority to make health care decisions on behalf of~~
36 ~~an incapacitated domestic partner; use of sick leave to care for an~~
37 ~~ill domestic partner or the ill child of a domestic partner; the~~
38 ~~requirement that insurers offer group health care coverage for~~
39 ~~domestic partners on comparable terms to that offered for legal~~
40 ~~dependents of an insured employee or individual subscriber; a~~



1 ~~priority position in a proceeding to appoint a conservator for one's~~
2 ~~domestic partner; inclusion of domestic partners as a designated~~
3 ~~beneficiary in the state statutory will form; a presumption in favor~~
4 ~~of a domestic partner to be appointed the administrator of a~~
5 ~~predeceased partner's estate; permitting deduction from taxable~~
6 ~~income of the cost of health insurance for a domestic partner in the~~
7 ~~calculation of state income taxes; for purposes of eligibility for~~
8 ~~unemployment compensation, defining good cause for leaving~~
9 ~~one's job to include relocation of the employment of one's~~
10 ~~domestic partner; authorizing a domestic partner to file a claim for~~
11 ~~disability benefits on behalf of an incapacitated partner; the right~~
12 ~~to sue for wrongful death of one's domestic partner; the right to sue~~
13 ~~for negligent infliction of emotional distress for witnessing injury~~
14 ~~to one's domestic partner; and stepparent adoption by a domestic~~
15 ~~partner. The horrifying loss of American lives, including scores of~~
16 ~~California residents, on September 11, 2001, confirmed tragically~~
17 ~~that a large portion of the general population does not prepare wills~~
18 ~~or other estate plans; in 2002, California extended to registered~~
19 ~~domestic partners the right to take through intestate succession a~~
20 ~~share of a predeceased domestic partner's estate. The state also has~~
21 ~~extended to registered domestic partners rights with respect to~~
22 ~~residing in senior citizen housing and has authorized several~~
23 ~~counties to provide death benefits and survivor's allowances to the~~
24 ~~registered domestic partners of their employees.~~

25 ~~(8) California has no legitimate state interest in denying to~~
26 ~~persons in domestic partnerships and their children and dependent~~
27 ~~family members the opportunity to obtain the additional rights,~~
28 ~~protections, benefits, responsibilities, obligations, and duties they~~
29 ~~currently are denied, including, without limitation, all of the~~
30 ~~following:~~

31 ~~(A) Laws relating to domestic relations, including, but not~~
32 ~~limited to, rights and obligations of financial support during and~~
33 ~~after the relationship, community property, and evidentiary~~
34 ~~privileges.~~

35 ~~(B) Laws relating to child custody, visitation, and duties of~~
36 ~~financial support of children.~~

37 ~~(C) Laws relating to title and other incidents of the acquisition,~~
38 ~~ownership, or transfer of real or personal property during life or~~
39 ~~at death, as well as laws relating to access to student family~~
40 ~~housing, senior citizen housing, and rent control protections.~~



1 ~~(D) Laws relating to obligations to make disclosures regarding~~
2 ~~spousal relationships and to take other steps to prevent conflicts of~~
3 ~~interest and self-dealing.~~

4 ~~(E) Laws relating to government benefits, including, but not~~
5 ~~limited to, workers' compensation, public assistance, transfer of~~
6 ~~licenses upon death, and the ability to apply for absentee ballots~~
7 ~~and other documents for a spouse.~~

8 ~~(F) Laws relating to taxes, including, but not limited to, joint~~
9 ~~filing of income tax returns, marital tax exemptions, estate tax~~
10 ~~exemptions, and nonreassessment of real property upon a spouse's~~
11 ~~death.~~

12 ~~(G) Laws relating to health insurance coverage for family~~
13 ~~members, family care and medical leave, bereavement leave,~~
14 ~~coverage of family members under medical, dental, life, and~~
15 ~~disability insurance, and spousal pension rights and death benefits.~~

16 ~~(H) Laws relating to legal claims related to, or dependent upon,~~
17 ~~family status, including, but not limited to, claims for loss of~~
18 ~~consortium, and victim's compensation.~~

19 ~~(I) Laws relating to anatomical gifts, consent to autopsy and~~
20 ~~disposition of remains, and rights of burial in family cemeteries.~~

21 ~~(J) Laws prohibiting marital status discrimination.~~

22 ~~(9) There is no legitimate reason to limit the rights, protections,~~
23 ~~and benefits, or the responsibilities, obligations, and duties~~
24 ~~provided to or imposed upon registered domestic partners as those~~
25 ~~currently provided to or imposed upon them. California likewise~~
26 ~~has no legitimate reason not to provide parity between the rights,~~
27 ~~protections, and benefits, as well as the responsibilities,~~
28 ~~obligations, and duties, of registered domestic partners and those~~
29 ~~who enter a civil marriage.~~

