

Introduced by Senator Migden

January 10, 2008

An act to amend Sections 297 and 298.5 of the Family Code, relating to domestic partnerships.

LEGISLATIVE COUNSEL'S DIGEST

SB 1066, as introduced, Migden. Domestic partnerships.

Existing law provides that 2 unmarried, unrelated adults with a common residence may establish a domestic partnership by filing a declaration with the Secretary of State if both persons are members of the same sex or are over 62 years of age.

This bill would delete that latter same-sex or age eligibility requirement, thereby allowing any 2 persons who meet the other, specified criteria to register as domestic partners. The bill would also make a conforming change to a related provision.

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

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

- 1 SECTION 1. Section 297 of the Family Code is amended to
- 2 read:
- 3 297. (a) Domestic partners are two adults who have chosen
- 4 to share one another's lives in an intimate and committed
- 5 relationship of mutual caring.
- 6 (b) A domestic partnership shall be established in California
- 7 when both persons file a Declaration of Domestic Partnership with
- 8 the Secretary of State pursuant to this division, and, at the time of
- 9 filing, all of the following requirements are met:

1 (1) Both persons have a common residence.

2 (2) Neither person is married to someone else or is a member
3 of another domestic partnership with someone else that has not
4 been terminated, dissolved, or adjudged a nullity.

5 (3) The two persons are not related by blood in a way that would
6 prevent them from being married to each other in this state.

7 (4) Both persons are at least 18 years of age.

8 ~~(5) Either of the following:~~

9 ~~(A) Both persons are members of the same sex.~~

10 ~~(B) One or both of the persons meet the eligibility criteria under~~
11 ~~Title II of the Social Security Act as defined in 42 U.S.C. Section~~
12 ~~402(a) for old-age insurance benefits or Title XVI of the Social~~
13 ~~Security Act as defined in 42 U.S.C. Section 1381 for aged~~
14 ~~individuals. Notwithstanding any other provision of this section,~~
15 ~~persons of opposite sexes may not constitute a domestic partnership~~
16 ~~unless one or both of the persons are over the age of 62.~~

17 ~~(6)~~

18 (5) Both persons are capable of consenting to the domestic
19 partnership.

20 (c) “Have a common residence” means that both domestic
21 partners share the same residence. It is not necessary that the legal
22 right to possess the common residence be in both of their names.
23 Two people have a common residence even if one or both have
24 additional residences. Domestic partners do not cease to have a
25 common residence if one leaves the common residence but intends
26 to return.

27 SEC. 2. Section 298.5 of the Family Code is amended to read:

28 298.5. (a) Two persons desiring to become domestic partners
29 may complete and file a Declaration of Domestic Partnership with
30 the Secretary of State.

31 (b) The Secretary of State shall register the Declaration of
32 Domestic Partnership in a registry for those partnerships, and shall
33 return a copy of the registered form and a Certificate of Registered
34 Domestic Partnership and, ~~except for those opposite sex domestic~~
35 ~~partners who meet the qualifications described in subparagraph~~
36 ~~(B) of paragraph (5) of subdivision (b) of Section 297,~~ a copy of
37 the brochure that is made available to county clerks and the
38 Secretary of State by the State Department of Public Health
39 pursuant to Section 358 and distributed to individuals receiving a
40 confidential marriage license pursuant to Section 503, to the

1 domestic partners at the mailing address provided by the domestic
2 partners.

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

11 (d) When funding allows, the Secretary of State shall print and
12 make available upon request, pursuant to Section 358, a lesbian,
13 gay, bisexual, and transgender specific domestic abuse brochure
14 developed by the State Department of Public Health and made
15 available to the Secretary of State to domestic partners who qualify
16 pursuant to Section 297.

17 (e) The Certificate of Registered Domestic Partnership shall
18 include the name used by each party before registration of the
19 domestic partnership and the new name, if any, selected by each
20 party upon registration of the domestic partnership.