

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2700

Introduced by Assembly Member Ma

February 19, 2010

An act to amend ~~Section 299~~ *Sections 299 and 2010* of the Family Code, relating to domestic partner registration.

LEGISLATIVE COUNSEL'S DIGEST

AB 2700, as amended, Ma. Domestic partner registration: termination.

Existing

(1) *Existing* law provides that the superior courts have jurisdiction over all proceedings relating to the dissolution of domestic partnerships, nullity of domestic partnerships, and legal separation of partners in a domestic partnership. Existing law provides that the dissolution of a domestic partnership, nullity of a domestic partnership, and legal separation of partners in a domestic partnership follow the same procedures, and the partners possess the same rights, protections, and benefits, and be subject to the same responsibilities, obligations, and duties, as apply to the dissolution of marriage, nullity of marriage, and legal separation of spouses in a marriage, respectively, except as specified.

This bill would authorize parties to a registered domestic partnership who are also married to one another to petition the court to dissolve both their domestic partnership status and their marriage status in a single proceeding, in a form prescribed by the Judicial Council. The bill would also require the Judicial Council to prescribe the specified form.

(2) Existing law provides that, in a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court has jurisdiction to inquire into and render any judgment and make orders that are appropriate concerning, among other things, the status of the marriage.

Existing law provides that two persons of the same sex who contracted a marriage on or after November 5, 2008, that would be valid by the laws of the jurisdiction in which the marriage was contracted have the same rights and responsibilities as are granted to or imposed upon spouses with the sole exception of the designation of “marriage”.

This bill would specify that the court’s jurisdiction concerning the status of a marriage includes those out-of-state same-sex marriages contracted on or after November 5, 2008.

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 299 of the Family Code is amended to
- 2 read:
- 3 299. (a) A registered domestic partnership may be terminated
- 4 without filing a proceeding for dissolution of domestic partnership
- 5 by the filing of a Notice of Termination of Domestic Partnership
- 6 with the Secretary of State pursuant to this section, provided that
- 7 all of the following conditions exist at the time of the filing:
- 8 (1) The Notice of Termination of Domestic Partnership is signed
- 9 by both registered domestic partners.
- 10 (2) There are no children of the relationship of the parties born
- 11 before or after registration of the domestic partnership or adopted
- 12 by the parties after registration of the domestic partnership, and
- 13 neither of the registered domestic partners, to their knowledge, is
- 14 pregnant.
- 15 (3) The registered domestic partnership is not more than five
- 16 years in duration.
- 17 (4) Neither party has any interest in real property wherever
- 18 situated, with the exception of the lease of a residence occupied
- 19 by either party which satisfies the following requirements:
- 20 (A) The lease does not include an option to purchase.
- 21 (B) The lease terminates within one year from the date of filing
- 22 of the Notice of Termination of Domestic Partnership.

1 (5) There are no unpaid obligations in excess of the amount
2 described in paragraph (6) of subdivision (a) of Section 2400, as
3 adjusted by subdivision (b) of Section 2400, incurred by either or
4 both of the parties after registration of the domestic partnership,
5 excluding the amount of any unpaid obligation with respect to an
6 automobile.

7 (6) The total fair market value of community property assets,
8 excluding all encumbrances and automobiles, including any
9 deferred compensation or retirement plan, is less than the amount
10 described in 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 community
16 property, and have executed any documents, title certificates, bills
17 of sale, or other evidence of transfer necessary to effectuate the
18 agreement.

19 (8) The parties waive any rights to support by the other domestic
20 partner.

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

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

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

38 (c) The termination of a domestic partnership pursuant to
39 subdivision (b) does not prejudice nor bar the rights of either of
40 the parties to institute an action in the superior court to set aside

1 the termination for fraud, duress, mistake, or any other ground
 2 recognized at law or in equity. A court may set aside the
 3 termination of domestic partnership and declare the termination
 4 of the domestic partnership null and void upon proof that the parties
 5 did not meet the requirements of subdivision (a) at the time of the
 6 filing of the Notice of Termination of Domestic Partnership with
 7 the Secretary of State.

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

26 (e) Parties to a registered domestic partnership who are also
 27 married to one another may petition the court to dissolve both their
 28 domestic partnership-status and their marriage-status in a single
 29 proceeding, in a form that shall be prescribed by the Judicial
 30 Council.

31 *SEC. 2. Section 2010 of the Family Code is amended to read:*

32 2010. In a proceeding for dissolution of marriage, for nullity
 33 of marriage, or for legal separation of the parties, the court has
 34 jurisdiction to inquire into and render any judgment and make
 35 orders that are appropriate concerning the following:

- 36 (a) The status of the marriage, *including any marriage under*
 37 *subdivision (c) of Section 308.*
- 38 (b) The custody of minor children of the marriage.

- 1 (c) The support of children for whom support may be ordered,
- 2 including children born after the filing of the initial petition or the
- 3 final decree of dissolution.
- 4 (d) The support of either party.
- 5 (e) The settlement of the property rights of the parties.
- 6 (f) The award of attorney's fees and costs.

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