30 ~~(10) Subjecting registered domestic partners to additional legal~~
31 ~~responsibilities, obligations, and duties, as well as providing~~
32 ~~registered domestic partners additional rights, protections, and~~
33 ~~benefits, will both reduce certain expenses for the state and~~
34 ~~increase certain revenues to the state. Expenses will be reduced,~~
35 ~~among other ways, because registered domestic partners will have~~
36 ~~an enforceable duty of support for their partners and the income~~
37 ~~of domestic partners will be able to be considered in assessing an~~
38 ~~individual's qualification for means-tested government assistance~~
39 ~~programs. Revenues will be increased, among other ways, because~~
40 ~~treating domestic partners for income tax purposes in the same~~



1 ~~ways as those who are married will increase the amount of income~~
2 ~~tax that is due in many instances.~~

3 ~~(11) The California Constitution provides that all people have~~
4 ~~inalienable rights, including pursuing and obtaining safety,~~
5 ~~happiness and privacy; that no person may be deprived of liberty~~
6 ~~without due process of law or denied equal protection of the laws;~~
7 ~~and that no citizen or class of citizens may be granted privileges~~
8 ~~or immunities not granted on the same terms to all citizens.~~
9 ~~Moreover, California's statutes and case law increasingly have~~
10 ~~acknowledged the state's interest in recognizing same-sex~~
11 ~~relationships, providing individuals in these relationships~~
12 ~~treatment under state law comparable to that afforded persons in~~
13 ~~different-sex relationships who have married, and ending~~
14 ~~discrimination on the bases of sex and sexual orientation.~~

15 ~~(12) Expanding the rights and responsibilities of registered~~
16 ~~domestic partners would further California's interest in~~
17 ~~encouraging close and caring families, promoting stable and~~
18 ~~lasting family relationships, and protecting family members from~~
19 ~~economic and social consequences of abandonment, separation,~~
20 ~~the death of loved ones, and other life crises; would protect these~~
21 ~~couples, the children they are raising, third parties, and the state~~
22 ~~against numerous harms and costs; would reduce discrimination~~
23 ~~on the bases of sex and sexual orientation; and would provide these~~
24 ~~couples the opportunity to obtain additional rights, protections,~~
25 ~~benefits, responsibilities, obligations, and duties. *that despite*~~
26 ~~*longstanding social and economic discrimination, many lesbian,*~~
27 ~~*gay, and bisexual Californians have formed lasting, committed,*~~
28 ~~*and caring relationships with persons of the same sex. These*~~
29 ~~*couples share lives together, participate in their communities*~~
30 ~~*together, and many raise children and care for other dependent*~~
31 ~~*family members together. Many of these couples have sought to*~~
32 ~~*protect each other and their family members by registering as*~~
33 ~~*domestic partners with the State of California and, as a result, have*~~
34 ~~*received certain basic legal rights. Expanding the rights and*~~
35 ~~*creating responsibilities of registered domestic partners would*~~
36 ~~*further California's interests in promoting family relationships*~~
37 ~~*and protecting family members during life crises, and would*~~
38 ~~*reduce discrimination on the bases of sex and sexual orientation*~~
39 ~~*in a manner consistent with the requirements of the California*~~
40 ~~*Constitution.*~~



1 (c) This act is not intended to repeal or adversely affect any
2 other ways in which relationships between adults may be
3 recognized; or given effect in California, or the legal consequences
4 of those relationships, including, among other things, civil
5 marriage, enforcement of palimony agreements, enforcement of
6 powers of attorney, appointment of conservators or guardians, and
7 petitions for second parent or limited consent adoption.

8 SEC. 2. This act shall be known and may be cited as “The
9 California Domestic Partner Rights and Responsibilities Act of
10 2003.”

11 SEC. 3. Section 297 of the Family Code is amended to read:

12 297. (a) Domestic partners are two adults who have chosen
13 to share one another’s lives in an intimate and committed
14 relationship of mutual caring.

15 (b) A domestic partnership shall be established in California
16 when all of the following requirements are met:

- 17 (1) Both persons have a common residence.
- 18 (2) Neither person is married or a member of another domestic
19 partnership that has not been terminated, dissolved, or adjudged a
20 nullity.
- 21 (3) The two persons are not related by blood in a way that
22 would prevent them from being married to each other in this state.
- 23 (4) Both persons are at least 18 years of age.
- 24 (5) Either of the following:
 - 25 (A) Both persons are members of the same sex.
 - 26 (B) One or both of the persons meet the eligibility criteria under
27 Title II of the Social Security Act as defined in 42 U.S.C. Section
28 402(a) for old-age insurance benefits or Title XVI of the Social
29 Security Act as defined in 42 U.S.C. Section 1381 for aged
30 individuals. Notwithstanding any other provision of this section,
31 persons of opposite sexes may not constitute a domestic
32 partnership unless one or both of the persons are over the age of
33 62.

