

## Assembly Bill No. 1349

### CHAPTER 444

An act to amend Section 21350 of the Probate Code, relating to wills and trusts.

[Approved by Governor September 20, 2003. Filed with Secretary of State September 22, 2003.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1349, Canciamilla. Wills and trusts: prohibited transferees.

Existing law, with specified exceptions, invalidates a donative transfer to certain classes of people, including a person who drafted the instrument, a person who is related by blood or marriage to, is a cohabitant with, or is an employee of, the person who drafted the instrument, and a care custodian of a dependent adult.

This bill would invalidate a donative transfer to a person who is a domestic partner of the person who drafted the instrument or of a person who has a fiduciary relationship with the transferor, or to a person who is related by blood or marriage to, is a domestic partner of, is a cohabitant with, or is an employee of, a care custodian of a dependent adult. The bill would also make a clarifying change.

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

SECTION 1. Section 21350 of the Probate Code is amended to read: 21350. (a) Except as provided in Section 21351, no provision, or provisions, of any instrument shall be valid to make any donative transfer to any of the following:

- (1) The person who drafted the instrument.
- (2) A person who is related by blood or marriage to, is a domestic partner of, is a cohabitant with, or is an employee of, the person who drafted the instrument.
- (3) Any partner or shareholder of any law partnership or law corporation in which the person described in paragraph (1) has an ownership interest, and any employee of that law partnership or law corporation.
- (4) Any person who has a fiduciary relationship with the transferor, including, but not limited to, a conservator or trustee, who transcribes the instrument or causes it to be transcribed.

(5) A person who is related by blood or marriage to, is a domestic partner of, is a cohabitant with, or is an employee of a person who is described in paragraph (4).

(6) A care custodian of a dependent adult who is the transferor.

(7) A person who is related by blood or marriage to, is a domestic partner of, is a cohabitant with, or is an employee of, a person who is described in paragraph (6).

(b) For purposes of this section, “a person who is related by blood or marriage” to a person means all of the following:

(1) The person’s spouse or predeceased spouse.

(2) Relatives within the third degree of the person and of the person’s spouse.

(3) The spouse of any person described in paragraph (2).

In determining any relationship under this subdivision, Sections 6406, 6407, and Chapter 2 (commencing with Section 6450) of Part 2 of Division 6 shall be applicable.

(c) For purposes of this section, the term “dependent adult” has the meaning as set forth in Section 15610.23 of the Welfare and Institutions Code and also includes those persons who (1) are older than age 64 and (2) would be dependent adults, within the meaning of Section 15610.23, if they were between the ages of 18 and 64. The term “care custodian” has the meaning as set forth in Section 15610.17 of the Welfare and Institutions Code.

(d) For purposes of this section, “domestic partner” means a domestic partner as defined under Section 297 of the Family Code.