34 (6) Both persons are capable of consenting to the domestic
35 partnership.

36 (7) Both persons file a Declaration of Domestic Partnership
37 with the Secretary of State pursuant to this division.

38 (c) “Have a common residence” means that both domestic
39 partners share the same residence. It is not necessary that the legal
40 right to possess the common residence be in both of their names.



1 Two people have a common residence even if one or both have
2 additional residences. Domestic partners do not cease to have a
3 common residence if one leaves the common residence but intends
4 to return.

5 SEC. 4. *Section 297.5 is added to the Family Code, to read:*

6 297.5. (a) *Registered domestic partners shall have the same*
7 *rights, protections, and benefits, and shall be subject to the same*
8 *responsibilities, obligations, and duties under law, whether they*
9 *derive from statutes, administrative regulations, court rules,*
10 *government policies, common law, or any other provisions or*
11 *sources of law, as are granted to and imposed upon spouses in a*
12 *civil marriage.*

13 (b) *Former registered domestic partners shall have the same*
14 *rights, protections, and benefits, and shall be subject to the same*
15 *responsibilities, obligations, and duties under law, whether they*
16 *derive from statutes, administrative regulations, court rules,*
17 *government policies, common law, or any other provisions or*
18 *sources of law, as are granted to and imposed upon former spouses*
19 *in a civil marriage.*

20 (c) *A surviving registered domestic partner, following the death*
21 *of the other partner, shall have the same rights, protections, and*
22 *benefits, and shall be subject to the same responsibilities,*
23 *obligations, and duties under law, whether they derive from*
24 *statutes, administrative regulations, court rules, government*
25 *policies, common law, or any other provisions or sources of law,*
26 *as are granted to and imposed upon a widow or a widower of a civil*
27 *marriage.*

28 (d) *The rights and obligations of registered domestic partners*
29 *with respect to a child of either of them shall be the same as those*
30 *of married spouses. The rights and obligations of former or*
31 *surviving registered domestic partners with respect to a child of*
32 *either of them shall be the same as those of former or surviving*
33 *spouses in a civil marriage.*

34 (e) *To the extent that provisions of California law adopt, refer*
35 *to, or rely upon, provisions of federal law in a way that otherwise*
36 *would cause registered domestic partners to be treated differently*
37 *than spouses in a civil marriage, registered domestic partners*
38 *shall be treated by California law as if federal law recognized a*
39 *domestic partnership in the same manner as California law.*



1 (f) No public agency in this state may discriminate against any
2 person or couple on the ground that the person or couple is in a
3 registered domestic partnership rather than in a civil marriage.

4 (g) Registered domestic partners shall have the same rights
5 regarding nondiscrimination as those provided to spouses in a civil
6 marriage.

7 SEC. 5. Section 298 of the Family Code is amended to read:

8 298. (a) The Secretary of State shall prepare forms entitled
9 “Declaration of Domestic Partnership” and “Notice of
10 Termination of Domestic Partnership” to meet the requirements
11 of this division. These forms shall require the signature and seal
12 of an acknowledgment by a notary public to be binding and valid.

13 (b) (1) The Secretary of State shall distribute these forms to
14 each county clerk. These forms shall be available to the public at
15 the office of the Secretary of State and each county clerk.

16 (2) The Secretary of State shall, by regulation, establish fees for
17 the actual costs of processing each of these forms, and shall charge
18 these fees to persons filing the forms.

19 (c) The Declaration of Domestic Partnership shall require each
20 person who wants to become a domestic partner to (1) state that he
21 or she meets the requirements of Section 297 at the time the form
22 is signed, (2) provide a mailing address, (3) state that he or she
23 consents to the jurisdiction of the Superior Courts of California for
24 the purpose of a proceeding to obtain a judgment of dissolution or
25 nullity of the domestic partnership or for legal separation of
26 partners in the domestic partnership even if one or both partners
27 ceases to be a resident of, or to maintain a domicile in, this state,
28 (4) sign the form with a declaration that representations made
29 therein are true, correct, and contain no material omissions of fact
30 to the best knowledge and belief of the applicant, and (5) have a
31 notary public acknowledge his or her signature. Both partners’
32 signatures shall be affixed to one Declaration of Domestic
33 Partnership form, which form shall then be transmitted to the
34 Secretary of State according to the instructions provided on the
35 form. Filing an intentionally and materially false Declaration of
36 Domestic Partnership shall be punishable as a misdemeanor.

37 ~~SEC. 5.~~

38 SEC. 6. Section 298.5 of the Family Code is amended to read:



1 298.5. (a) Two persons desiring to become domestic partners
2 may complete and file a Declaration of Domestic Partnership with
3 the Secretary of State.

4 (b) The Secretary of State shall register the Declaration of
5 Domestic Partnership in a registry for those partnerships, and shall
6 return a copy of the registered form to the domestic partners at the
7 mailing address provided by the domestic partners.

8 (c) No person who has filed a Declaration of Domestic
9 Partnership may file a new Declaration of Domestic Partnership
10 or enter a civil marriage with someone other than their registered
11 domestic partner unless the most recent domestic partnership has
12 been terminated or a final judgment of dissolution or nullity of the
13 most recent domestic partnership has been entered. This
14 prohibition does not apply if the previous domestic partnership
15 ended because one of the partners died.

16 ~~SEC. 6.~~

17 *SEC. 7.* Section 299 of the Family Code is repealed.

18 ~~SEC. 7.~~

19 *SEC. 8.* Section 299 is added to the Family Code, to read:

20 299. (a) A domestic partnership may be terminated without
21 filing a proceeding for dissolution of domestic partnership by the
22 filing of a Notice of Termination of Domestic Partnership with the
23 Secretary of State pursuant to this section, provided that all of the
24 following conditions exist at the time of the filing:

25 (1) The Notice of Termination of Domestic Partnership is
26 signed by both domestic partners.

27 (2) There are no children of the relationship of the parties born
28 before or after registration of the domestic partnership or adopted
29 by the parties after registration of the domestic partnership, and
30 neither of the domestic partners, to their knowledge, is pregnant.

31 (3) The domestic partnership is not more than five years in
32 duration.

33 (4) Neither party has any interest in real property wherever
34 situated, with the exception of the lease of a residence occupied by
35 either party which satisfies the following requirements:

36 (A) The lease does not include an option to purchase.

37 (B) The lease terminates within one year from the date of filing
38 of the Notice of Termination of Domestic Partnership.

39 (5) There are no unpaid obligations in excess of the amount
40 which would preclude the filing of a summary dissolution



1 pursuant to paragraph (6) of subdivision (a) of Section 2400, as
2 adjusted by subdivision (b) of Section 2400, incurred by either or
3 both of the parties after registration of the domestic partnership,
4 excluding the amount of any unpaid obligation with respect to an
5 automobile.

6 (6) The total fair market value of community property assets,
7 excluding all encumbrances and automobiles, including any
8 deferred compensation or retirement plan, is less than the amount
9 which would preclude the filing of a summary dissolution
10 pursuant to paragraph (7) of subdivision (a) of Section 2400, as
11 adjusted by subdivision (b) of Section 2400, and neither party has
12 separate property assets, excluding all encumbrances and
13 automobiles, in excess of that amount.

14 (7) The parties have executed an agreement setting forth the
15 division of assets and the assumption of liabilities of the
16 community property, and have executed any documents, title
17 certificates, bills of sale, or other evidence of transfer necessary to
18 effectuate the agreement.

19 (8) The parties waive any rights to spousal support.

20 (9) The parties have read and understand a brochure prepared
21 by the Secretary of State describing the requirements, nature, and
22 effect of terminating a domestic partnership.

23 (10) Both parties desire that the domestic partnership be
24 terminated.

25 (b) The domestic partnership shall be terminated effective six
26 months after the date of filing of the Notice of Termination of
27 Domestic Partnership with the Secretary of State pursuant to this
28 section, provided that neither party has, before that date, filed with
29 the Secretary of State a notice of revocation of the termination of
30 domestic partnership, in the form and content as shall be
31 prescribed by the Secretary of State, and sent to the other party a
32 copy of the notice of revocation by first-class mail, postage
33 prepaid, at the other party's last known address. The effect of
34 termination of a domestic partnership pursuant to this section shall
35 be the same as, and shall be treated for all purposes as, the entry
36 of a judgment of dissolution of a domestic partnership.

37 (c) The termination of a domestic partnership pursuant to this
38 section does not prejudice nor bar the rights of either of the parties
39 to institute an action to set aside the termination for fraud, duress,
40 mistake, or any other ground recognized at law or in equity. A



1 court shall set aside the termination of domestic partnership and
2 declare the *termination of the* domestic partnership null and void
3 upon proof that the parties did not meet the requirements of
4 subdivision (a) at the time of the filing of the Notice of Termination
5 of Domestic Partnership with the Secretary of State.

6 (d) The superior courts shall have jurisdiction over all
7 proceedings relating to the dissolution of domestic partnerships,
8 nullity of domestic partnerships, and legal separation of partners
9 in a domestic partnership. The dissolution of a domestic
10 partnership, nullity of a domestic partnership, and legal separation
11 of partners in a domestic partnership shall follow the same
12 procedures, and the partners shall possess the same rights,
13 protections, and benefits, and be subject to the same
14 responsibilities, obligations, and duties, as apply to the dissolution
15 of marriage, nullity of marriage, and legal separation of spouses
16 in a marriage, respectively, except as provided in subdivision (a),
17 and except that, in accordance with the consent acknowledged by
18 domestic partners in the Declaration of Domestic Partnership
19 form, proceedings for dissolution, nullity, or legal separation of a
20 domestic partnership registered in this state may be filed in the
21 superior courts of this state even if neither domestic partner is a
22 resident of, or maintains a domicile in, the state at the time the
23 proceedings are filed.

24 ~~SEC. 8. Section 299.1 is added to the Family Code, to read:~~

25 ~~299.1. (a) Registered domestic partners shall have the same~~
26 ~~rights, protections, and benefits, and shall be subject to the same~~
27 ~~responsibilities, obligations, and duties under law, whether they~~
28 ~~derive from statutes, administrative regulations, court rules,~~
29 ~~government policies, common law, or any other provisions or~~
30 ~~sources of law, as are granted to and imposed upon spouses in a~~
31 ~~civil marriage.~~

32 ~~(b) Former registered domestic partners shall have the same~~
33 ~~rights, protections, and benefits, and shall be subject to the same~~
34 ~~responsibilities, obligations, and duties under law, whether they~~
35 ~~derive from statutes, administrative regulations, court rules,~~
36 ~~government policies, common law, or any other provisions or~~
37 ~~sources of law, as are granted to and imposed upon former spouses~~
38 ~~in a civil marriage.~~

39 ~~(c) A surviving registered domestic partner, following the~~
40 ~~death of the other partner, shall have the same rights, protections,~~



1 and benefits, and shall be subject to the same responsibilities,
2 obligations, and duties under law, whether they derive from
3 statutes, administrative regulations, court rules, government
4 policies, common law, or any other provisions or sources of law,
5 as are granted to and imposed upon a widow or a widower of a civil
6 marriage.

7 ~~(d) The rights and obligations of registered domestic partners~~
8 ~~with respect to a child of either of them shall be the same as those~~
9 ~~of married spouses. The rights and obligations of former or~~
10 ~~surviving registered domestic partners with respect to a child of~~
11 ~~either of them shall be the same as those of former or surviving~~
12 ~~spouses in a civil marriage.~~

13 ~~(e) To the extent that provisions of California law adopt, refer~~
14 ~~to, or rely upon, provisions of federal law in a way that otherwise~~
15 ~~would cause registered domestic partners to be treated differently~~
16 ~~than spouses in a civil marriage, registered domestic partners shall~~
17 ~~be treated by California law as if federal law recognized a domestic~~
18 ~~partnership in the same manner as California law.~~

19 ~~(f) No public agency in this state may discriminate against any~~
20 ~~person or couple on the ground that the person or couple is in a~~
21 ~~registered domestic partnership rather than in a civil marriage.~~

22 ~~(g) Registered domestic partners shall have the same rights~~
23 ~~regarding nondiscrimination as those provided to spouses in a civil~~
24 ~~marriage.~~

25 SEC. 9. Section 299.2 is added to the Family Code, to read:

26 299.2. (a) A domestic partnership is not invalid because one
27 or both of the partners has at any time changed his or her gender.

28 (b) A legal union of two persons *of the same sex, other than a*
29 *marriage*, that was validly formed in another jurisdiction, and that
30 is substantially equivalent to a domestic partnership as defined in
31 this part, shall be recognized as a valid domestic partnership in this
32 state regardless of whether it bears the name domestic partnership.

33 SEC. 10. Section 299.3 is added to the Family Code, to read:

34 299.3. (a) On or before June 30, 2004, and again on or before
35 December 1, 2004, and again on or before January 31, 2005, the
36 Secretary of State shall send the following letter to the mailing
37 address on file of each registered domestic partner who registered
38 more than one month prior to each of those dates:
39



1 “Dear Registered Domestic Partner:
2

3 This letter is being sent to all persons who have registered with
4 the Secretary of State as a domestic partner.

5 Effective January 1, 2005, California’s law related to the rights
6 and responsibilities of registered domestic partners will change
7 (or, if you are receiving this letter after that date, the law has
8 changed, as of January 1, 2005). With this new legislation, for
9 purposes of California law, domestic partners will have a great
10 many new rights and responsibilities, including laws governing
11 community property and taxation, those governing property
12 transfer, those regarding duties of mutual financial support and
13 mutual responsibilities for certain debts to third parties, and many
14 others. The way domestic partnerships are terminated is also
15 changing. After January 1, 2005, under certain circumstances, it
16 will be necessary to participate in a dissolution proceeding in court
17 to end a domestic partnership.

18 Domestic partners who do not wish to be subject to these new
19 rights and responsibilities MUST terminate their domestic
20 partnership before January 1, 2005. Under the law in effect until
21 January 1, 2005, your domestic partnership is automatically
22 terminated if you or your partner marry or die while you are
23 registered as domestic partners. It is also terminated if you send to
24 your partner or your partner sends to you, by certified mail, a
25 notice terminating the domestic partnership, or if you and your
26 partner no longer share a common residence. In all cases, you are
27 required to file a Notice of Termination of Domestic Partnership.

28 If you do not terminate your domestic partnership before
29 January 1, 2005, as provided above, you will be subject to these
30 new rights and responsibilities and, under certain circumstances,
31 you will only be able to terminate your domestic partnership, other
32 than as a result of domestic partner’s death, by the filing of a court
33 action.

34 If you have any questions about any of these changes, please
35 consult an attorney. If you cannot find an attorney in your locale,
36 please contact your county bar association for a referral.

37
38 Sincerely,
39



1 The Secretary of State”

2

3 (b) From January 1, 2004, to December 31, 2004, inclusive, the
4 Secretary of State shall provide the following notice with all
5 requests for the Declaration of Domestic Partnership form. The
6 Secretary of State also shall attach the Notice to the Declaration of
7 Domestic Partnership form that is provided to the general public
8 on the Secretary of State’s Web site:

9

10 “NOTICE TO POTENTIAL DOMESTIC PARTNER
11 REGISTRANTS
12

13 As of January 1, 2005, California’s law of domestic partnership
14 will change.

15 Beginning at that time, for purposes of California law, domestic
16 partners will have a great many new rights and responsibilities,
17 including laws governing the community property and taxation,
18 those governing property transfer, those regarding duties of
19 mutual financial support and mutual responsibilities for certain
20 debts to third parties, and many others. The way domestic
21 partnerships are terminated will also change. Unlike current law,
22 which allows partners to end their partnership simply by filing a
23 “Termination of Domestic Partnership” form with the Secretary
24 of State, after January 1, 2005, it will be necessary under certain
25 circumstances to participate in a dissolution proceeding in court to
26 end a domestic partnership.

27 If you have questions about these changes, please consult an
28 attorney. If you cannot find an attorney in your area, please contact
29 your county bar association for a referral.”

30

31 SEC. 11. *Section 299.5 of the Family Code is repealed.*

32 ~~299.5.—(a) The obligations that two people have to each other
33 as a result of creating a domestic partnership are those described
34 in Section 297. Registration as a domestic partner under this
35 division shall not be evidence of, or establish, any rights existing
36 under law other than those expressly provided to domestic partners
37 in this division and any provision of law specifically referring to
38 domestic partners.~~

39 ~~The provisions relating to domestic partners provided in this
40 division and any provision of law specifically referring to~~



1 ~~domestic partners shall not diminish any right under any other~~
2 ~~provision of law.~~

3 ~~(b) Upon the termination of a domestic partnership, the~~
4 ~~partners, from that time forward, shall incur none of the~~
5 ~~obligations to each other as domestic partners that are created by~~
6 ~~this division and any other provision of law specifically referring~~
7 ~~to domestic partners.~~

8 ~~(c) The filing of a Declaration of Domestic Partnership~~
9 ~~pursuant to this division shall not, in and of itself, change the~~
10 ~~character of property, real or personal, or any interest in any real~~
11 ~~or personal property owned by either domestic partner or both of~~
12 ~~them prior to the date of filing of the declaration.~~

13 ~~(d) The filing of a Declaration of Domestic Partnership~~
14 ~~pursuant to this division shall not, in and of itself, create any~~
15 ~~interest in, or rights to, any property, real or personal, owned by~~
16 ~~one partner in the other partner, including, but not limited to, rights~~
17 ~~similar to community property or quasi-community property.~~

18 ~~(e) Any property or interest acquired by the partners during the~~
19 ~~domestic partnership where title is shared shall be held by the~~
20 ~~partners in proportion of interest assigned to each partner at the~~
21 ~~time the property or interest was acquired unless otherwise~~
22 ~~expressly agreed in writing by both parties. Upon termination of~~
23 ~~the domestic partnership, this subdivision shall govern the division~~
24 ~~of any property jointly acquired by the partners.~~

25 ~~(f) The formation of a domestic partnership under this division~~
26 ~~shall not change the individual income or estate tax liability of~~
27 ~~each domestic partner prior to and during the partnership, unless~~
28 ~~otherwise provided under another state or federal law or~~
29 ~~regulation.~~

30 *SEC. 12.* Section 14771 of the Government Code is amended
31 to read:

32 14771. (a) The director, through the forms management
33 center, shall do all of the following:

34 (1) Establish a State Forms Management Program for all state
35 agencies, and provide assistance in establishing internal forms
36 management capabilities.

37 (2) Study, develop, coordinate and initiate forms of
38 interagency and common administrative usage, and establish basic
39 state design and specification criteria to effect the standardization
40 of public-use forms.



- 1 (3) Provide assistance to state agencies for economical forms
2 design and forms art work composition and establish and supervise
3 control procedures to prevent the undue creation and reproduction
4 of public-use forms.
- 5 (4) Provide assistance, training, and instruction in forms
6 management techniques to state agencies, forms management
7 representatives, and departmental forms coordinators, and provide
8 direct administrative and forms management assistance to new
9 state organizations as they are created.
- 10 (5) Maintain a central cross index of public-use forms to
11 facilitate the standardization of these forms, to eliminate
12 redundant forms, and to provide a central source of information on
13 the usage and availability of forms.
- 14 (6) Utilize appropriate procurement techniques to take
15 advantage of competitive bidding, consolidated orders, and
16 contract procurement of forms, and work directly with the Office
17 of State ~~Printing~~ *Publishing* toward more efficient, economical
18 and timely procurement, receipt, storage, and distribution of state
19 forms.
- 20 (7) Coordinate the forms management program with the
21 existing state archives and records management program to ~~insure~~
22 *ensure* timely disposition of outdated forms and related records.
- 23 (8) Conduct periodic evaluations of the effectiveness of the
24 overall forms management program and the forms management
25 practices of the individual state agencies, and maintain records
26 which indicate net dollar savings which have been realized
27 through centralized forms management.
- 28 (9) Develop and promulgate rules and standards to implement
29 the overall purposes of this section.
- 30 (10) Create and maintain by July 1, 1986, a complete and
31 comprehensive inventory of public-use forms in current use by the
32 state.
- 33 (11) Establish and maintain, by July 1, 1986, an index of all
34 public-use forms in current use by the state.
- 35 (12) Assign, by January 1, 1987, a control number to all
36 public-use forms in current use by the state.
- 37 (13) Establish a goal to reduce the existing burden of state
38 collections of public information by 30 percent by July 1, 1987,
39 and to reduce that burden by an additional 15 percent by July 1,
40 1988.



1 (14) Provide ~~assistance~~ *notice*, by January 1, 2005, to state
2 agencies, forms management representatives, and departmental
3 forms coordinators, ~~in that in the usual course of~~ reviewing and
4 revising all public-use forms that refer to or use the terms spouse,
5 husband, wife, *father, mother*, marriage, or marital status
6 ~~appropriately to include~~, *that appropriate* references to domestic
7 partner, *parent*, or domestic partnership *are to be included*.

8 (15) Delegate implementing authority to state agencies where
9 the delegation will result in the most timely and economical
10 method of accomplishing the responsibilities set forth in this
11 section.

12 The director, through the forms management center, may
13 require any agency to revise any public-use form which the
14 director determines is inefficient.

15 (b) Due to the need for tax forms to be available to the public
16 on a timely basis, all tax forms, including returns, schedules,
17 notices, and instructions prepared by the Franchise Tax Board for
18 public use in connection with its administration of the Personal
19 Income Tax Law, Senior Citizens Property Tax Assistance and
20 Postponement Law, Bank and Corporation Tax Law, and the
21 Political Reform Act of 1974 and the State Board of Equalization's
22 administration of county assessment standards, state-assessed
23 property, timber tax, sales and use tax, hazardous substances tax,
24 alcoholic beverage tax, cigarette tax, motor vehicle fuel license
25 tax, use fuel tax, energy resources surcharge, emergency telephone
26 users surcharge, insurance tax, and universal telephone service tax
27 shall be exempt from subdivision (a), and, instead, each board
28 shall do all of the following:

29 (1) Establish a goal to standardize, consolidate, simplify,
30 efficiently manage, and, where possible, reduce the number of tax
31 forms.

32 (2) Create and maintain, by July 1, 1986, a complete and
33 comprehensive inventory of tax forms in current use by the board.

34 (3) Establish and maintain, by July 1, 1986, an index of all tax
35 forms in current use by the board.

36 (4) Report to the Legislature, by January 1, 1987, on its
37 progress to improve the effectiveness and efficiency of all tax
38 forms.

39 (c) The director, through the forms management center, shall
40 develop and maintain, by December 31, 1995, an ongoing master



1 inventory of all nontax reporting forms required of businesses by
2 state agencies, including a schedule for notifying each state agency
3 of the impending expiration of certain report review requirements
4 pursuant to subdivision (b) of Section 14775.

5 ~~SEC. 12.~~

6 *SEC. 13.* Section 18521 of the Revenue and Taxation Code is
7 amended to read:

8 18521. (a) (1) Except as otherwise provided in this section,
9 an individual shall use the same filing status that he or she used on
10 his or her federal income tax return filed for the same taxable year.

11 (2) If the Franchise Tax Board determines that the filing status
12 used on the taxpayer's federal income tax return was incorrect, the
13 Franchise Tax Board may, under Section 19033 (relating to
14 deficiency assessments), revise the return to reflect a correct filing
15 status.

16 (3) If either spouse was a nonresident for any portion of the
17 taxable year, a husband and wife who file a joint federal income
18 tax return shall be required to file a joint nonresident return.

19 (b) In the case of an individual who is not required to file a
20 federal income tax return for the taxable year, that individual may
21 use any filing status on the return required under this part that he
22 or she would be eligible to use on a federal income tax return for
23 the same taxable year if a federal income tax return was required.

24 (c) Notwithstanding subdivision (a), a husband and wife may
25 file separate returns under this part if either spouse was either of
26 the following during the taxable year:

27 (1) An active member of the armed forces or any auxiliary
28 branch thereof.

29 (2) A nonresident for the entire taxable year who had no income
30 from a California source.

31 (d) Notwithstanding subdivision (a), registered domestic
32 partners may either file a joint return or file separately by applying
33 the standards applicable to married couples under federal income
34 tax law.

35 (e) Except for taxpayers described in subdivisions (c) or (d), for
36 any taxable year with respect to which a joint return has been filed,
37 a separate return shall not be made by either spouse or domestic
38 partner after the period for either to file a separate return has
39 expired.



1 (f) No joint return may be made if the husband and wife or the
2 domestic partners have different taxable years; except that if their
3 taxable years begin on the same day and end on different days
4 because of the death of either or both, then a joint return may be
5 made with respect to the taxable year of each. The above exception
6 does not apply if the surviving spouse remarries or the surviving
7 domestic partner enters a new domestic partnership before the
8 close of his or her taxable year, or if the taxable year of either
9 spouse *or domestic partner* is a fractional part of a year under
10 Section 443(a) of the Internal Revenue Code.

11 (g) In the case of the death of one spouse or domestic partner
12 or both spouses or domestic partners the joint return with respect
13 to the decedent may be made only by the decedent's executor or
14 administrator; except that, in the case of the death of one spouse
15 or domestic partner, the joint return may be made by the surviving
16 spouse *or domestic partner* with respect to both that spouse or
17 domestic partner and the decedent if no return for the taxable year
18 has been made by the decedent, no executor or administrator has
19 been appointed, and no executor or administrator is appointed
20 before the last day prescribed by law for filing the return of the
21 surviving spouse or domestic partner. If an executor or
22 administrator of the decedent is appointed after the making of the
23 joint return by the surviving spouse or domestic partner, the
24 executor or administrator may disaffirm the joint return by
25 making, within one year after the last day prescribed by law for
26 filing the return of the surviving spouse or domestic partner, a
27 separate return for the taxable year of the decedent with respect to
28 which the joint return was made, in which case the return made by
29 the survivor shall constitute his or her separate return.

30 ~~SEC. 13.~~

31 *SEC. 14.* The provisions of Sections 3, 4, 5, 6, 7, 8, 9, ~~and 12~~
32 *11, and 13* of this act shall become operative on January 1, 2005.

33 ~~SEC. 14.~~

34 *SEC. 15.* This act shall be construed liberally in order to
35 secure to eligible couples who register as domestic partners the full
36 range of legal rights, protections and benefits, as well as all of the
37 responsibilities, obligations, and duties to each other, to their
38 children, to third parties and to the state, as the laws of California
39 extend to and impose upon those who enter a civil marriage.

40 ~~SEC. 15.~~



1 *SEC. 16.* The provisions of this act are severable. If any
 2 provision of this act is held to be invalid, or if any application
 3 thereof to any person or circumstance is held to be invalid, the
 4 invalidity shall not affect other provisions or applications that may
 5 be given effect without the invalid provision or application.

6 ~~SEC. 16.~~

7 *SEC. 17.* No reimbursement is required by this act pursuant
 8 to Section 6 of Article XIII B of the California Constitution for
 9 certain costs that may be incurred by a local agency or school
 10 district because in that regard this act creates a new crime or
 11 infraction, eliminates a crime or infraction, or changes the penalty
 12 for a crime or infraction, within the meaning of Section 17556 of
 13 the Government Code, or changes the definition of a crime within
 14 the meaning of Section 6 of Article XIII B of the California
 15 Constitution.

16 However, notwithstanding Section 17610 of the Government
 17 Code, if the Commission on State Mandates determines that this
 18 act contains other costs mandated by the state, reimbursement to
 19 local agencies and school districts for those costs shall be made
 20 pursuant to Part 7 (commencing with Section 17500) of Division
 21 4 of Title 2 of the Government Code. If the statewide cost of the
 22 claim for reimbursement does not exceed one million dollars
 23 (\$1,000,000), reimbursement shall be made from the State
 24 Mandates Claims Fund.

